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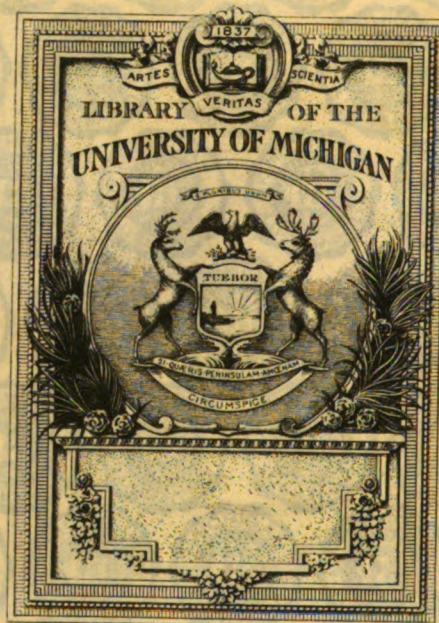
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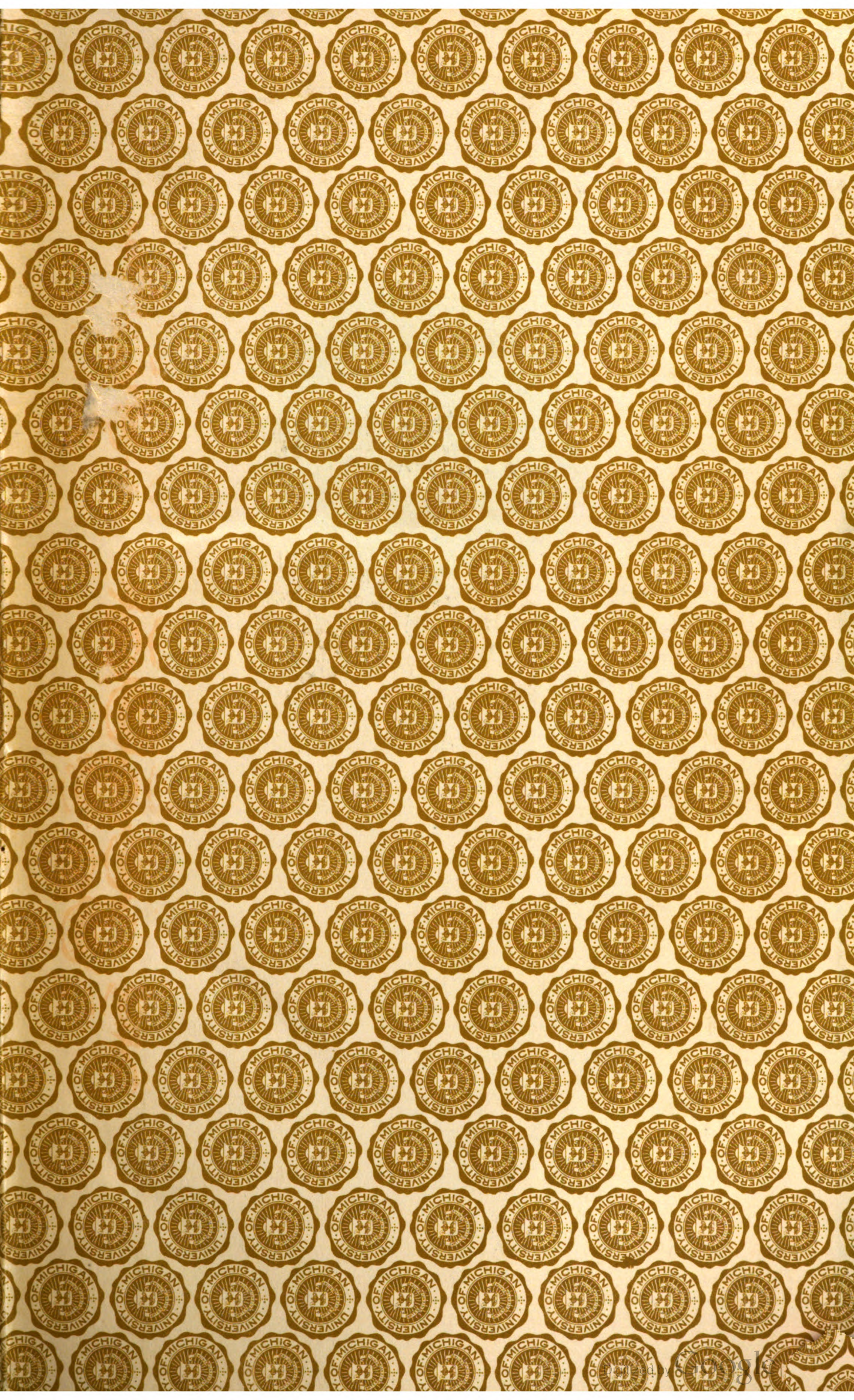
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THE  
CIVIL HISTORY  
OF THE  
KINGDOM  
OF  
NAPLES.

In Two VOLUMES.

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VOL. I.

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Wherein is contain'd,

The History of that Kingdom (*comprizing also the general Affairs of Europe*) under the Romans, Goths, Greeks, Longobards, Normans, and the Princes of the House of Suevia, 'till the Death of the Emperor Frederick II. in the Year 1250.

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Written in *ITALIAN*,

By *PIETRO GIANNONE*, Civilian and Advocate in  
NAPLES; and publish'd *Anno 1723*.

---

Translated into *ENGLISH*,

By Captain *JAMES OGILVIE*.

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 Earl of *GRANDISON*.

*My LORD,*



HE History of *Naples*, which I now lay at  
 Your Lordship's Feet, I may venture to say,  
 is a valuable Piece, and worthy your Lord-  
 ship's Protection, however it may have suffer'd  
 in the Translation.

THE Author dedicates it to  
 a Great \* Prince, and in Your

\* The Emperor.

Lordship I have found a Patron truly Great  
 and Good. I speak from Experience; for your Lordship was no  
 sooner apprised of the Change of my Circumstances, than I began  
 to feel the happy Effects of your great Goodness. The fatal Year  
 that involved so many in irretrievable Ruin, was the Date of  
 my Misfortunes; and from that Time, to this Day, your Lord-  
 ship, and your good Lady, have relieved me and my Family with  
 a bountiful Hand; and, in a Manner so engaging, as has left no  
 Impressions upon me, but those of a lasting Gratitude and Vene-  
 ration. It is certainly one of the greatest Afflictions of a depressed  
 Condition, that it is commonly attended with Contempt and Scorn:  
 But when your Lordship relieves, you consult the Modesty of the  
 unfortunate Object, as well as the Distress. I should never make an  
 end of my Acknowledgments for all the Goodness with which your  
 Lordship treats me, and with the Sense of which my Heart is full  
 charged; but as I know you love to do Good, rather than hear of  
 it, I shall be grateful and silent. But I must give myself the Pleasure of  
 reflecting



## D E D I C A T I O N.

reflecting upon the happy Situation of your Lordship's Affairs, within whose Gates nothing is seen but Magnificence and Splendor, under the Rules of that exact OEconomy and Order, with which your Lordship, and your excellent Lady did so remarkably distinguish yourselves before the Accession of the ample Fortune of your Ancestors: Such a Conduct, my Lord, is a great and rare Example of Wisdom and Prudence; but the Virtues in which you both shine out, are the conjugal Harmony in which you live, mutually deserv'd, and mutually express'd. And next to that, the tender Affection to your Children, visible in the Care of their Education, and of which you have the Comfort to behold the happy Effects in your accomplish'd Daughters, adorned with that Modesty, and those Graces of their Sex, which, to indulgent Parents, must give the most exquisite Pleasure this World can afford. These Felicities, my Lord, are the Fruits of Domestick Virtues, which, though they don't make such Glare, as those that are acted upon the Publick Stage, have ever been thought to set a great and wise Man in the truest Point of Light. And among the

\* Scipio Africanus.

*Romans* \*, one of the Greatest and Best is celebrated, not more for his Victories and Triumphs, than for his Behaviour among his Children, even in their Nursery, where some little Amusements of his have been represented by all Historians, as the most convincing Proof of the greatest good Nature and Humanity; which Qualities were always thought essential in the Composition of a Hero. But now I am talking of a great Man, it may be expected I should say something of the Nobility of your Lordship's and your Lady's Extraction: And I have at hand the noble Historian, who, in his Catalogue of Heroes (great as any *Greece* or *Rome* ever produc'd) has not two more beautiful Characters, than those of *Falkland* and *Grandison*; but these Things, your Lordship does not call your own, any farther than as you think yourself oblig'd to imitate them; And may your Lordship's promising Sons, and their late Posterity, form their Lives by the Examples of their Great Ancestors; which is the hearty Prayer of,

My LORD,

*Your Lordship's most oblig'd, most devoted,*

*and most faithful humble Servant,*

J A. OGILVIE.



T H E

# Translator's P R E F A C E.



THE Author's Introduction renders a Preface to this Work in a manner useless. He himself tells us, that his Stile is very plain and simple; that he had so great a Regard to Truth, in every Thing, as to make the Credibility of his History depend more on the Connexion of Events, with their Causes, than on an elaborate Stile, and a nice Order of Words: That though he was not ignorant of the Laws of History, yet he has sometimes neglected the scrupulous Observation of them, by insisting too much on Matters, perhaps of small Importance to a great many Readers particularly in the History of the Laws; and that he did it for the Advantage of Professors, and Gentlemen of the Long Robe. Notwithstanding all this, the Reader will not think his Labour lost, if he values Profit more than Pleasure, tho' a due \* Mixture of both were better. The Author, tho' in Communion with the Church of Rome, has not been afraid to tell a great many bold Truths, nowise consistent with the Credit and Honour of that Court. To give one Instance among many; throughout the Course of the History, he clearly shews us, how that Monster of a Spiritual Monarchy, an Imperium in Imperio, was conceiv'd, brought forth, and nourish'd, till it came to full Maturity. The Reader will likewise see what Opinion he had of Relicks, Pilgrimages, Image-worship, the great Number of Holy-days, and other Practices introduc'd during the Ages of Ignorance and Darkness. For these and other Reasons, the Work no sooner appear'd in Publick, A. D. 1723, than the Court of Rome was

\* Omne tulit punctum, qui miscuit utile dulci.

## The Translator's P R E F A C E.

*alarm'd: It was Censur'd, Condemn'd, and the Sale and Reading of it prohibited, under severe Penalties.*

*While the Country, which is now call'd the Kingdom of Naples, was under the Romans, and before the Italian Language prevail'd universally over all Italy, I thought fit to render the Names of Provinces, Cities, &c. as they were denominat'd by the Romans; but after the Italian became the general Language of all Italy, I have given them the modern Names, such as Benevento for Beneventum; Reggio for Rhegium, &c.*

*The Second Volume of this Work, contains the History of the Kingdom of Naples, I may say of all Italy, and even of all Europe, so far as the Princes thereof found themselves oblig'd to be concern'd in the many Wars and Revolutions of that Kingdom, during the Reigns of the Houses of Anjou, Aragon and Austria, down to the Year 1723. All I have to add, is, that if I had not undertaken the following Translation (the Book, as I have said, being suppress'd, and so few Copies got Abroad in the World) 'tis probable it never would have appear'd in English; therefore I hope the Reader will excuse, and with the Pen correct the following Errata.*

### E R R A T A.

Page 6. l. 32. after *divided* r. *not*. p. 13. l. 50. for *continuing* r. *continued*. p. 20. l. penult. r. *one of whom gave Laws to the Locrians, and the other to the Turians*. p. 25. l. 3. r. *such Constitution*. p. 30. l. 22. r. *ancient Consultation*. l. 23. r. *is to be*. p. 44. l. 15. r. *caus'd them*. p. 64. l. 3. r. *it is inserted*. p. 80. l. 18. instead of *for which Reason 'tis to be doubted* r. *have believed*. p. 87. l. 20. r. *rejected*. p. 90. l. 21. r. *Arimini*. p. 101. l. penult. r. *and believe*. p. 106. l. 33. for *that by* r. *of*. p. 109. l. 18. dele *which*. l. 19. dele *said higher*; for *giving* r. *gave*. p. 124. for *Chap. V. r. II.* p. 133. l. 24. for *without any* r. *with some* p. 134. l. 35 & 36. r. *wherefore it was expedient to have recourse*. p. 135. l. 40. r. *eruption*. p. 140. l. 2. for *Colonies condemn'd to the Plough* r. *Coloni additi gleba*. p. 141. l. 13 & 14. dele *with their Blood*. p. 142. l. ante penult. for *Skirmishes* r. *miseries*. p. 151. l. 24. for *forasmuch as* r. *as much as*. p. 154. l. 10. dele *of them*. p. 173. l. 38. for *discharge* r. *forbad*. p. 174. l. 20. dele *Justinian*. *ibid.* r. *Scit. IV.* p. 187. l. 16 & 17. dele *in one Day*. *ibid.* r. *in Samnium*. p. 204. l. 45. for *being* r. *was*. p. 208. l. 34. r. *of the Theodosian* *then of the Justinian Laws*. p. 232. l. 39 & 40. r. *with the Greeks was called Cimeliarcha, and with us, Magnus, &c.* p. 295. l. 27. r. *hospitium*. p. 352. l. 27. for *which he caus'd first to be priz'd* r. *was first priz'd*. *ibid.* l. 50. dele *Greek*. p. 353. l. 15. for *rather* r. *sooner*. p. 376. l. 19. for *that* r. *but*. p. 379. l. 23. for *being* r. *and*. *ibid.* l. 24. dele *John who*. after *Opinion* r. *and*. p. 396. l. 46. after *Venosa* r. *and Potenza*. p. 422. l. 39. & 40. for *fellow Soldier* r. *Party in the War*. p. 437. l. 33. for *by* r. *thus*. for *greaser* r. *great*. l. 34. dele *more*. p. 453. l. 53. for *Salerno* r. *Palermo*. p. 458. l. 28. for *their* r. *the*. p. 475. l. 8. for *give the Reader an Account* r. *refer the Reader to*. p. 532. l. 26. after *de* r. *in*. p. 576. l. 34. for *Lender* r. *Lenden*. p. 664. l. 28. dele *would*. p. 680. l. 7. dele *which*. *ibid.* l. 8. after *up* r. *the Damages*. p. 703. l. 31. for *uprightly* r. *sprightly*. p. 741. l. 32. r. *salute*. *ibid.* l. 36. r. *folien*. *ibid.* l. 54. r. *iffa*.

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# T H E INTRODUCTION.



THE History, which I undertake to write of the Kingdom of *Naples*, which for many Ages is to be the sad Theatre of War, shall not stun the Readers with the Noise of Battels, nor the Clashing of Arms; much less is it design'd for pleasing them with fine Descriptions of its charming and delicious Places, with the Sweetness of its Climate, the Fertility of its Fields, and all that which Nature, in order to shew her Power, hath profusely bestow'd upon it: Neither is it intended for amusing them with the Antiquity and Magnificence of the spacious and stately Edifices of its Cities, and of that which Mechanical Art hath so wonderfully perform'd in it: Others have undertaken that Province, and perhaps there's much more publish'd on that Subject than was needful. This History shall treat altogether of Civil Affairs, and therefore, if I am not mistaken, will be intirely new, wherein the Polity, Laws and Customs of so noble a Kingdom, shall be treated of separately; An Undertaking, which has been wanted for compleating the Glory of this so illustrious and renowned a Province of *Italy*. We shall relate in a Series of little less than Fifteen Centuries, the various Conditions and Changes of its Civil Government under so many Princes that have govern'd it; and by how many Steps it at last arriv'd to the State in which we see it at present; how it vary'd by reason of the Ecclesiastical Polity and Statutes introduc'd into it; what Use and Authority the *Roman* Laws had in it, during the Empire, and how they afterwards declin'd; their being out of Date and Re-establishment, and the various Fortune of the many other Laws introduc'd afterwards by different Nations; the Academies, Tribunals, Magistrates, Lawyers, Seignories, Officers and Orders; in short, all that belongs to the Form of its Government, as well Political and Temporal, as Ecclesiastical and Spiritual.

IF this Kingdom had started up, as an Island in the midst of the Ocean, separated and divided from all the rest of the World, we should not have had the Trouble of writing so many Books in order to compose its Civil History; forasmuch as it would have been sufficient to have known the Rights of the Princes who govern'd it, and their own Laws and Institutions, by which it was govern'd: But seeing it hath almost always been subject, either to a vast Empire, as was that of the *Romans*, and afterwards to the *Greek*; or to a great Kingdom, as that of *Italy* under the *Goths* and *Longobards*; or at last, to other Princes, who having

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their Royal Seats plac'd elsewhere, from whence they govern'd it by their Ministers, it ought to be imputed to cruel Necessity only, that in order to the right understanding its peculiar Polity, we are oblig'd to give a Hint of the Form and Disposition of the *Roman* Empire, and after what manner its Provinces were govern'd, amongst which, the most considerable that it had in *Italy*, were certainly these of which our Kingdom is compos'd. We should not be able to comprehend their Revolutions, if at the same Time we did not shew the more general Causes, whereby the whole being chang'd, this Part likewise came to be altered; and seeing these Provinces, on account of their noble Advantages, invited many Princes of *Europe* to conquer them, therefore they were long disputed, every one pretending Right to them, some as Tributary, others to have the Protection of them, and, in fine, some as Feudatory: Therefore we thought it worth the while to discover the Springs of all these Pretensions; neither could they be otherwise made clear, but by giving a general Idea and Relation of the State of *Italy* at different Times, and often of other remote Principalities, and of the Transferring of Kingdoms from one People to another, from whence arose the numerous Pretensions which set a going and encourag'd the Undertakings.

NEITHER have such Searches been necessary only for giving an exact and distinct Knowledge of the Political and Temporal State of this Kingdom, as perhaps some have thought, but likewise of what concerns Ecclesiastical Affairs; forasmuch as the Disputes were no less among Secular Princes, than among the greatest Prelates of the Church. This Kingdom was also contended for by the two most famous Patriarchs of the World, the one of *Rome* in the West, and the other of *Constantinople* in the East. By all Right the Government of our Churches belong'd to the *Roman* Pontiff, not only as Head of the Universal Church, but likewise as Patriarch of the West, even altho' his Patriarchal Authority had been confin'd to the Suburbicarian Cities only; but the Patriarch of *Constantinople*, with a rash Boldness, attempted to usurp his Right. He pretended, that many Churches of this Kingdom belong'd to his Patriarchate of the East; that it was his Right to erect Cities into Metropolis's, and to assign them what Suffragan Bishops he thought fit: Therefore it was necessary to shew, how these two Patriarchates by degrees have extended their Bounds; which cannot well be done without a general Knowledge of the Polity of the Ecclesiastical State, and of the Disposition of its Diocesses and Provinces.

THE Civil History, according to the present System of the Catholick World, surely cannot be separated from the Ecclesiastical. The Ecclesiastical State vying with that of the Political and Temporal of Princes, is so strongly fix'd and rooted in Empire, by the means of their Statutes, that at present the Changes of the one cannot be distinctly perceiv'd without the Knowledge of the other. Therefore it is necessary to see, how and when the Ecclesiastical State intruded itself into Empire, and what Novelties it occasion'd in this Kingdom; which, truly, was one of the greatest Causes of the Change of its Political and Temporal State; and thereby, not without Astonishment, we shall discover, how, contrary to all the Laws of Government, one Empire hath been able to establish itself within another, and how the Priesthood often, by perverting the Devotion of the People, and its own Spiritual Power, hath incroach'd upon the Temporal Government of this Kingdom, which was the Source of the numberless Disputes about Jurisdiction, with which the Christian Republick will always abound, and our Kingdom more than any other, which induc'd some worthy Men to labour to bring these two Powers to a perfect Harmony and Agreement, by mutually communicating their Power and Energy; it being known by long Experience, that if the Empire assist the Priesthood with its Power, in order to support the Honour of God, and if the Priesthood, in return, tie and unite the Affection of the People to the Obedience of the Prince, the whole State will flourish and be happy; but on the contrary, if these two Powers disagree with one another, so as that the Priesthood, by exceeding the Limits of its Spiritual Power, should incroach upon the Political Government, or if the latter, by turning against God that Power which he has put into its Hands, should intrench upon the Priesthood, all will go into Confusion and Ruin; of which the many Disorders which have happen'd on that account in this our Kingdom are flagrant Testimonies.

IN treating of the Use and Authority, which as well the *Roman* Laws, as the Ecclesiastical Statutes, and the Laws of other Nations, had in these our Provinces,

vinces, we have spar'd neither Labour nor Pains; and, perhaps, my having dwelt so much on that Part of the Work, will discover my Profession, and prove me to be more a Lawyer than a Politician. This Part truly wanted to be well explain'd among us; seeing that in all Places, and at all Times, the Practice and Authority of the *Roman* Laws were not the same; so that our Lawyers having neglected this most valuable Part, and likewise that of the Origine and Use of the other Laws that have been introduc'd into our Kingdom by foreign Nations, has been the chief Occasion of their having stuffed their Volumes with gross and stupid Errors; which shews us clearly, how much better it is for a Man to toil himself in searching after the various Fortune and Chance of the *Roman* Laws, and of those of his own at home, than to go wandering up and down doubtful, and with little Certainty, in a foreign Country. Forasmuch as, altho' it be in the Power of one Man to collect the History of the Rise and Progress of Learning in other Professions, and of its various Success over all the Parts of *Europe*, in which we have seen some now and then who have succeeded; nevertheless, as to the Jurisprudence, which often changes its Shapes on the Change of Princes and Nations, it is not an Undertaking that can be perform'd by one Man, but ought to be divided amongst many, each of whom must set about to treat of the Use, Authority, and the various Changes that have happen'd in his own Country. So we perceive, that a Sort of a History of the *Roman* Jurisprudence has been compil'd by some excellent Writers; nevertheless they have all labour'd to make it clear and evident in relating its Origine and Progress in the Times when the *Roman* Empire had its Rise, Growth, and when it came to the highest Pitch of Grandeur; but its various Turns of Fortune, when the Empire began afterwards to fall from its Glory, its Declension, Extinction, and Restauration, the Use and Authority that it had in the new Dominions establish'd in *Europe* after the Inundations of so many Nations, when by the new Laws it was in a manner extinct, and when, being restor'd, it eclips'd these, cannot surely be exactly describ'd by any one Man in the whole World. Therefore it was well advis'd of some noble Genius's, who, after having given a Specimen of general things in their own Kingdom or Province, set Bounds to themselves, beyond which they seldom or never went.

A *B R I T O N*, separated from the rest of the World, thinking that others had confin'd the Reach of human Understanding to too narrow a Compass, shew'd that he had Courage enough for so great an Undertaking. This was the famous *Arthur Duck* <sup>1</sup>, who would not confine himself to his own Country of *England*, but went in Search of the Use and Authority of the *Roman* Laws in the new Dominions of Christian Princes, as well to the neighbouring as the remoter Countries: He made diligent Inquiry after them, for Example, in the neighbouring Dominions of *Scotland* and *Ireland*; he went over to *France* and *Spain*; to *Germany*, *Italy*; and also came to our Kingdom; besides, he travell'd as far as *Poland*, *Bohemia*, *Hungary*, *Denmark*, *Swedeland*, and to still remoter Parts. But even this Work, tho' very famous, has clearly demonstrated to the World, that this Undertaking was not to be perform'd by one Man; seeing that altho' by his great Care, and Travelling into diverse Parts of *Europe*, such as *France*, *Germany*, and *Italy*, he has been able, in a great measure, to remove the many Difficulties in the Prosecution of his Undertaking; nevertheless the Event has demonstrated, that tho' he may have perform'd it exactly in *England*, *Scotland*, *Ireland*, and in some Countries not far distant from them; yet in other Parts, and especially in our Kingdom, we see that he has demean'd himself like a Stranger; and, by following the common Guides, falls into many Blunders, having only furnish'd us a very slight Account of the Practice and Authority both of the *Roman*, and those Laws of our own, that have been introduc'd by the different Princes who have govern'd us. Neither has his Ingenuity allow'd him to dissemble it in the Conclusion of his Book; expecting to be pardon'd by Strangers, if in treating about their Laws and Customs he has been so sparing; and he confesses, that he had no other Design, than to incite the Lawyers of other Countries, that, by following his Example, they might do in their own Countries, or Provinces, what he had done with relation to *England*. A little before *Arthur Duck*, some Writers on this Subject, without much Travelling, confin'd themselves to their own Countries. *Innocentius Cironius* <sup>2</sup>, Chancellor of *Toulouse*,

<sup>1</sup> A. Duck, De Usu & Autoritate Jur. Civ. Rom. in Dominiis Principum Christianorum.

<sup>2</sup> Ciron. Observat. Jur. Can. lib. 5.



made a Tour through *France* only, yet very superficially : But *Alteserra* <sup>1</sup> made a more exact and distinct Search in the Province where he was born, to wit, *Aquitania* : And *Joannes Costa*, an Excellent Professor in *Toulouse*, promis'd to do the same, with the greatest Exactness, over all the Kingdom of *France* ; but this great Work, which was impatiently expected by *Cironius* <sup>2</sup>, by *Arthur Duck* <sup>3</sup>, and all other learned Men, hath never been publish'd to this Day, that we know of. *Joannes Dovjat* <sup>4</sup> did the same since, without going out of *France* ; and sometimes it has fallen out, that some, by having been too curious in the searching after the Laws of other Nations, have neglected what was most valuable in their own, and thereby have fallen into a thousand Mistakes.

*GERMANY* wants not its own Historian on this Subject. *Hermanus Coringius* <sup>5</sup> compiled a Treatise concerning the Origine and various Fortune of the *Roman* and *German* Laws, of which *Georgius Pasquius* <sup>6</sup> makes honourable mention ; and in our Time *Burcardus Struvius* <sup>7</sup> has compiled another more diffusive, wherein he mentions other Authors, who have done the same with respect to *Germany*.

*HOLLAND* has its own Historian, and *Joannes Voetius* compos'd a Book intitled, *De Usu Juris Civilis, & Canonici in Belgio Unito*.

AS for *Spain*, we have *Michael Molinus*, who wrote such another for the Kingdom of *Aragon*. *Joannes Ludovicus Cortes* wrote the History *Juris Hispanici* ; and *Gerardus Ernestus de Frankenau*, has enlarg'd more than any other on that Subject <sup>8</sup>. *Swedeland*, *Denmark*, *Norway* and other Northern Provinces, have also their Historians on the same Subject. Neither are there wanting such in some Parts of our *Italy*, as in *Milan*, *Franciscus Grassus*, <sup>9</sup> and in other Countries likewise of the same.

WHAT others have done for the Glory of their respective Countries, hath always been neglected in our Kingdom only : Neither truly can we expect to see it supply'd. What a strange thing it is, that in so large a Kingdom, and productive of so many great Genius's, which the Works they have publish'd testify, and wherein they have shew'd that they had no other Study more at Heart, than that of the *Laws*, yet for all that, have neglected so noble and renowned a Subject : Because an exact History of the Use and Authority that the *Roman* Laws had in our Kingdom, and of the various Fate of the other Laws that from Time to Time were by different Nations introduced into it, by which the former were eclips'd, and how being afterwards restor'd, they recover'd their ancient Splendor and Authority, and are in the State we see them at present ; ought truly to be what we should most desire, not for slight and vain, but for grave and most important Reasons : Not that we ought to be anxious in diving into the various Turns they have undergone ; nor by so doing, that we may add to their Lustre, nor out of Ostentation of rare and uncommon Erudition ; but for more weighty Reasons : which are, because from an exact Knowledge of what we have propos'd, besides the Improvement of Wisdom, by the Use of the Laws, and a right Judgment, we may form the Idea of a most excellent Government ; for, by observing in History the Disturbances and Commotions in Civil Matters, the Vices and the Virtues, and their various Vicissitudes, we shall be best able to distinguish which is the true, and to choose the best.

BUT especially upon that, in a great measure, depends the clearing of the Laws of our own Country, and of our Institutions and Customs ; which Matters have been so coarsely treated of by our Writers, and so strangely explain'd to us, and often without comprehending the Sense of them, for no other Reason, but because they were ignorant of the History of the Times, of their Authors, of the Occasions of their being establish'd, and ignorant of the Use and Authority of the *Roman* Laws, and those of the *Longobards* ; therefore they fell into the many Errors, Puerilities and useles Things with which their Volumes are stuff'd ; and they were so blinded with Ignorance, that they valued themselves upon being only Professors of Law, and not Historians ; not being sensible, that by their not being Historians, they were but wretched Professors of Law, and render'd themselves despicable, as well to Strangers, as to many of their own Countrymen. How many gross Errors

<sup>1</sup> Altes. Rerum Aquitaniæ, lib. 3.

<sup>2</sup> Ciron. lib. 5. Obser. Jur. Can. cap. 6. & 7.

<sup>3</sup> Arthur. lib. 2. cap. 5. num. 43.

<sup>4</sup> Dovjat. Hist. Jur. Civ.

<sup>5</sup> Herm. Coring. de Origine juris Germanici.

<sup>6</sup> Georg. Pasq. de Novis Invent.

<sup>7</sup> Struv. Hist. jur. German. cap. 6.

<sup>8</sup> V. Struv. in Prolegom. ad Hist. jur. §. 28.

<sup>9</sup> Franc. Grass. in Libello de Orig. jur. Mediol.

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through Ignorance of History, did *Carolus Molineus*<sup>1</sup> lay to the Charge not only of *Baldus*, but likewise of our *Andrea d'Isfernia*? And how much were our Writers despis'd on that account by others? How much was *Nicholas Boerius* laugh'd at, who wrote, that the *Longobards* were certain Kings that came to us from *Sardinia*, as also *Matth. de Afflict.* and many others?

ADD to this likewise, the great Advantage the Knowledge of History is of to the Practice of our Courts and Tribunals, and even to publick Pleadings: For which we can produce no better Evidence in these Times, than the Cardinal *de Luca*, who had been a famous Advocate in *Rome*, and a most accomplished Barrister, who in almost all his numerous Discourses, whence so many Volumes were compiled, and from long Experience, has demonstrated in a Thousand Places<sup>2</sup>, that the numerous Blunders of our Writers are owing to nothing else but the Ignorance of the Law-History; so that he recommends nothing so much, both to Judges and Advocates, as the exact Knowledge of it, without which, Blunders and Stupidity are inevitable. But among our Writers none have made this Truth more evident, than that greatest Ornament of our Tribunals, the incomparable *Franciscus d'Andreys*, who in that learned Feudal Disputation<sup>3</sup>, which he publish'd, has fully demonstrated, that by no other means, than this of History, was it possible to remove the Difficulties into which our Writers had involv'd that Matter; which had occasion'd their committing a thousand Mistakes. And this ought to be a Warning to all, how much the Knowledge of the Law-History is necessary in all Pleadings at the Bar: Whereof this learned Man, as far as his Purpose would bear, has given us an excellent Intimation. And truly it has been our Misfortune, that he did not attempt to do for our Country, what other Writers have done for theirs; for then certainly, we should not have had occasion to lament such a Want at this Day. For what could we not have expected from the Strength of his divine Genius, from his great Skill in the Laws, in History, and from his Erudition; from his wonderful Eloquence, unwearied Application and Accuracy? Neither, in my Opinion, are fewer Endowments requir'd for accomplishing such an Undertaking, which, when shar'd out amongst many, create Admiration, and yet, were most surprizingly center'd in him alone.

WEIGHTY then, and perhaps superior to my weak Abilities, is the Task that I have undertaken; and so much the more weighty, that I have declared it impracticable to treat of the Law-History to any purpose, without joining at the same time the Civil with it, which I have done, by treating of the Polity of this Kingdom together with its Laws; the History of which could not have been perfectly understood, if at the same time we had not shewn from whence they sprung, and what Disposition and Form these Provinces had that were govern'd by them. And thence it hath happen'd, that by attributing their Changes to the Ecclesiastical Statutes, which afterwards were call'd Canonical Laws, this Work of mine has become a great Attempt, whereby I have involv'd myself into many Difficulties, out of which it will be hard to extricate myself: Therefore, I was many times tempted to give it over, forasmuch as considering with myself the Difficulty of the Undertaking, the Bustle of the Courts of Justice that diverted me from it, and much more being conscious of my weak Capacity, I thought, that not only all my Endeavours would be to no purpose, but likewise, that I should be accus'd of too great Assurance; whereupon, being terrified at so many Difficulties, I banish'd all thoughts of prosecuting it, by reserving the Task to a more fit Opportunity, and when I should be at more leisure.

BESIDES, from my Youth I had heard, that *P. Parthenius Giannettasius*, in the Solitudes of *Surrentum*, freed from all worldly Cares, with great Helps, and a huge Apparatus, had undertaken to write the *Neapolitan* History; and altho' my Design was quite different from his, nevertheless both of us, tho' with different Aims, designing to treat of the same Subject; I apprehended that he, by prying more narrowly, might deprive me of the Novelty of many Things which I had observ'd, and perhaps, might search more nicely into others, than I was able to do, who wanted

<sup>1</sup> Molin. in Comment. ad Consuet. Paris. part. 1. tit. 1. num. 91 & 96.

<sup>2</sup> Card. de Luca de servit. Disc. 1. De judiciis Disc. 25. De regularib. Disc. 161. in

Miscellanies, et alibi sæpe.

<sup>3</sup> Franc. de Andreys Disp. an fratres in feuda nostri Reg. Succed. &c.

so many Helps, and so much Leisure: And this contributed to incline me to lay aside the Undertaking.

BUT being on the other hand exceedingly encourag'd by several Persons of the most exalted Genius, I went on in prosecuting the Work, with a Design, that it should only serve for myself and the Curious; amongst whom there wanted not some, who, besides approving of the Matter, and pushing me on to prosecute it, with very prevailing Arguments, accus'd me of Pusillanimity; whereupon I took courage, and became more bold; especially as I reflected, That this Work, whatever it might prove, was not to be expos'd to all the World; nor to go beyond the Limits of this Kingdom; seeing it was only design'd for the Perusal of Persons curious in our Affairs; and that if it should ever be of any Advantage, it was we ourselves that were to reap it. But what most of all embolden'd me, was, The favourable Assurance of those who are employ'd in the Magistracy and at the Bar (of whose Kindness and Friendship towards me, I had had long Experience) That this my Essay would not be reckon'd Impudent, and whatever Defect they might find in it, they would rather excuse and bear with it, than blame and despise it.

But whilst I, stimulated by so many Motives, was prosecuting the Undertaking, behold, when I scarcely came to the tenth Book of the Work, the so long expected History of *Naples* was publish'd in the Year 1713. in *Latin*, by the aforesaid famous learned Man. I read it immediately, and, quite contrary to my Expectation, it cannot be express'd, how much more bold it made me in the Prosecution; when I found, that this able Man had had little other Design, than to translate into good *Latin* the History of *Summonte*, for the Benefit of those who do not perfectly understand our *Italian* Language.

THEREFORE this Fear being over, I can now boldly promise those, who will undergo the Trouble of reading this History, that I present them one altogether new, and as yet never attempted by any other Person.

MOREOVER, I have endeavour'd to support all that I have related, with the Authority of Men most worthy of Credit, and who were either Contemporaries with the Events that are treated of, or most exact Searchers of our Records. My Style shall be altogether plain and simple, being willing that my Talents, few and weak as they are, should be all employ'd in Matter rather than Words, by directing my Reader to the Search of Truth alone; and I was willing likewise, that its Clearness should depend much more on a right Connexion of Events with their Causes, than on Phrases of Speech, or the over-nice Ranging of Words. And as I was unwilling to arrogate to myself so much Authority as to think that my single Narration ought to be credited, I have added in the Margin the Authors that liv'd nearest the Time of the Events treated of; or at least those who are the most exact and careful; and all that was not supported with lawful Vouchers, I have excepted against as fabulous, or pass'd it over as doubtful.

I AM not so ignorant of the Laws of History as not to perceive, that sometimes I have not carefully observ'd them; and that, perhaps, by my having been at too much Pains in searching into many Things of little Moment, I may have sometimes derogated from them; and that often by deriving Things from too remote Principles, I may have too much deviated from the Design of the Work. But I likewise know, that all Subjects cannot be fitted to the same Rules, and that mine being concerning the Polity and Civil State of this Kingdom and its Laws, as the Matter was quite different, so likewise it behov'd me to make use of a different Method; and as I pretend that it may be of some Advantage, even to our Affairs before the Courts of Justice, it will not be imputed as a Fault in me, if by descending to the most minute Things, I may, perhaps, in some measure have lessen'd the Gravity of it, because our Professors, for whom it is chiefly intended, and especially what concerns the Law-History, cannot read it without reaping some Advantage by it; On the contrary, some things would have perhaps required a more strict and narrow Examination, but not being intirely Master of my Time, I should never have ended. And my having sometimes enlarg'd upon the Principles of Things, was, because Events could not otherwise be distinctly connected with their Causes; which besides Knowledge, carries along with it Perspicuity; as will be perceiv'd in the Course of this History.

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BUT upon what more solid Foundations could I build the Civil History of our Kingdom than by beginning with the *Romans*, to whom, as we may say, the Art of Government and making Laws was peculiar, when these our Provinces had the Fate to be long govern'd by them? For which end, in the First Book, before we come to the Time of *Constantine the Great*, which shall be the Beginning of our History, we shall give, by way of *Apparatus*, a Specimen of the Form and Disposition of the *Roman* Empire, and of its Laws: Of the Favour of the Princes to which they ow'd their Glory: Of the Wisdom of their Constitution: Of the Prudence of the Lawyers; and of the two most famous Academies of the World, the one of *Rome* in the West, the other of *Berytis* in the East: Seeing the Decay and many Revolutions and Changes of the Civil State of our Provinces, which happen'd afterwards, when *Constantine* was pleased to translate the Seat of the Empire to *Constantinople*, and of one, to make two Empires, may be more clearly describ'd, by a succinct Account of their flourishing State, as well with respect to what belong'd to their Polity as their Laws, in the Times preceding that Prince.



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THE  
CIVIL HISTORY  
Of the KINGDOM of  
NAPLES.

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BOOK I.

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**T**HAT large and potent Part of *Italy*, which now is call'd the Kingdom of *Naples*, being furrounded both by the Upper and Lower Seas, has no other inland Limit but the Estate of the Church of *Rome*; when, by the victorious Arms of the People of *Rome*, it was happily join'd to their Empire, had a Form of Government very different from that which it had afterwards in the Times of the *Roman* Emperors. When it came under the Dominion of the Kings of *Italy* it got a new Polity. It suffer'd other Changes under the Emperors of the East. And it underwent many more strange Alterations, when by various

Fortune it pass'd from one People to another: At last it came under the most august Family of *Austria*.

**D**URING the Time of the Free Commonwealth it was not divided into *Provinces*, as it was afterwards; neither had it any other Laws but the *Roman*. The different People who inhabited it, took from, or gave Names to the different *Regiones* into which it was divided; and the Cities of each *Regio*, according as they kept in Friendship with, and were faithful to the People of *Rome*, receiv'd hard or mild Usage as they deserv'd. They had no occasion to look out for a better Form of Government than that which the provident *Romans* had introduc'd in those early Times, the Art of Government being peculiar to them, for which they were remarkable above all other Nations in the World; as the incomparable *Virgil* testifies, ' who after

\* *Virg. Æneid. lib. 6. v. 851.* 'Tu regere Imperio Populos *Romane* memento;  
Hæ tibi erunt artes, &c.

having given to each Nation the Praise for those Arts in which they were most famous, prefers the *Romans* alone for the Art of Government to all other Nations: By which *Rome* gain'd more Renown than it did by its Conquests; for if we have regard only to the Extent of its Empire, the *Affyrians* may, in some measure, boast of theirs acquir'd by *Ninus*; the *Medes* and the *Persians* of theirs by *Cyrus*; and the *Grecians* of theirs founded by *Alexander the Great*. The Conquests of the *Turks* were not inferior to those of the *Romans*, and under the famous Emperors *Mahomet II.* and *Soliman*, their Empire was nothing less<sup>1</sup>; and even the *Spaniards*, with more reason may brag of that of the most serene Kings of *Spain*; being greater, if we consider the Largeness of its Extent, which is such as the World never saw the like before<sup>2</sup>. And how excellent and incomparable soever the Wisdom of their Councils was, the Intrepidity of their Minds, their Virtues, and the Success wherewith all their Undertakings were crown'd; yet the Opinion of the World, and of the gravest Writers<sup>3</sup>, who have look'd upon all their Expeditions as unjust, and their Wars often carried on and supported without any reasonable Cause, has very much lessen'd their Reputation, and the Glory of their Arms. The most famous Writers in the World have tir'd themselves purely in extolling the Wisdom of their Government, and the Justice of their Laws, for which alone they have deservedly been renown'd above all other Nations. A most evident Argument of which we see, That although their Empire be long ago ruin'd and extinct, yet the Authority and Use of their Laws are continued in the new Dominions founded in *Europe*; for which, no other Reason can be given, but that the *Roman Laws* were fram'd with so much Judgment and Wisdom, as to diffuse and propagate themselves in all Parts of the World, not so much by the Power of their Empire, nor because, by the Law of Nations, the Vanquish'd were always subjected to the Laws of the Victorious, as that those who were subjected were sensible of the Advantage they receiv'd from their mild and just Government. Whence it was, that the most remote and barbarous Nations of their own Free-Will receiv'd their Laws, having the Prudence and Justice of them to comfort them in their Servitude. Thus *Cæsar* while he triumph'd over *Euphrates*, and subjected these Countries to his Empire, being victorious, gave Laws to these People, but *Populo Volenti*<sup>4</sup>. Neither did they stand in need of less than the Wisdom of their Government, and the Justice of their Laws, for begetting, amongst so many different and distant Nations, that Tractableness and Mildness of Manners which *Libanius*<sup>5</sup> exaggerates in those who lived according to the Institutions and Laws of the *Romans*; and that Concord, and Bond of compleat Civil Society which *Prudentius* describes to us<sup>6</sup> amongst those who were in Subjection to them. So there are not wanting some very grave Writers<sup>7</sup>, amongst whom we must not forget *Augustine*<sup>8</sup>, who believ'd that it was by *Divine Providence* the *Romans* conquer'd the World; that by their Government, which was the highest Pitch of Wisdom and Justice, the Manners and Savageness of so many Nations might be render'd more tractable and mild; to the end that Mankind might be the more easily dispos'd to receive that *Religion*, which was at last design'd for the Overthrow of *Paganism*; and being establish'd upon more solid Foundations, was to enlighten the Earth and bring it to a true Faith: Wherefore, as a Reward of their Justice, the Empire of the World had been bestow'd upon them. The Emperors *Dioclesian* and *Maximinian* in one of their Edicts which we read in the *Gregorian Code*, left us this very grave Encomium on the *Roman Laws*: *Nihil nisi sanctum, ac venerabile nostra jura custodiunt: Et ita ad tantam magnitudinem Romana majestas cunctorum Numinum favore pervenit: Quoniam omnes suas leges religione sapienti, pudorisque observatione devinxit*<sup>9</sup>. For which Cause it was, that the Nations of *Europe* esteem'd them not as the Laws of one single People, but as Universal and Common to all Nations; and that Princes and Commonwealths strove to frame their Dominions after their Model, so that it seems at this Time, as

<sup>1</sup> Bodin. de Repub. lib. 1. cap. 2. Scipio Ammirat. in his Opusc. disc. 8.

<sup>2</sup> Bodin. de Rep. lib. 2. cap. 2. Lyppius Admiranda Urbis Romæ, lib. 1. cap. 3. in fine.

<sup>3</sup> Cyprian. lib. de Idolor. vanit. Minut. Felix in Dialog. Octavius. Arnobius adver. gentes, lib. 8. Hieronym. in Com. ad cap. 2. Dan. Laët. lib. Divin. Institut. cap. 18. Augustin. lib. 4. De Civitat. Dei, cap. 4 & 6.

<sup>4</sup> Virgil. Georg. lib. 4. v. 561. --- Victoriq; Volentes, per Populos dat jura.

<sup>5</sup> Libanius in Panegy. Julian. Cof.

<sup>6</sup> Prudent. lib. 2. contra Symmach.

<sup>7</sup> Zonaras ad Canon. & Constitut. Apostol. lib. 7. cap. 27.

<sup>8</sup> August. lib. 5. cap. 12. & 15. de Civit. Dei.

<sup>9</sup> Lib. 5. C. Greg. tit. de nupt.



if the *Christian World* was guided and govern'd by their Rule; whence it is, that in all well instituted Academies they are publickly taught for that end.

'Tis true, it will appear very surprizing to any one who considers the Success of the Arms of the People of *Rome*, that in so short a Time they should be able to extend their Empire over so many and distant Provinces. Neither can it be mention'd without Astonishment, that in the Infancy of their Government, and while they were wrestling with their Neighbours, they should so soon overcome them; that soon after having subdu'd *Italy*, even before they were fully grown up, they should be in a Condition to conquer the most remote Countries. They took *Sicily*, *Sardinia*, and *Corfica*, and afterwards advanc'd into the large Countries of *Spain*; and being now arriv'd at their Manhood, and become powerful, they subjected *Macedonia*, *Greece*, *Syria*, *Gallia*, *Asia*, *Africa*, *Britain*, *Egypt*, *Dacia*, *Armenia*, *Arabia*; and lastly, the furthest Provinces of the East: So that at last, being oppress'd with the great Weight of such an excessive Bulk, they were oblig'd to give way, and sink under the Burthen.

BUT, perhaps, the Method and Moderation which was practis'd with respect to the People they vanquish'd and overcame, ought to seem a Thing more wonderful and worthy of greater Commendation; and their not following the Example of the *Athenians* and *Lacedemonians*, by whom all were treated as Aliens, in governing them with too much Severity: Conditions were granted them severe or mild, according as either their Fidelity and Friendship, or their Obstinacy and Frowardness had deserv'd. Some People, says *Flaccus*<sup>1</sup>, obstinately made War against the *Romans*. Others having Experience of their Fidelity and Justice, kept themselves in continual Peace. Some others knowing their Virtue, yielded to them of their own accord, and united with them, and frequently carried Arms against their Enemies; whence it was necessary, that according to the Deserts of each Nation they were to receive Laws and Conditions; because it would have been unjust to have treated the People that were faithful, upon the same Foot with those who so often had broke their Faith and Oaths, by taking up Arms against the People of *Rome*. For which cause *Italy* was govern'd with Conditions different from the other Provinces of the Empire. Whence it came to pass, that in the Cities of *Italy* themselves were introduc'd these different Orders, and these various Privileges of *Roman* Citizens, such as *Municipia Latinitas*, *Præfectura*, and *Civitates Fœderatæ*; whence likewise it came to pass, that having made themselves Masters of so many and so remote Provinces, they very prudently ordain'd some to be *Vestigales*, some *Stipendiariæ* or *Tributariæ*, others *Proconsulares*, and others *Præsidiales*.



## CHAP. I.

### *Of the STATE of the CITIES of ITALY.*



THE *Romans* having driven away their Kings, resolv'd to get rid of all Sorts of Despotick Government, to enjoy a perfect Liberty, as well in their Persons as Estates: And as they would submit to no King nor Monarch, neither would they depend upon any other Magistrate, who claim'd an arbitrary Dominion over them; this they called *Jus Libertatis*, by which they reserv'd to themselves the Power of condemning a *Roman* Citizen, either to Capital or Corporal Punishment: And 'tis to be believ'd, that they likewise would have had no Magistrates, if they had been able to subsist without them;

<sup>1</sup> Siculus Flaccus de condit. Agror. in Princ.

so much did they abhor arbitrary Dominion, because some of their Kings had made a tyrannical Use of their Power. It was the Privilege of the *Roman* Citizens to be number'd amongst the Tribes and Centuries by the Censors; to give their Suffrages; to be raised to the prime Honours and supreme Magistracy; to be admitted only into the *Roman* Legions, partake of the military Offices, and the publick Treasury; to enjoy only the paternal Power with respect to their Children<sup>1</sup>, the *Jus Gentilitium*, of Adoption, of the *Toga*, of Commerce, *Connubium*, and the other Privileges learnedly explain'd by *Sigonius*.<sup>2</sup>

AS to their Estates, the *Romans* likewise would have their Inheritances intirely free, exempted from Seignory, and that they should belong to the Proprietors *optimo jure*, or, as they call'd it, *jure Quiritium*; which oblig'd *Bodinus* to say<sup>3</sup>, that Seignory was the Invention of barbarous Nations, not known to the *Romans* with respect to their Persons or Estates; which is very true as to the Persons of *Roman* Citizens, and those who by Privilege had become such, and with Regard to the Estates in *Italy*: But, with respect to those who were not *Roman* Citizens, and consequently had not that Title to Liberty peculiar to them; over their Inheritances situated out of *Italy* they acknowledg'd that Tenure, as we shall shew by and by; the *jus Quiritium* not being allow'd to the Provincials for their Goods, which was known by that old Division of theirs, *Rerum Mancipi*, & *nec Mancipi*.

THESE were the most remarkable Privileges of *Roman* Citizens, to wit, of those who had the good Luck to be born in *Rome*, or in its Neighbourhood; and accordingly some of them were granted out of special Love and Favour to other Places of *Italy*; whence the different Conditions of *Municipia*, *Coloniae*, *Civitates foederatae*, and *Præfecturae*.

THE Condition of the *Municipia* was the most desirable and honourable that any City of *Italy* could have, particularly when the Privilege of Suffrage was likewise granted with it; in which Case the *Municipes* differ'd little from the Citizens of *Rome* themselves, except only the being inrolled in the *Curia*, which was the Privilege of native *Romans*; and they were called *Municipes cum Suffragio*, to distinguish them from those to whom such a Privilege was not granted, called therefore *Municipes sine Suffragio*. They were also allow'd to chuse their own Magistrates, and to retain their own Laws, to distinguish them from the *Coloniae*, who could have no other Laws but the *Roman*. And whence it comes, that in our Time the particular Laws of a Place or a City are called Municipal Laws; which Prerogative, either by the Permission or Connivance of the Prince, we see that many Cities of these our Provinces do still retain<sup>4</sup>.

The *Coloniae* were the next honourable. The Writers of all Ages cannot enough extol the Institution of *Romulus*, afterwards so frequently practis'd by the *Romans*, in sending new Inhabitants to the conquer'd or waste Countries, whom they called *Coloni*: From which admirable Institution they drew many Advantages; the City of *Rome*, which was oppress'd with the Multitude of Citizens, for the most part useless and burthensome, thereby became eas'd; the Citizens themselves, who had Fields assign'd them in these Countries, were comforted, and had Conveniencies of Life; and even the conquer'd People had their Advantage in it, by their Country's being more frequented, their Fields better cultivated, and all put in a better Way of living, whence they became more Polite and Civil; and lastly, the *Roman* Empire itself was better'd by it; for such a Law occasion'd new Towns and new Cities to be built, and render'd the conquer'd Country more secure to the Conqueror; and filled the waste Places with Inhabitants, dispers'd more conveniently in all Parts, who by living more at Ease, multiply'd the more, and were the more ready to defend themselves, and offend their Enemies; for a Colony planted in a Country newly possess'd, is like a Citadel and a Guard to keep the Country in Awe. For these Reasons the *Coloniae*, as deriving all they had from the City of *Rome*, differ'd from the *Municipia*, (which supported themselves, and were protected by their own Magistrates and their own Laws) had nothing of their own, but were oblig'd to observe the Laws and Institutions of the People of *Rome*. Which Condition, although it seem'd less free, nevertheless it was more desirable and excellent, by Reason of the Majesty and Grandeur of the City of *Rome*, of

<sup>1</sup> Justin. lib. 1. Instit. de Patr. pot. § jus autem.

<sup>2</sup> Sigon. de Antiq. jure Civium Rom. cap. 6. lib. 1.

<sup>3</sup> Bodin. de Rep. lib. 2. cap. 2.

<sup>4</sup> Aflist. in Proem. Constit. Regni, Vin. lib. 1. Instit. tit. 1.

which these Colonies were small Resemblances and Images: And by their being subjected to the Laws of the People of *Rome*, because of their Excellency and Usefulness, it was rather acquiring Liberty than Servitude: Besides that, the particular and peculiar Laws of the *Municipia*, as *A. Gellius* reports <sup>1</sup>, were obscure and out of Date, and being so obliterated, they could not be made use of; but the Administration and Government of the Colonies were no otherwise appointed than that of the City of *Rome* itself; forasmuch as there were in *Rome* the People and the Senate, so in the Colonies there were the *Plebeians* and the *Decuriones*: These were the Resemblance of the Senate, and those of the People. From among the *Decuriones* every Year were elected two or four, according to the Bigness or Smallness of the Colony, which were called *Duumviri* or *Quatuorviri*, who resembled the *Roman* Consuls. They appointed an *Edilis*, who had Care of the *Annona*, the publick Buildings, the Streets, and such like Things; a *Quaestor*, who had the Charge of the publick Treasury; and other lesser Magistrates, after the Manner of *Rome*. In short, they were in every Thing, as to Customs, Laws, and Institutions, the same with the *Romans* themselves; and it seem'd to the new Inhabitants as if they lived in *Rome* itself. It was *Augustus*, who seeing the Colonies in *Italy* increas'd to the Number of Twenty-eight, ordain'd, that they should not have an independent Privilege of electing their Magistrates out of their own Body, but only allowed the *Decuriones* to give their Votes for what Magistrates they would have, which Votes they were to send inclos'd and seal'd to *Rome*, where they were chosen <sup>2</sup>.

BESIDES the *Municipia* and the *Colonia*, there were likewise, before the *Italian* War, other Cities in *Italy* which had Conditions more honourable and free: These were the *Civitates fœderatæ*; save some Tribute which they paid to the *Romans*, by the League and Confederacy agreed upon, in all other Things they were reckon'd free. They had their own Form of a Republick, lived according to their own Laws, made their own Magistrates, and many times prided themselves in the Title of the Senate and People. So from *Livy* we learn, that *Capua* in ancient Times, when it was a confederated City, before it was reduced to a *Præfectura*, was govern'd as a Republick, having Magistrates, Senate and People, and its own Laws. We read likewise of the *Tarentini*, that altho' they were subdu'd, they were left at their Liberty by the *Romans*: The *Neapolitans*, those of *Præneste* <sup>3</sup> and *Tivoli*, and other People, were treated after the same manner, as *Polybius* testifies <sup>4</sup>, whose Cities were so free, that it was allow'd to those who were condemn'd to Banishment, to take up their Abode in them, and so to fulfil their Sentence.

IN the last Place follow the *Præfectura*. Without all doubt, amongst all the Cities of *Italy*, the *Præfectura* were in the most wretched Condition; since those Cities which had been Ungrateful and Unthankful to the People of *Rome* by renouncing their Allegiance, and being again reduc'd under their Power, were punish'd no otherwise than by making them *Præfectura*; as they were wont to send from *Rome* every Year *Prætores* into the Provinces, so to those Cities were sent *Præfecti*, to whom the Administration and Government of them were committed; wherefore they were call'd *Præfectura*. Their Citizens could neither use their own Laws, as the *Municipia*; nor make their Magistrates out of their own Body, as the *Colonia*; but were govern'd by Magistrates sent them from *Rome*, and liv'd under such Laws as they were pleas'd to impose upon them. *Capua* was once in that state, to wit, after the second *Carthaginian* War, and before it was chang'd into the Form of a *Colonial* City. The *Præfectura* were likewise of two Sorts. Ten Cities, all situated in this Kingdom, were govern'd by as many *Præfecti*, who were appointed by the People of *Rome*, and sent to command them. These were *Capua*, *Cuma*, *Casilinum* <sup>5</sup>, *Linternum*, *Pozzuolo*, *Acerra*, *Suessula* <sup>6</sup>, *Atella*, and *Calatia* <sup>7</sup>. The *Prætor Urbanus* was wont to send *Præfecti* to the rest, and these were *Fundi*, *Formia* <sup>8</sup>, *Cere*, *Vesuvium*, *Alifia*, *Piperno*, *Anagnia*, *Frusilone*, *Reate*, *Saturnia*, *Nursia*, and *Arpinum*.

<sup>1</sup> A. Gell. lib. 16. noct. att. cap. 13. in fine.

<sup>2</sup> Suet. cap. 46. in August. P. Carac. de Sacr. Eccl. Neap. monum. cap. 6. Sect. 1.

<sup>3</sup> Palestrina.

<sup>4</sup> Polyb. lib. 6. Exulibus impune degere licet Neapoli, Præneste, Tibure; item aliis in

urbibus, quibus hoc jure fœdus intercedit cum Romanis.

<sup>5</sup> Castellucio.

<sup>6</sup> Sessula.

<sup>7</sup> Cajazzo.

<sup>8</sup> Moli di Gaeta.



ONCE the Number of the *Civitates Fœderatæ* in *Italy*, was greater than that of the *Coloniæ*, the *Municipiæ*, and the *Præfecturæ*: But there have been many Changes since, one City passing to the State of another, and that into the State of this. Thus *Capua*, from a *Fœderata* became a *Præfectura*; thereafter, in the Consulship of *C. Cæsar*, was a *Civitas Colonia*: *Cuma*, *Acerra*, *Suessula*, *Atella*, *Formia*, *Piperno* and *Anagnia*, were first *Municipiæ*, afterwards *Coloniæ*, and sometimes also *Præfecturæ*. *Fundi*, *Cere* and *Arpinum*, once were *Municipia*; *Casilinum*, *Vulturnum*, *Linternum*, *Pozzuolo*, *Saturnia*, were *Coloniæ*; and *Calatia*, *Venafrum*, *Alifa*, *Frusilone*, *Reate*, and *Nursia*, while the Liberty of the People of *Rome* lasted, were always *Præfecturæ*.

BUT we ought not to proceed without observing, That those various Degrees, and different Conditions of the Cities of *Italy*, had all their Stability as long as the Liberty of the People of *Rome* continu'd. For afterwards, not to mention that *Augustus* depriv'd many of the *Civitates Fœderatæ* of their Liberties which they had made a wrong Use of<sup>1</sup>; by the *Julian* Law all Suffrages being made equal, and the Freedom of the *Roman* Citizens being granted to all *Italy*, as afterwards by *Antoninus Pius*, it was allow'd to the Provinces; the Rights of the *Municipiæ*, *Coloniæ*, and *Præfecturæ* were abolish'd, and these Titles began to be confounded, so that sometimes *Colonia* was taken for *Municipium*, and *Municipium* for *Colonia*, and also for *Præfectura*; whence, after the *Julian* Law all the Cities of *Italy*, to which the *Jus Suffragii* was allow'd, might be call'd *Municipia*; and *Antoninus Pius* made the Condition not only of the Cities of *Italy*, but of all Nations the same; and *Rome* was the common Country of all those who were subject to its Empire<sup>2</sup>.

THESE were the various Conditions of the Cities of *Italy*. We shall now relate those which the People of *Rome* granted to the Provinces out of *Italy*, which were much the same.



## CHAP. II.

### Of the STATE of the PROVINCES of the EMPIRE.



THE Lands of the Provinces continu'd subject to the Publick Seignory of the Empire as formerly. The *Romans* having in the Space of Five hundred Years subjected *Italy*, and carrying their victorious Arms out of it, subdu'd to their Empire many vast and immense Countries, which they divided into *Regiones*, but in the Form of *Provinces*; the first were *Sicilia*, *Sardinia*, *Corfica*, the two Provinces of *Spain*, *Asia*, *Græcia*, *Gallia Narbonensis*, the *Balearian* Islands, *Iberia*, *Numidia*, *Cyrene*, *Cilicia*, *Bythinia*, *Creta*, *Pontus*, *Syria*, *Cyprus*, and *Gallia Transalpina*. To which *Cæsar* afterwards added *Mauritania*, *Pannonia*, *Mesia*, *Egyptus*, *Cappadocia*, *Britannia*, *Dacia*, *Armenia*, *Mesopotamia*, *Assyria*, and *Arabia*.

THE chief Conditions, and which were common to all these Provinces of the *Roman* Empire, were, I. That they were to obey the *Roman* Magistrates; whence it was, that from the various Titles of Magistrates some were called *Proconsular*, others *Præsidial*. II. That they should receive Laws of the Conqueror. III. That they should be Tributary to him. But in laying on the Tribute there was great Difference amongst them; since the *Romans* dispos'd of the Lands<sup>3</sup> possess'd by the Enemy after this manner, some they sold, some were given to the *Veteran* Soldiers, others they left to the old Possessors, either out of Favour or Friendship, or other Reasons moving the Captain so to do. Those from whom the Lands were not taken,

<sup>1</sup> Tranquil. in Aug. cap. 47.

<sup>2</sup> L. Roma, D. ad municipalem, L. 6. D. Excusat.

<sup>3</sup> Flac. de condit. agr. Alteserra, Rerum Aquit. lib 3. cap. 1.

neither

neither in Whole nor in Part, were made *Vestigales*, *Stipendiarii* or *Tributarii*; for which Cause some Provinces were called *Vestigales*, others *Stipendiariæ* and *Tributariæ*. The *Vestigales* were those, which paid certain Tolls or Customs for particular Things agreed upon, such as Carriages, Vendible Things, Metals, Salt, Pitch and Tar, and such like Things as are wont to be farm'd by Toll-gatherers. The *Stipendiariæ* or *Tributariæ* were those, which paid certain Taxes or Tribute to the People of Rome; and although these two Words *Stipendium* and *Tributum* are confounded by *Ulpianus* <sup>1</sup>, yet they were certainly different, since *Stipendium* was a certain and ordinary Weight; the *Tributum* was uncertain and extraordinary, which according to the Difference or Necessity of the Times and Things was impos'd <sup>2</sup>.

IN this manner then, some Provinces of the Roman Empire were *Vestigales*, such as *Asia*, *Gallia Narbonensis*, and *Aquitania*; some others were *Tributariæ*. But as the Conditions of the Cities of *Italy* were not always the same, nor fix'd, and were afterwards alter'd by *Cæsar*; so the State of the Provinces, as despotick Power began to creep in, and the Authority of the Emperors still increased, likewise chang'd their Conditions according to the Pleasure of the Princes. Thus *Asia* was *Vestigalis*, until that *Cæsar* having overthrown *Pompey*, chang'd it into *Tributaria* <sup>3</sup>. *Gallia* from *Vestigalis* was made *Tributaria* by *Augustus*, and afterwards made free <sup>4</sup>. And on the contrary, in the Times following, we see, that *Vespasian* granted the *Jus Latii* to *Spain* <sup>5</sup>. *Nero* likewise made all *Greece* free; but *Vespasian* soon depriv'd it of its Liberty, making it again *Vestigalis*, and subjected it to the Roman Magistrates, as having made a bad Use of its Liberty, according to *Pausanias* <sup>6</sup>.

FINALLY, the other Roman Emperors, who coveted nothing more than by Degrees to bring the Roman Empire to a Monarchy, by taking from the Romans all their Privileges (as had been practis'd with respect to the Cities of *Italy*, which by the *Julian Law* were all made equal to Rome) treated the Provinces after the same manner: Whereupon the Emperor *Antoninus* <sup>7</sup>, not daring to take away these Privileges openly from the People of Rome, began to do it by a cunning Trick of State, from all the Subjects of the Empire, by giving the Freedom of Roman Citizens to all the Provinces <sup>8</sup>, in making all their Inhabitants Romans, in putting them all upon a common Footing; and, as St. *Augustine* said, very much to the Purpose <sup>9</sup>, *Ac si esset omnium quod erat ante paucorum*, which *Rutilius Numatianus* explains so well in these his Verses <sup>10</sup>.

AND a long time after, *Justinian* avowedly abolish'd that Difference betwixt the Lands of *Italy* and those of the Provinces; and in order to cancel all the Vestiges and Footsteps of Popular Liberty, at last he said, that the *Jus Quiritium* was an empty Name without Foundation <sup>11</sup>. And he really took away all the Effect of it, when he abolish'd the Difference *rerum Mancipi, & nec Mancipi* <sup>12</sup>, and decreed, That every Man was Master, and had the Disposing of his own Goods. Thus on the one Hand, the Romans were divested of their Privileges; and on the other, the People of the Provinces to whom the Freedom of Rome was granted, gain'd nothing by it; forasmuch as by Degrees, the being reputed a Roman Citizen, became at last to be only a bare and vain Title of Honour; since by it they were not exempted from paying Toll and Tribute, as St. *Augustine* himself writeth <sup>13</sup>: *Numquid enim illorum agri tributa non solvunt?* So at the Time when their Empire was far gone in its Decay, the Condition of the People of the Provinces was become so low and servile, that being no longer able to endure their Bondage, and the Tyranny of the Roman Officers, they went over willingly to the *Goths* and other foreign Nations. *Salvianus*, <sup>14</sup> a Writer of these last Times, who flourish'd in the Reign of the Emperor *Anastasius*, reports, That the People of the Provinces went over frequently to the *Goths*, neither did they repent them of it, choosing rather, under a kind of Captivity, to live Free, than under that specious Name of Liberty, to be in reality Slaves; so that he subjoins, *Nomen Civium Romanorum aliquando non*

<sup>1</sup> Ulpian. in L. Ager. D. de verb. oblig.

<sup>2</sup> Alteserra rer. Aquit. lib. 3. cap. 1.

<sup>3</sup> Dio lib. 41.

<sup>4</sup> Alteserra loc. cit.

<sup>5</sup> Plin. lib. 3. cap. 3.

<sup>6</sup> Pausanias in Achaicis.

<sup>7</sup> Roma D. ad Mun.

<sup>8</sup> L. in Orbe 17. D. de Statu hom.

<sup>9</sup> Augustin. lib. 5. de Civitat. Dei, cap. 17. & in Psalm 58.

<sup>10</sup> Rutil. lib. 1. itiner.

Fecisti patriam diversis gentibus unam.

Profuit injustis te dominante, capi,

Dumq; offers victis proprii consortia juris, Urbem fecisti, quod prius Orbis erat.

<sup>11</sup> Justinian. in L. unic. C. de jure Quirit. tol.

<sup>12</sup> L. unic. C. de usufructu. & sublata differentia rer. mancipi, & nec mancipi.

<sup>13</sup> August. loc. cit.

<sup>14</sup> Salvian. lib. 5. de Gubernat.

*solum magno aestimatum, sed magno emptum, nunc ultro repudiatur, ac fugitur; nec vile tantum, sed etiam abominabile pene habetur.* And Orosius<sup>1</sup> and Isidorus likewise testify, that they chose rather to live poor among the Goths, than rich among the Romans, and bear the heavy Yoke of paying Tribute: Of which we shall have occasion in another Place to discourse more at large.

SUCH, and so changeable were the Conditions of the Cities of *Italy*, and of the Provinces of the *Roman Empire*; but what Form of Polity, and what Divisions the Empire underwent until the Reign of *Constantine the Great*, for the better Understanding of what is to follow, 'tis necessary we should briefly treat of here.



### C H A P. III.

#### *Of the Disposition of the Empire under AUGUSTUS.*

**A**LL Writers agree, That the *Roman Empire*, from its Beginning to its Decay, had four Divisions, and four Aspects and Forms of a Commonwealth, which were owing to as many Authors. We shall say nothing of the first, which had *Romulus* for its Author, as not conducing any way to the present History, and too remote from us: But of the Second establish'd by *Augustus*, and of the Third which acknowledges *Adrian* for its Author, 'tis necessary we should treat here succinctly; without the Knowledge of which the Fourth could not be well understood, which being introduc'd by *Constantine*, was afterwards re-establish'd by *Theodosius the Younger*, of which, in the Second Book, as being its Place, we shall treat.

ALL these Countries, which in the Space of 500 Years, were subjected to the People of *Rome*, pass'd under the general Name of *Italy*. But that had different Extents, and various Bounds; since formerly its Confines were the River *Eso* from the Upper Sea, and the River *Macro* from the Lower; but after the *Galli Senones* were subdu'd, it reach'd to the *Rubicon*; and at last, having all *Gallia Cisalpina* added to it, the Roots of the *Alps* became its Borders; so that its Limits towards the Upper Sea were *Istria*, the Castle of *Pala*, and the River *Arfia*; And towards the Lower, the River *Varo* which divides *Gallia Narbonensis* from the *Liguas*, and for inland Boundary it had the Roots of the *Alps*.

ITALY, according to this Extent, was divided by *Cæsar Augustus* into eleven *Regiones*<sup>2</sup>, the First of which comprehended the old and new *Latium* and *Campania*, the II. the *Picentini*; the III. the *Lucani*, the *Brutii*, the *Salentini*, and the *Pugliesi*; the IV. the *Ferentani*, the *Marrucini*, the *Peligni*, the *Marfi*, the *Vestini*, the *Samnites*, and the *Sabini*; the V. *Picenum*; the VI. *Umbria*; the VII. *Æturia*; the VIII. *Gallia Cispadana*; the IX. *Liguria*; the X. *Venetia*, *Carni*, *Fæugia*, and *Istria*; and the XI. *Gallia Transpadana*. These *Regiones*, as we have said above, were govern'd by the *Romans* according to the various Conditions of their Cities, and receiv'd the *Roman Laws*, and were never divided into Provinces.

THOSE Places, and those large Countries, *Italy* being subdu'd, which, by its Assistance the People of *Rome* conquer'd afterwards, were divided into Provinces. The first were *Sicily*, *Sardinia*, and *Corfica*; whence it came, that *Sicily*, according to this Description of the Empire, was reckon'd a Province out of *Italy*; whence *Dio* wrote, that *Augustus* having made an Edict, that the Senators were not to go out of *Italy* without the Licence of *Cæsar*, excepting to *Sicily*, or the Province of *Narbonne*; therefore it was necessary to except these two Provinces in the Edict, because

<sup>1</sup> Orosius, lib. 7. cap. 28. Isidorus in Chronic. Æra 447.

<sup>2</sup> Plin. lib. 3. cap. 5. Camill. Pellegrin. in Campania disc. 1. num. 7.

otherwise

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otherwise they would have been comprehended in it. Afterwards *Spain, Asia, Etolia, Macedonia, Illyricum, Dalmatia, Africa, Achaia, Grecia, Gallia Narbonensis, the Balearian Islands, Thracia, Numidia, Cyrenaica, Cilicia, Bythinia, Creta, Pontus, Assyria, Cyprus, and Gallia Transalpina* were added.


IN the Time of the Free Republick, the Government of these Provinces was regularly given to *Præsides*, who were sent to them from *Rome*. There were likewise *Provinciae Consulares*, which were govern'd by Consuls or Proconsuls; these under *Pompey* and *Cæsar*, were *Spain, the Galliæ, Illyricum, and Dalmatia*; and *Cilicia* and *Syria*, were under *Cicero* and *Bibulus* Proconsuls. Others were *Prætoriae*, to wit, I. *Sicilia*, II. *Sardinia* and *Corfica*, III. *Africa* and *Numidia*, IV. *Macedonia, Achaia* and *Græcia*, V. *Asia, Lydia, Caria, Ionia* and *Mysia*, VI. *Pontus* and *Bythinia*, VII. *Creta*, and VIII. *Cyprus*.

THERE were afterwards other Provinces added to the Empire by the *Cæsars*, these were *Mauritania, Pannonia, Mesia, Africa, the Eastern Provinces, Cappadocia, Britannia, Armenia, Mesopotamia, Assyria, Arabia*, and others; which Provinces were by *Augustus* made, some *Proconsular*, others *Præsidial*. The most peaceable and quiet Provinces, which could be govern'd without Force, and only by Command, he gave the Charge and Care of them to the Senate, who sent *Proconsuls* to them. The more Barbarous and Turbulent, which could not be kept in Awe without military Force, he reserv'd to himself, and to these he sent *Præsides*. Such in short was the State of the Roman Empire under *Augustus*.



## CHAP. IV.

*Of the Disposition and Polity of the Regiones, which at present compose the Kingdom of Naples; and the Condition of their CITIES.*

 HIS Part of *Italy* then, which we now call the Kingdom of *Naples*, was not divided into Provinces, as 'twas afterwards in the Reign of *Adrian*. It was divided into *Regiones*, which took their Names from, or gave them to, the different People who inhabited them. It comprehended the *Campani*, the *Marrucini*, the *Peligni*, the *Vestini*, the *Pre-tutii*, the *Marsi*, the *Samnites*, the *Hirpini*, the *Picentini*, the *Lucani*, the *Brutii*, the *Salentini*, the *Japygi*, and the *Pugliesi*.

EACH of these *Regiones* had Cities beautiful and famous in themselves, which according to their various Conditions were govern'd by the *Romans*, and their Laws. Some of them were *Municipia*, which besides the *Roman*, retain'd their own and municipal Laws. Of this Condition in *Campania*, were *Fundi* and *Formia*, which afterwards by the *Triumviri*, were made *Coloniæ*; *Cuma* and *Acerra* were likewise made *Coloniæ* by *Augustus*; *Sessa* and *Atella* were also chang'd into *Coloniæ* by the same Prince: And in like manner was *Bari* in *Puglia*, and many other Cities situated in the other *Regiones*.

BUT the *Coloniæ* were more numerous in these our Provinces, which from time to time, both under the Free Commonwealth, and likewise under the Emperors, were successively increas'd.

THE *Coloniæ* in *Campania* were *Calvi*, *Sessa*, <sup>1</sup> *Sinuesa*, *Pozzuolo*, *Vulturnum*, *Linternum*, *Nola*, *Suessula*, *Pompei*, *Capua*, *Casilinum*, *Calatia*, *Aquaviva*, *Acerra*,

<sup>1</sup> The Castle of Montdragone.

*Formia, Atella, Teanum, Abella*, and afterwards our *Naples* also, which from *Fæderata* was made *Colonia*.

IN *Lucania*, *Pesto*, *Buxentum*, *Conza*, and others were also *Coloniæ*. And in *Samnium*, *Saticula*<sup>1</sup>, *Castno*, *Ifernina*, *Bojanum*, *Telese*, *Samnium*, *Venafrum*, *Sepino*, *Avellino*, and others were the same.

IN *Puglia*, *Sipontum*, *Venosa*, *Lúcera*, from *Fæderata* were converted into *Coloniæ* likewise; and to pass over others, *Beneventum*, which in the Reign of *Augustus*, as *Pliny* reports<sup>2</sup>, did not belong to *Campania*, as it did afterwards, but to *Puglia*<sup>3</sup>.

*BRUNDUSIUM*, *Lupia* and *Otranto* among the *Salentini* were likewise *Coloniæ*. *Valentia*, *Tempa*, *Besidia*, *Rheggium*, *Crotone*, *Mamerto*, *Cassano*, *Locri*, *Petelia*, *Squillace*, *Ruscia*, and *Trurio* among the *Bruttii*<sup>4</sup>, some of which, although formerly they enjoy'd the Benefit of *Fæderata* were afterwards turn'd into *Coloniæ*; and in like manner, *Nocera* and other Cities among the *Picentini*; and some others situated in the other *Regiones*, which we need not mention.

IN all these Cities they liv'd according to the Customs, Laws and Institutions of *Rome* itself. In Imitation of the Senate, People and Consuls, they had their *Decuriones*, *Plebei*, and *Duumviri*. They had likewise their *Ediles*, *Quæstors*, and other lesser Magistrates every way like those of *Rome*, of which they were small Resemblances and Images: Whence they made use of the Titles of *Ordo*, or *Senatus Populusque*<sup>5</sup>; therefore we see upon some Marbles dug from under Ground, and which in spite of devouring Time have remain'd intire, that they us'd these Titles indifferently. Many of which are to be seen in that admirable and laborious Work of *Gruterus*<sup>6</sup>; where, among others, we read many Inscriptions of the People of *Nola* inscrib'd to some of their Benefactors, all of them ending, *S. P. Q. Nolanorum*. Likewise the *Segnini* in *Latium*, inscrib'd a Marble to a certain *Volumnius*, thus<sup>7</sup>,

L. VOLUMNIO  
L. F. POMP.  
JULIANO. SEVERO  
III. VIRO. COL. SIGN.  
PATRONO. COLONIÆ SUÆ  
S. P. Q. SIGNINUS.

And *Minturnum* erected another to a certain *Flavius*<sup>8</sup>.

M. FLAVIO POSTV.  
C. V. PATR. COL.  
ORDO. ET. POPV.  
MINTURNEN.

THERE were likewise *Præfecturæ* in these our *Regiones*. There were in *Italy*, according to *Pompeius Festus* Twenty-two *Præfecturæ*, to ten Cities, all of them in this Kingdom, to wit, *Capua*, *Cuma*, *Casilinum*, *Vulturnum*, *Linternum*, *Pozzuolo*, *Acerra*, *Suessola*, *Atella*, *Calatia*, to which were sent ten *Præfecti* appointed by the People of *Rome*, to whom the Government and Administration of them were committed. To twelve others the *Præfecti* were sent by the *Prætor Urbanus*, and were appointed as he thought fit. These are *Fundi*, *Formia*, *Cere*, *Venafrum*, *Alifa*, and *Arpinum*, all in this Kingdom; *Anagni*, *Piperno*, *Frusilone*, *Rieti*, *Saturnia*, *Nurcia*, in other *Regiones* of *Italy*.

THE Conditions of these *Præfecturæ*, as we have said, were the most hard; they could not have their own Laws as the *Municipia*; they could not choose their Magistrates out of their own Body, as the *Coloniæ* did; but they were sent them from *Rome*. They were under the Roman Laws, and such Conditions as the Roman Magistrates were pleas'd to impose upon them.

<sup>1</sup> Policastro in Samnium, of which there's no Vestige remaining.

<sup>2</sup> Plin. lib. 3. cap. 5.

<sup>3</sup> Camill. Pelleg. Camp. disc. 1. num. 7.

<sup>4</sup> Lupia, la Rocca. Valentia, Bivona, Tempa, Malvito. Besidia, Bisignano. Mamerto, Martorano. Locri, Girace. Petila, Policastro.

<sup>5</sup> *Ruscia*, *Rossano*. *Turio*, *Terranova*.

<sup>6</sup> Sigon. de Antiq. jur. Ital. lib. 2. cap. 4.

<sup>7</sup> Gruterus *Inscriptiones antiquæ totius orbis. Romani*, pag. 463.

<sup>8</sup> Grutter. pag. 490.

<sup>9</sup> Grutter. pag. 411.

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THERE were not wanting, in these *Regiones* which now make this our Kingdom, *Civitates fœderatæ*. These, excepting the Tribute, which by the League and Confederacy enter'd into with the *Romans*, they paid them, were reckon'd in all other Things intirely Free: They had their own Form of Republick; enjoy'd their own Laws; made their Magistrates; and often us'd the Title of Senate and People. In such a State was our City of *Naples* for a long time, so were the *Tarentini*, the *Locresi*, the *Rbeggini* <sup>1</sup>, and for some time the *Lucerini* <sup>2</sup>, the *Capuani*, and some others of the *Greek Cities* which were in *Italy*; and such were *Naples*, *Tarentum*, *Locri* and *Rbeggium*, which for a long time not only did not differ from the *Greeks* in their Laws, their Manners and Dress, but also as little in their Language. These Cities were treated by the *Romans* very favourably, and reputed rather Friendly and Confederated than Conquer'd: excepting the Tribute agreed upon which they exacted as a Token of the Confederacy, they left them at their Liberty; so much, as if these Cities had been without the Bounds of the Empire, it was allow'd to those who were banish'd from *Rome* to live in them <sup>3</sup>.

## S E C T. I.

## Of NAPLES, now the Head and Metropolis of the Kingdom.

NAPLES, although a small City, retain'd all these noble Prerogatives. It had its own Polity, its own Magistrates, and its own Laws. But what these were, as *Sigonius* <sup>4</sup> well says of other confederated Cities, 'tis a very difficult Task to go a groping after them amongst so much Antiquity and Darkneſs. 'Tis but reasonable to believe, that it being a *Greek City*, was govern'd in the Beginning by the same Form of a Republick, and the same Laws with *Athens*. It had its *Archontes* and *Demarchi*, which were Magistrates in every Thing like unto those of *Athens*. At first the Authority of the *Archontes* lasted only for one Year, as that of the Consuls in *Rome*; afterwards it was prolong'd to the tenth Year. They were of the *Senatorial* and *Equestrian* Order. And as the *Roman Tribunes* belong'd to the People, so did the *Demarchi*: Whence our most accurate Writers <sup>5</sup>, not without Reason, carry back the Division which at this very Time we see between the Nobles and the People, to those most ancient Times. Another conjecture likewise would persuade us to believe it to be true, which is, That this being a *Greek City*, and so call'd by ancient Writers with a Speciality, as *Janus Douſa* demonstrates <sup>6</sup>, from that Place in *Tacitus* <sup>7</sup>, where writing of *Nero*, *Neapolim quasi Græcam Urbem delegit*. It likewise had its *Curia* like *Athens*, which the *Neapolitans* by a *Greek* Expression call'd *Pbratria*.

IT was a solemn Institution of the *Greeks* to divide the Citizens into many Bodies, which they call'd *Phila*; and those they divided into smaller Bodies, which were call'd *Pbratria*. So in *Athens* the People was divided into *Phila*, and these into *Pbratria*; just after the same manner the *Romans* of Old were divided into *Tribus*, and these into *Curia*. But it was not so in all the *Greek Cities*; some had only *Phila*, others *Pbratria*: Whence the Grammarians take the one for the other, and give the same Power to the one Word, as to the other. The *Neapolitans* certainly were distributed into *Pbratria*, and not into *Phila*.

These *Pbratria* or *Curia*, were nothing else but Brotherhoods or Bodies into which they inroll'd themselves and united, not only those who were akin, or Brethren of the same Family, but many together of the same Street or Quarter: And at most the *Pbratria* was made up of thirty Families. The Place where they met was an Edifice, in which, besides the Porches and the Chambers, they erected a private Temple, which they dedicated to some of their particular Gods or Heroes; and by the Deity to whom they dedicated the Brotherhood, the *Pbratria* were distinguish'd from one another. In this Place they celebrated their private Sacrifices, Feasts,

<sup>1</sup> Cic. pro Corn. Balbo.<sup>2</sup> Livy calls the Lucerini, Bonos, ac fideles Socios.<sup>3</sup> Polyb. lib. 6.<sup>4</sup> Sigon. de Antiq. jure Italiæ.<sup>5</sup> Tutin. of the Origin of the Seggi<sup>6</sup> Lib. 2. Præcican. in Petron. Arbit. cap. 2.<sup>7</sup> Tacit. 15. Amal. 33.

Banquets,



Banquets, and other holy Things, according to the Rites and distinct Ceremonies, peculiar to, and fitting the God or Hero to whom the Temple was dedicated. They had their Priests, who were chosen by Lots out of this or that Family; and since the *Phratræ* consisted of thirty Families, the Priests were chosen out of each by Lot. They conven'd here with the Chief Men of the Precinct, where they not only treated of sacred Things, such as Sacrifices and Banquets, but likewise of the Publick Affairs of the City, whence they also took the Name of Colleges.

THERE were many of these Fraternities dedicated to their particular Gods. Amongst the *Neapolitan* Gods, the most renown'd and great were *Eumelus* and *Ebo*; whence that *Phratræ* that worshipp'd the God *Eumelus*, was call'd *Fratria Eumelidarum*. So that which was dedicated to *Ebo*, was nam'd *Phratræ Heboniontorum*. Amongst the Tutular Gods which *Statius* reckon'd, *Naples* had likewise *Castor* and *Pollux*, and *Ceres*; to whom many Temples were erected by the *Neapolitans*, of which there are some Vestiges remaining to this Day; whence the *Phratræ* dedicated to these Deities, was call'd *Phratræ Castorum*; meaning by that Plural Number, as well *Castor* as *Pollux*. So the *Spartans* meant when they swore *per Castores*; and that dedicated to *Ceres*, was call'd *Phratræ Cerealeusum*. They had also another dedicated to *Diana*, call'd *Phratræ Artemisiorum*, for amongst the *Greeks* *Artemisia* was call'd the Goddess *Diana*<sup>1</sup>. Not only to the Gods, but likewise to the Heroes did the *Greeks* dedicate their *Phratræ*; so in like manner *Naples*, besides those which it dedicated to its Tutular Gods, also had some consecrated to the Heroes, one of which was dedicated to *Aristeus*, therefore it was *Phratræ Aristæorum*. *Aristeus* was the Son of *Apollo*, and reign'd in *Arcadia*: He was commended for having been the first Inventor of the Use of Honey, Oyl and Rennet: He was not esteem'd a God, only a Hero. *Peter Lafena* had promis'd us a complete Treatise of the *Phratræ* of *Naples*, but his untimely Death, as it robb'd us of a great many of his other excellent Works, which he had not brought to Perfection, so it likewise depriv'd us of this. From such *Phratræ*, as *Tutinus* has also told us<sup>2</sup>, in which the Chief and most Noble of the Precinct join'd, not purely for sacred Functions, but likewise in order to consult about Publick Affairs, have the *Sedilia* of the Nobles had their Origin in *Naples*, which in the ancient Monuments of this City, were by our Forefathers call'd *Tocchi*, or *Tocci*, from the *Greek* Word *τῶκος*, which the *Latins* call *Sedile*, and we now call them *Seggi*, of which in a more convenient Place we shall have occasion to speak more amply.

THESE *Greek* Institutions were long kept up in *Naples*; and *Strabo*, who flourish'd under *Augustus*, witnesseth, That in his Time there were remaining many Vestiges of the Rites, Customs and Institutions of the *Greeks* there, such as the Academy, of which *Peter Lafena*<sup>3</sup> hath fully and most accurately written; the Assemblies of the Youth, and these Fraternities which they call'd *Phratræ*, and a hundred other Customs: *Plurima*, says he<sup>4</sup>, *Græcorum institutorum ibi supersunt Vestigia, ut Gymnasia, Epheborum Cætus, Curiae (ipsi Phatras vocant) & Græca nomina Romanis imposita*; and *Varro*<sup>5</sup>, who was Contemporary with *Cicero*, likewise reports the same: *Phratræ est Græcum vocabulum partis hominum, ut Neapoli etiam nunc*.

HOWEVER, 'tis true, this City by Degrees left off these *Greek* Customs, and having been long a *Civitas fœderata* of the *Romans*, and afterwards reduc'd to a *Colonia*, becoming daily more subject to the *Romans*, began to disuse the Names of its ancient Magistrates, such as *Archontes* and *Demarchi*, which were in use till the Reign of *Adrian*; since *Spartianus*<sup>6</sup> reports, speaking of that Emperor, who was *Demarchus* in *Naples*, that it was the Custom of some of the *Roman* Emperors, when they had a mind to shew Respect to any City, for which they had a Friendship, when they were in them, to accept of the Titles and Honours of the municipal Magistrates<sup>7</sup>. But afterwards, in process of Time, leaving off the *Greek* Institutions, and being made a *Roman* Colony, it imitated *Rome* in every Thing, by making use of the Titles of Senate, People and Commonwealth; and of lesser Magistrates, such as *Ediles*, *Quæstors*, and other Officers of that City, after the same manner as all the other *Roman* Colonies did, as we shall shew by and by.

<sup>1</sup> Ant. Aug. Dialog. 5. cap. 56.

<sup>2</sup> Tutin. dell'orig. de Seggi, cap. 7.

<sup>3</sup> P. Lafena del Ginnasio Neapolitano.

<sup>4</sup> Strabo Geogr. lib. 5.

<sup>5</sup> Varro lib. 4. de ling. Lat. cap. 15. Jos.

Scalig. in Var. de ling. Lat. eod. Loc. num. 23.

<sup>6</sup> Spartian. in vita Adriani apud Neapolim Dimarchus.

<sup>7</sup> P. Lafena del Ginnasio Nap. cap. 4. pag. 74.

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THERE are some <sup>1</sup> who believe that these Institutions, and some of the most ancient Laws, notwithstanding the Course of so many Ages, have not been quite abolish'd in *Naples*; but that part of them continue amongst us as yet, and are those which were recorded in the Book of the Customs of this City, which under *Charles II. of Anjou*, were committed to Writing; which Customs (without doubt very ancient) take their Origin from those, of which, altho' the Voracity of Time hath depriv'd us, yet there are left with the Citizens, by Tradition, these Institutions and Customs, that neither Length of Time, nor the so many Revolutions of worldly Things, have been able to cancel: but that Point shall be more narrowly examin'd into, when we come to discourse of the Compiling of that Book.

LOOKING upon this City then as a Confederate of the *Romans*, it cannot be deny'd, but that both before and after the Reign of *Augustus*, excepting the Tribute it paid to the *Romans*, it was treated very favourably by them, and left at its Freedom, in preserving the Form of a Republick, and esteem'd rather a friendly than a subjected City. What *Cicero* <sup>2</sup> supplieth us with, is a clear Argument of its Liberty, since he says, That by the *Julian Law*, the Franchises of the City of *Rome* being granted to *Italy*, there was a great Debate, and very different Sentiments amongst the People of *Heraclea* and our *Neapolitans*, whether they should accept or refuse that Favour so earnestly long'd for by all the other People of *Italy*; at last thinking it more for their Advantage to continue in their ancient Liberty, than, for the Honour of that Privilege, to subject themselves to the *Romans*, they prefer'd their own Liberty to the Freedom of *Roman* Citizens. In short, excepting the Tribute, which, in Token of its Dependance, was paid to the *Romans*, in all other Things it was intirely free, as also all the other *Civitates Fœderatæ* were, and they look'd upon themselves as out of the *Roman Empire*; insomuch, that we have seen, the *Roman Exiles* could fulfil the Sentence of Banishment in them <sup>3</sup>.

BUT what Tribute *Naples* was subject to, as well as *Tarentum*, *Locri*, and *Reggium*, likewise confederated Cities, two grave Authors have demonstrated, to wit, *Polybius* and *Livy*. Their Duty it was to furnish Ships in Time of War: These being Maritime Cities abounded in Shipping, and the *Neapolitans* apply'd themselves to Sea Affairs more than any Business, as *Peter La-sena* observes <sup>4</sup>; whence they were bound to that in which they could be serviceable; so that to the first Naval War, which the *Romans* had with the *Carthaginians*, the *Neapolitans*, the *Locrians*, and the *Tarentins*, sent fifty Ships. And *Livy* <sup>5</sup> introducing *Minio* answering the *Romans*, who were dissuading him from the War, which, in the Name of *Antiochus*, he intended to make upon some *Greek Cities*, which were at their Devotion, makes him speak after this manner: *Spetioso titulo, uti vos Romani Græcarum Civitatum liberandarum, video; sed facta vestra orationi non conveniunt Et aliud Antiocho juris statuisitis, alio ipsi utimini. Qui enim magis Smyrnæi, Lampſacæ-nique Græci sunt, quam Neapolitani, Et Rhegini, Et Tarentini, a quibus Stipendium, a quibus Naves ex fœdere exigitis?*

THE *Capuans*, as the most accurate *Pellegrinus* thinks <sup>6</sup>, when their City was confederated with *Rome*, were not oblig'd to furnish Ships, but Land Forces: because that they commanded a most fertile Country, their Supplies were to be Horse and Foot; and it is well known, that the *Capuans* were very numerous in the *Roman Land Armies*. But as the Infidelity of the *Capuans* to the *Romans*, brought the Ruin of their City, being reduc'd to a *Præfectura*, they were without Senate, without People, without Magistrates, and in a most pitiful Condition and Servitude <sup>7</sup>; so, on the contrary, *Naples* continuing stedfast, with great Constancy, in the same Friendship with the *Romans*, both in their prosperous and adverse Fortune, and particularly during the Time of the second *Carthaginian War*, when the frequent Victories which *Hannibal* obtain'd over them, had fill'd all *Italy*, and *Rome* it self, with Terror and Confusion, *Naples*, I say, remain'd constant and faithful. This City was most agreeable to the *Romans* on Account of the pleasant Manners and Exercises of its *Grecians*, and its delightful Climate; so that the *Romans*, of all Degrees and Ages, as well the robust, as those worn out with Fatigue and

<sup>1</sup> Summonte, lib. 1. cap. 6.<sup>2</sup> Cicer. pro Cor. Balbo.<sup>3</sup> Polyb. lib. 6.<sup>4</sup> Pietro La Sena, cap. 3. dell' ant. Gin. Nap.<sup>5</sup> Liv. lib. 35. cap. 14.<sup>6</sup> Camill. Pel. disc. 4. num. 15.<sup>7</sup> Liv. lib. 36.

Years, used to come here to solace themselves ; for which Reason, the *Neapolitans* were exempted from a Garrison : on the contrary, the *Capuans*, by their Unfaithfulness, had always a Garrison of *Roman* Soldiers in their City, tho' the Fear of War with their Neighbours the *Samnites* was over, which their Inconstancy was the Occasion of <sup>1</sup>. But there was no Garrison sent to *Naples*, not even in the dangerous Time of the aforesaid *Carthaginian* War, but at the Desire of the *Neapolitans* themselves <sup>2</sup>.

So likewise by their steady Faith, they deserved so well, that none of the other Conditions of the Confederacy were diminish'd, by which it was allow'd to the *Roman* Exiles to live in *Naples* without any Fear ; whither the treacherous *Q. Pleminius* was going for that end, when, on his Way, he was made Prisoner by *Q. Metellus* <sup>3</sup>. 'Tis not a small Argument, that such a Franchise was never violated, that even *Tiberius Nero* shelter'd himself in *Naples* <sup>4</sup>; when by the long Civil Wars, and the Factions in the *Roman* Empire, neither the publick Laws, nor any other thing was safe. Thus was the Fidelity of the *Neapolitans* rewarded by the *Romans*; and so long as the ancient Manners and Customs were preserv'd in this City, of all the other Cities of this Country, it almost alone underwent no Changes, having had only *Rhegium*, *Tarentum*, and *Locri*, for Fellows <sup>5</sup>.

<sup>1</sup> Caml. Pell. loc. cit.

<sup>2</sup> Liv. lib. 23. P. Carac. de Sacr. Eccl. Neap. monum. cap. 6. sect. 1.

<sup>3</sup> Liv. lib. 29.

<sup>4</sup> Sueton. lib. 3. cap. 4.

<sup>5</sup> P. Carac. de Sacr. Eccl. Neap. monum. cap. 6. sect. 1.

## S E C T. II.

*N A P L E S* was not altogether a Free Republick, and independent of the *Romans*.

**B**UT all these Prerogatives were free Gifts of the *Romans* as Rewards of Fidelity, and for the pleasant Life they used to lead in this City <sup>6</sup>; not that *Naples* was altogether free from Servitude, and an independent Republick, even in despite, and against the Power of the *Romans*, as some out of too much Love to their native Country have ventur'd to say. Can any Man be persuaded, that the victorious and triumphant *Romans*, most greedy of Empire, after having conquer'd, not only all *Italy*, but almost all the then known World, having subdu'd most powerful Kings, and most warlike Nations, after long Voyages both by Land and Sea, and most difficult Enterprizes, during the Course of many Ages, should not have Force enough to conquer one single City which was just in their view? It shews that they knew very little either of the *Roman* History or Courage. Is it a new Thing to the *Romans*, to have given to many People and Cities, after divers Manners, their Liberty, and particularly to the *Grecian*, after having subdued them, and, sometimes, after having been depriv'd of it for some Fault? The Books of *Appianus Alexandrinus* <sup>7</sup>, *Livy*, *Suetonius*, *Strabo*, *Tacitus*, *Dio*, *Velleius*, the two *Plinies*, *Diodorus Siculus*, *Justin*, *Plutarch*, and abundance of others, are full of Examples; and, not to collect all that so many grave Authors have said upon a Point that never was in question, we may learn from what *Strabo* alone hath collected concerning the *Roman* Monarchy, as it were in an Epilogue at the End of his Books of Geography <sup>8</sup>, that is to say, That amongst the various Conditions of Kings and Provinces which have been under that Empire, there were still some Cities free, or had remain'd so, for having continued in their ancient Confederacy, or having been made Free as a Reward of their Fidelity. His Words in *Latin* are these: *Eorum, quæ Romanis obediunt, partem Reges tenent, aliam ipsi habent, provinciæ nomine & Præfectos, & Quæstores in eam mittunt. Sunt & nonnullæ Civitates liberæ conditionis: aliæ ab initio per amicitiam Romanis ad-*

<sup>6</sup> Vitellius, lib. 1. speaking of *Naples* and *Cuma*: *Utriusque urbis exima semper in Romanos fides facit eas Nobilitate, atque amœnitæ sua dignissimas.*

<sup>7</sup> Appian. Alex. de bello Mithrid. Liv. lib. 33. cap. 45. Suet. lib. 3. c. 37. Strab.

lib. 12. Tacit. An. lib. 4. & lib. 12. Dio lib. 54. Velleius lib. 2. Plin. ep. 24. lib. 8. & ep. 93. lib. 10. Plin. hist. lib. 4. c. 6. Diod. Sicul. lib. 5. Justin. lib. 33. Plutar. in vita Flam.

<sup>8</sup> Strabo in fine lib. Geogr.

*junctæ,*

*junctæ, aliæ ab ipsis honoris gratia libertate donatæ. Sunt & principes quidam sub eis, & Reguli, & Sacerdotes: his permissum est patria sectari instituta.*

THEREFORE these Prerogatives were their free Gifts, and as *Publius Sulpitius* the Roman says, who answers *Minio* upon the Fact above related; *Quæ ex fœdere debent exigimus* <sup>1</sup> ? which shews, that the Tribute of Ships was due to the Romans as a certain sort of Servitude; so far were they from being oblig'd on their part to assist the *Neapolitans*, as some have dream'd, that they mutually contributed Ships. *Cicero* <sup>2</sup> gives us an Example very much to the purpose, of *Messina*, likewise a confederated City, that was oblig'd to furnish one Ship, declaiming against *Verres* for having, by a Gift, freed it from that Tribute in the Time of his being Prætor in *Sicily*, by which he had lessen'd the Majesty of the Republick, and the Right of the Empire: *Prelio, atque mercede minuisi Majestatem Reipublicæ; minuisi auxilia. P. R. minuisi copias, majorum virtute, ac sapientia comparatas. Sustulisti jus imperii, conditionem sociorum, memoriam fœderis*; adding afterwards, *Inerat nescio quomodo in illo fœdere societatis, quasi quædam nota servitutis*. Besides, the Romans also often assumed a certain Power over the *Neapolitans*, to make up the Quarrels they had with their Neighbours, whence we read in *Valerius Maximus* <sup>3</sup>, That the Senate sent *Q. Fabius Labeo*, as Arbiter, to settle the Limits between the People of *Nola* and the *Neapolitans*, which were disputed. In short, whatever these Cities preserv'd of their Franchises and Liberty, all was owing to the Moderation and Generosity of the Romans; and, oftentimes, many Cities that abus'd these Favours were depriv'd of them: On the contrary, those who made a right Use of them had greater Prerogatives and Honours bestow'd upon them. The *Marseillians* were also exempted from Tribute, and *Strabo* <sup>4</sup>, besides the Example of *Marseilles*, adds that of *Neumaufum*. *Cicero* <sup>5</sup> says, That by a Decree of the Senate it was granted, that some other Cities, besides *Marseilles* and *Neumaufum*, should be free from the Roman Jurisdiction, and exempted from all Power of any of their Magistrates.

SUCH being the Manner and Generosity of the Romans, we may, on good Grounds, believe that most diligent Searcher of our Antiquities *Camillus Pellegrinus* <sup>6</sup>, that the Romans, in Process of Time, not only discharged the *Neapolitans* from the Obligation they were under to furnish Ships, but also from obeying any of their Magistrates, as well because of their constant Fidelity, as in Consideration of the pleasant Life they us'd to lead in *Naples*; whence, he says, it is not to be wonder'd at, that this City, which was so dear to them, should be freed from the Tribute of Ships, when the World enjoy'd an universal Peace in the Reign of *Augustus*, and exempted from all Power of their Magistrates. *Cæsar* for some time hated the *Neapolitans*, as *Cicero* writes; perhaps it was, because when *Pompey* fell grievously sick in *Naples*, which happen'd in the Beginning of their Emulation, the *Neapolitans* offer'd many Sacrifices for the Recovery of his Health, and by their Example the rest of the Cities of *Italy*, both great and small, kept many Holidays <sup>7</sup>. But on the contrary, *Augustus* lov'd them dearly; and 'tis a manifest Argument of his having given them some signal Privilege, that they, in Honour of him, dedicated and celebrated a noble Game of Wrestling, at which he desir'd to be present <sup>8</sup>. His *Livia*, whom he convey'd thither in their greatest Danger, found shelter there, from her first Husband *Tiberius* <sup>9</sup>: As also his darling *Virgil*, whom the *Neapolitans* strove so much to please <sup>10</sup>; so that all these Things were pleasing Allurements to gain his Affection: whence it is attributed to *Augustus*, that he added to the Prerogatives of this City, and freed it from the Tribute of Ships, and the Power of any Roman Magistrate: Upon which Account <sup>11</sup>, some, upon the false Belief that *Naples* was become altogether Christian, from *St. Peter* the Apostle's first preaching there, when coming from *Antioch* to *Rome*, he ordain'd the first Bishop *Asprenus*, have stily maintain'd, that there were no Christian Martyrs in *Naples*, as not being subject to any *Gentile* Prince, therefore such Butchery

<sup>1</sup> Liv. lib. 35.

<sup>2</sup> Cic. lib. 5. in Verrem.

<sup>3</sup> Val. Max. lib. 7. cap. 3. Cic. lib. 1.

<sup>4</sup> Strabo Geogr. lib. 4.

<sup>5</sup> Cic. in orat. de prov. consul.

<sup>6</sup> Camil. Pel. in Camp. dif. 4. num. 15.

<sup>7</sup> Plut. in vita Pomp.

<sup>8</sup> Velleius, lib. 2.

<sup>9</sup> Sueton. in Tiberio, cap. 4.

<sup>10</sup> Virg. 4. Georg. in fine. Silvius Italicus, lib. 12.

<sup>11</sup> Franc. de Pietri, lib. 1. cap. 5. Hist. Napol.

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would not have been suffer'd: But how false that is, hath been shewn by *Peter La Sena*<sup>1</sup>, and at length demonstrated by *P. Caracciolus*<sup>2</sup>, and shall be examin'd by us when we come to treat of the Ecclesiastical Polity of these Countries.

THESE noble Prerogatives, and agreeable Conditions, continu'd in *Naples* for a long time under the Successors of *Augustus*. But as soon as the *Neapolitans*, by degrees, began to disuse their native Customs, and *Grecian* Manners, and to make Use of those of the *Romans*, and at last to imitate them in all their Proceedings; their City put on a new Countenance, and a new Form of Republick appeared. *Fulvius*<sup>3</sup> *Ursinus* believ'd, that *Naples* was reduc'd to a Colony, with the other Cities of *Italy*, by *Augustus*; but by what hath been already said, and what *P. Caracciolus* hath written<sup>4</sup> against the Opinion of that Author, it is evident, that it was not by *Augustus*, but afterwards by *Titus* or *Vespasianus*, that *Naples* was reduc'd to a Colony. However that may be, it was not by being made a Colony, that it lost that Liberty and Polity as to its Magistrates, that it had at first, not being, as *Capua* was, from a confederated City converted into a *Præfectura*. As a *Latin* Colony it kept the same Institution of making Magistrates out of its own Body<sup>5</sup>, and had no *Præfecti* sent from *Rome* to govern it: It had yet its Senate, and its People; had Censors, Ediles, and other Magistrates as *Rome* had; was allow'd to make Use of the Title of Senate, of People, and Republick; and we read upon many Marbles, *S. P. Q. N.* and amongst the rest, those transcrib'd by *Gruterus*<sup>6</sup>, which the *Neapolitans* inscribed to a certain *Galba Bebius*, Censor of the Republick:

S. P. Q. NEAPOLITANUS  
D. D. L. ABRUNTIO. L. F.  
GAL. BAEB. CENSORI  
REIPU. NEAP.

And this other,

S. P. Q. NEAPOLITANUS  
L. BÆBIO. L. F. GAL.  
COMINIO PATRONO COLONIAE.

Which Title of *Senatus* they changed afterwards into *Ordo*, whence we read on many Marbles *O. P. Q. N.* changing regularly these Titles, as may be observed, indifferently on other Marbles of other Colonies.

NEITHER was it called a Colony, because then there would have been new Inhabitants sent to it from *Rome*, or some other Places; but the Old continued, and the Laws of *Latium* were in use, as in all other *Latin* Colonies, which were adorn'd with the Franchises of *Rome*, and many other Prerogatives, for which Reasons, to distinguish it from other Colonies, it kept its paternal and municipal Laws, without in the least being dependent upon, or govern'd by the *Roman* Laws alone; which municipal Laws, and many *Grecian* Rites, it never lost: the Vestiges of some of them it retains to this Day.

'TIS a great Error in those who think that *Naples* was altogether free, and independent upon the *Roman* Empire, only because they find the Title of the *Neapolitan* Republick in more than one antient Inscription, and in more than one ancient Author; not having observ'd, that in the Time of *Adrian*, much more in that of *Constantine the Great*, and other Emperors his Successors, it was a City, like many others, under the Government of the Consuls of *Campania*, as we shall presently demonstrate.

And much greater was the Error of those, who believ'd that down to the Time of *Roger*, the first *Norman* King, *Naples* was in no manner subject to the *Roman* Emperors, nor after them to the *Gothish* Kings of *Italy*, and much less to

<sup>1</sup> P. La Sena Gim. Nap. cap. 6. p. 104.

<sup>2</sup> Carac. de sacr. Ecclef. Neapolitan. mon. cap. 10.

<sup>3</sup> Ful. Ursin. de nummis.

<sup>4</sup> Carac. de sacr. Eccl. Nep. monum. cap. 6. fest. 1.

<sup>5</sup> Camil. Peregr. castig. in falc. Benevent. A. 1140.

<sup>6</sup> Grut. inscript. tot. orbis, fol. 366.

<sup>7</sup> Camil. Per. in Castig. ad Falc. Benev. ad Ann. 1140.

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the *Eastern* Emperors, so that *Alexander* Abbot of *Telefinum*<sup>1</sup>, in his *Norman* History speaking of *Naples* conquer'd by *Roger*, being possess'd with this Error, could not forbear saying, that this City, which *vix unquam a quoquam subdita fuit, nunc vero Rogerio, solo verbo præmissa, submittitur*; forasmuch as it was not because *Naples* was originally a *Grecian* City, that it was so kindly us'd by the *Romans* as to have the Honour of being a confederated one; neither because after it became a *Latin* Colony, and preserv'd the same ancient Appearance of a Republick, in having Power of chusing its Magistrates out of its own Body, and retaining its own Laws, and not being oppress'd with severe Usage, as other *Præfecturæ* were; it could not be said to be exempted from the *Roman* Empire, and much less from that of the *Goths* and Emperors of *Greece*; seeing it was certainly subjected to them, not only by Force of Arms, but by ancient Subjection, it came, with the rest of *Italy*, under their Power, and obey'd them, as we shall make appear in the Prosecution of this History; and if some Writers give it the Title of Republick, it was because it kept up that Form of Government, which was neither forbidden by the *Romans* nor *Goths*.

NEITHER ought these Authors to harp upon that word *Repubblica* so much, since, in the *Latin* Language, it signifies the Community, not the Dignity of publick Things; and often it is us'd to denote some Form of Administration or publick Government; even in the *Præfecturæ* also, which were deprived of all publick Council: *Erat, as Festus says*<sup>2</sup>, *quædam earum Resp. neque tamen Magistratus suos habebant*; at that rate, *Capua*, *Teanum*, and *Atella*, were Republicks in the Time of *Seneca*<sup>3</sup>: The same might be also said of *Nola*, *Minturnum*, *Segna*, and many other Colonies, that were call'd Republicks, and which inscrib'd likewise upon their Marbles these Letters, *S. P. Q.* each of them a Cubit in length; and in latter Times, there are, in good Authors, a thousand such Instances, of which the *Theodosian* Code gives us a Multitude<sup>4</sup>.

MUCH less ought they to fall into that Error, by taking their Argument from the Dominion which *Naples* had over the Island of *Caprea*, and afterwards over that of *Ischia*, which it chang'd for the other to please *Tiberius*<sup>5</sup>; since as the most accurate *Pellegrinus* answereth them<sup>6</sup>, without their going far, they might have observ'd, that *Capua* likewise, while it was a Colony, possess'd the Country of *Gnosia* in the Island of *Crete*: and if that Argument, of *Naples* having had the Dominion of that Island, was sufficient to make it a free Republick, it ought not to be doubted, but that it continued to have the same Prerogative many Ages after, under the *Goths*, the Emperors of the *East*, and other Princes; since it still kept the Dominion over its neighbouring Islands, even to the Days of *Gregory the Great*<sup>7</sup>; and later also, in the Time of the Pontificate of *Benedict VIII.* and likewise in Times less remote from us, in which it would be Folly to believe, that *Naples* was a free Republick, and independent of any Government whatsoever.

<sup>1</sup> Alex. Telef. lib. 2. cap. 12 & 6.

<sup>2</sup> Fest. v. Præfecturæ.

<sup>3</sup> Seneca de Benef. lib. 7. cap. 4.

<sup>4</sup> Cod. Th. tit. de Reip. & de locat. fund. juris emph. & Rep.

<sup>5</sup> Sueton. lib. 2. cap. 29. Strabo lib. 5. Dion. lib. 52.

<sup>6</sup> Camil. Pel. in Cam. Disc. 4. Num. 15.

<sup>7</sup> Gregor. lib. 3. ep. 53. indit. 3.

### S E C T. III.

*Of other famous Cities in these Countries.*

THIS, in short, is the Aspect and Polity which the *Regiones* that compose the Kingdom of *Naples*, had, in the Ages we are treating of. It was not then divided into Provinces, as afterwards, but *Regiones*; each of which had Cities, which were govern'd according to their Conditions, either as municipal Colonies, Prefectures, or confederated Cities. They generally had the *Roman* Laws, which, for their Excellency, were, in the Esteem of all Nations, most Just, most Wise, and most Useful to human Society; only we must observe, that the municipal and confederated Cities, could use their own and the municipal Laws; but when these fail'd, they had recourse to the *Roman*, as the Fountain of all divine

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and human Laws. The Government was according to the Condition of each City ; many were govern'd by Prefects sent from Rome ; many more by Magistrates, who were allow'd to be chosen out of their own Body ; and almost all of them studied to imitate the Government of Rome their Head, of which they were small Resemblances and Images.

IT was not, as now, that all the Beauty, Magnificence, and Riches, were to be found only in one City, as the Head and Chief of the rest : Every Country had many Cities magnificent and famous in themselves. *Capua* once exalted it self above all the rest ; so very renown'd and famous, that *Lucius Florus* <sup>1</sup> declareth, that it vied with *Rome* and *Carthage*, the most famous and wonderful Cities in the World : A City so full of Inhabitants, and of such Traffick, that it was reckon'd the Mart of all *Italy* ; and was always equall'd with *Ephesus* by our Lawyers <sup>2</sup>, and almost all the Examples they quote, either in Matters of Contract, or Remittances of Payments, from the most remote Places, or of Traffick amongst the most famous Merchants, are all taken either from *Capua* or *Ephesus*.

THERE was in *Puglia*, *Luceria*, so famous and so much extoll'd by *Livy* and *Horace* : *Sipontum*, which, for Antiquity, yielded to none other in the World : *Venosa*, so renown'd and remarkable for the Birth of *Horace* : *Beneventum*, the most famous of all the Roman Colonies : *Bari*, and other illustrious Cities.

The *Salentini* had *Lupia*, *Otranto*, and the beautiful and pleasant *Brundisium*, famous for its Harbour ; and, by our Lawyers, celebrated for the many Voyages undertaken from thence to the East <sup>3</sup>.

THE *Brutii* had *Tarentum*, *Croton*, *Rhegium*, *Locri*, *Turio*, *Squillace*, all famous Cities ; Cities fertile in producing so many bright and excellent Mathematicians and Philosophers ; from whence arose that most noble Sect called the *Italic*, and which had for its Head *Pythagoras*, who liv'd there very long, and had sometimes in *Croton*, six hundred Scholars.

THE *Lucani* had *Pesto* and *Bussento*. The *Picentini*, *Salernum* and *Nocera*. The *Sannites*, *Isernia*, *Venafrum*, *Telesse*, and *Sannium*, so very famous, that it gave the Name to the Country ; not to pass over *Salerno* remarkable for the Birth of *Ovid* : *Nola*, *Surrentum*, *Pozzuolo*, and these other pleasant and ancient Cities, *Cuma*, *Baia*, *Misenum*, *Linternum*, *Vulturnum*, *Heraclea*, *Pompei*, and many others, of which there are scarce any Vestiges.

<sup>1</sup> Flor. lib. 1. cap. 16.

<sup>2</sup> Scevola & African. in lib. 3. & lib. 9. tit. 4. D. lib. 13. Ulpianus, lib. 9. tit. 2. D. lib. 45.

Julianus & Papin. in lib. 17. & lib. 50. tit. 1. D. lib. 46.

<sup>3</sup> Scevola in l. qui Romæ, D. de verb. oblig. sect. Callimachus.

## SECT. IV.

### Of FAMOUS WRITERS.

WHO can number so many famous and noble Wits, as have had their Births in these illustrious Cities ; the Philosophers, Mathematicians, Orators, and above all, the so renown'd and famous Poets ? What we have now a-days of the Ancients, who were most singular and exquisite in Philosophy, Mathematicks, Rhetorick, and especially Poesy, we owe all to the Wits, who were either the Product of this Soil, or being born elsewhere, liv'd and cultivated their Studies here.

AMONG so many, I may reckon, for his Knowledge in the Laws, the incomparable *Papinianus* : As some have made him to be born in *Beneventum*, I would willingly do the same ; but the Necessity of telling Truth, and not deceiving any body, obliges me to do otherwise : Since the native Country of such an able Man is so uncertain, that only vain Conjectures, and too much Love of their own Country, could excite those who have wrote, to say, that he was of *Beneventum*. Their Ignorance was greater and not to be pardon'd, when they had their recourse to the *Pandecta*, and that Law of *Papinianus* <sup>4</sup>, which we have

<sup>4</sup> L. Hæredas mei D. ad. S. C. Trebel.

under the Title *Ad S. C. Trib.* forasmuch as they ascribe to this Civilian the Words of a certain Testament made by one born in *Beneventum*, in which he left a Legacy *Colonia Beneventanorum Patriæ meæ*; and believing that *Papinianus* spoke of himself, wrote, that *Beneventum* was his native Country. I have taken notice of this Blunder, because a grave Author among us is a Stickler for it, and that is *Marinus Preccia*<sup>1</sup>; 'tis now to be found in many Books of our Professors, and even in a modern Author of *Samnium*<sup>2</sup>, to whom, as Writers not so ignorant in these Matters, as some others, perhaps he has been easily induc'd to give Credit.

<sup>1</sup> Preccia de fubfeud.

<sup>2</sup> Ciarlant. de Samnio, lib. 3. cap. 3.



## CHAP. V.

*Of the STATE of ITALY, and of these our Provinces under Adrian, to the Time of Constantine the Great.*



**T**HIS Form and State of the *Regiones* of Italy, and the Provinces of the Empire, continued to the Time of *Adrian*. As this Prince gave a new Turn to the Roman Laws, so likewise he divided Italy after another manner; not into *Regiones*, but Provinces<sup>3</sup>; of eleven *Regiones*, of which it consisted at first, he made seventeen Provinces. The Islands of *Sicily*, *Sardinia*, and *Corfica*, which *Augustus* divided from Italy, and number'd amongst the Provinces of the Empire, were by *Adrian* added to the Provinces of Italy: He enlarg'd the Bounds of *Campania*, to which, although *Augustus* had added some Part of *Samnium*, the two *Latia*, *Campania*, and the *Picentini*, *Adrian* afterwards join'd the *Hirpini*, so that *Beneventum* was near being call'd a City of *Campania*<sup>4</sup>.

HE alter'd likewise the Civil Government and Magistratès, by instituting four *Consulares*<sup>5</sup>, to whom the Government of the greatest Provinces of Italy was committed; the rest were given to *Correctores*, and others to *Præsides*, which were Names of Magistrates of different Dignities.

**UNDER** the *Consulares* there were eight Provinces, which were, I. *Venice* and *Africa*. II. *Æmia*. III. *Genua*. IV. *Flaminia* and *Picenum*. V. *Tuscany* and *Umbria*. VI. *Picenum Suburbicarium*. VII. *Campania*. VIII. *Sicilia*.

**UNDER** the *Correctores* were two Provinces, I. *Puglia* and *Calabria*. II. *Lucania* and the *Bruttii*.

**UNDER** the *Præsides* were seven, I. The *Alpes Cottiae*. II. *Rhetia Prima*. III. *Rhetia Secunda*. IV. *Samnium*. V. *Valeria*. VI. *Sardinia*. VII. *Corfica*.

**TO** the Provinces out of Italy he gave another Form and Disposition. He divided *Spain* into six Provinces, some of which were Presidial, others Consular. He divided *Gallia* and *Britain* into eighteen Provinces: *Illyricum* into seventeen: *Thracia* into six: *Africa* likewise into six: And after the same Manner did he divide *Asia*, and the other Provinces, of which there's no need of making a longer Catalogue.

**IN** the mean time, these *Regiones*, which make up the Kingdom of *Naples*, took a new Form of Government. Now the Name of Province began to be known

<sup>3</sup> Spartian. in vita Adrian: Appian: Alex. lib. 1. de bel. civili.

<sup>4</sup> Camil. Pel. in Camp. disc. 1. num. 8.

<sup>5</sup> Spartian. loc. cit. quatuor Consulares per omnem Italianam judices constituit.



in *Italy*, and according to this new Scheme of *Adrian's*, that which is now a Kingdom was divided into four Provinces, I. A Part of *Campania*. II. *Puglia* and *Calabria*: III. *Lucania* and the *Brutii*. IV. *Samnium*.

THE Government appear'd new and more absolute, taking from the Cities these Prerogatives, which either the Condition of *Municipia*, *Coloniae*, or *Fœderatae*, was in use to have: *Naples* lost much of its ancient Liberty; as also the other confederated Cities and Colonies. The Authority and Jurisdiction of the *Consulares*, *Correctores*, and *Præsides* was great, and became yet greater, when *Constantine the Great* translated the Imperial Seat to the East, and left intirely to them the Government of these our Provinces, which was giving the finishing Stroke to the Ruin of *Italy*, by bringing in that new Form and Polity, which shall be treated of more at length in the second Book of this History.



## CHAP. VI.

### Of the LAWS.



IT was not sufficient to have so well divided the Provinces and *Regiones*, if good Laws and Institutions had not been provided at the same Time; in which the *Romans* discover'd no less Knowledge than Prudence: For if we will but consider the Origin of their Laws, with how much Maturity and Wisdom they were establish'd, and with how much Prudence expounded afterwards, and to the Multitude and Variety of Affairs adapted; their Durableness will not appear strange nor wonderful.

ALTHOUGH the *Romans* were govern'd more than the Space of two Ages by the Laws of their own Kings<sup>1</sup>; nevertheless, these being driven away, their Laws were likewise cancell'd<sup>2</sup>, some few only being preserv'd, to wit, the *Tullian*, the *Valerian*, and the *Sacratæ Leges*<sup>3</sup>; for the rest, they were govern'd by their ancient Customs, and unwritten Laws, which being various and uncertain, were the Occasion of grievous Contests and Disorders: For which Cause they considering, that these were not sufficient for establishing a perfect and well order'd Republick; and that Travelling, and the Knowledge of the Laws and Institutions of different Countries, were very helpful for the better establishing of it, as *Aristotle* says<sup>4</sup>, they order'd, That the Laws and Customs not of one City only, but of many, should be known and examin'd, to the End, that those which should be found proper, and worthy, might be receiv'd and incorporated among their own: And likewise considering, that the best Laws were those which proceeded from true and solid Philosophy, and that, amongst all Nations, the *Greeks* appear'd to be superior in Wisdom to all others, they sent for that End to *Athens*, and other Cities of *Greece*, even to the *Greek* Cities that were in *Italy*, and also to that Part which of old was call'd *Magna Græcia*, where the *Pythagoreans* flourish'd, and those two famous Lawgivers *Seleucus* and *Caronda*, who gave the Laws of these to the *Locrians*, and they gave them to the *Turians*<sup>5</sup>. They sent to *Lacedæmonia*, and to *Hetruria*; by which they

<sup>1</sup> *Leges Regiæ in ordinem ex eorum fragmentis redactæ, notisque ex parte illustratæ sunt a Paulo Manutio, A. Aug. Francisco Modio, Fulvio Ursino, Lipsio, Rosino, Forstero, ac Balduino.*

<sup>2</sup> *L. 2. D. de orig. jur. in princ.*

<sup>3</sup> *Dion. Halicar. lib. 5. Plutar. in Valer. Liv. lib. 3. & 10.*

<sup>4</sup> *Arist. lib. 1. Rhetoric. ad Theodect. cap. 4. Legum ferendarum scientiæ, terrarum Peregrinationes sunt utiles, exinde enim gentium instituta, legesque licet cognoscere. Emund. Meril. obs. lib. 2. cap. 10.*

<sup>5</sup> *Gunrad. Riterhus. in Com. ad XII. L. L. tab. cap. 1.*

discover'd,  
†

discover'd, by a new and rare Example, that Philosophy, which the *Greeks* confin'd to their Porches and Academies, could be made useful likewise to the Civil Society of all the Citizens; and that the Principles and Axioms of it, being manag'd, not by meer Philosophers, but Civilians, could be adapted to human Commerce in such a manner, that Mankind might reap both Profit and Justice from it, as the Spring of all Tranquillity and worldly Contentment. Thus from the Laws and Institutions of so many bright and famous Cities, and from those which *Rome* it self had, as is at large reported to us by *Riterfusus*<sup>1</sup>, the *Roman* Civil Law, and those famous and celebrated Laws of the twelve Tables, were compil'd by the *Decemviri*, which were the first and lasting Foundations of the *Roman* Jurisprudence, and the Spring, as *Livy* says<sup>2</sup>, of all publick and private Laws; of which *Cicero* speaks thus<sup>3</sup>, *Fremant omnes licet, dicam quod sentio, Bibliothecas, Mebercule omnium Philosophorum unus mihi videtur duodecim tabularum libellus, si quis legum fontes, & capita viderit, & auctoritatis pondere, & utilitatis ubertate superare.*

NEITHER was their Wisdom less in establishing the other Laws, which were publish'd by the People of *Rome*; since that after they drove away their Kings, the Majesty of the Empire remaining in the People, it was in their Power to make the Laws<sup>4</sup>. Neither was it less in the *Plebiscita*, to which, by the Law of *Hortensius*, a Power and Authority, not inferior to the Laws themselves, was given<sup>5</sup>. Nor in the *Senatus Consulta*, which had no less Authority<sup>6</sup>: And, lastly, in the Decrees of the Magistrates, which from being annual, were by the *Cornelian* Law, made perpetual, and, under the Emperor *Adrian*, by the Labour of *Julianus*, put in order, and by them call'd *Edicta Perpetua*<sup>7</sup>; whence sprung that beautiful Part of the Jurisprudence<sup>8</sup>; which was afterwards so much illustrated by the *Roman* Civilians, and became, as it were, the North Star and Foundation of that which we find in the Books of *Justinian*<sup>9</sup>.

<sup>1</sup> Riter. loco cit.<sup>2</sup> Livius, lib. 3.<sup>3</sup> Cicer. lib. 1. de orat.<sup>4</sup> §. Lex instit. de jur. nat. gent. & civ. Bodin. lib. 1. de Repub. cap. 10.<sup>5</sup> §. L. 2. §. iisdem temporibus, D. orig. jur.<sup>6</sup> Senatus consultum, instit. cit. tit.<sup>7</sup> Prætorum, Instit. tit. de perpet. & tem. act. Budeus in lib. 2. D. de statu hom. Rosin. lib. 8. Antiq. cap. 5.<sup>8</sup> L. si quis 10. C. de condit. indeb.<sup>9</sup> Jac. Gotofr. in Prolog. ad Cod. Theod. cap. 1.

## C H A P. VII.

### *Of Lawyers and their Books.*



U T that which gave greatest Authority and Stability to the *Roman* Laws, was, the Study of the Jurisprudence being always had in great Esteem, and honoured by the most excellent Men of that Republick: They knew very well, what was requisite for the Occasions of the Citizens, was not their having provided them only with the bare Laws, if there were not likewise those who understood, and could explain the Force and Energy of them; and in the Multiplicity of Cases, and Variety of Business, might be assistant to the People: Therefore they were willing that the most knowing, and the brightest Men of the City might be appointed for so noble an Exercise, such as the *Claudii*, the *Sempronii*, the *Scipiones*, the *Mutii*, the *Catoness*, the *Bruti*, the *Craffi*, the *Lucilii*, the

the *Galli*, the *Sulpitii* <sup>1</sup>, and others of the like Fame; by which it is manifest, that they had nothing more at heart, than the Study of the Jurisprudence, and Skill in the Civil Law, which was of great Advantage to the Publick, either by interpreting, disputing, teaching, or writing. What other Nation can we mention, that could contend with the *Romans* in this Point? Surely not the *Hebrews*, whose legal Discipline being very mean and vulgar, was never much esteem'd <sup>2</sup>: Not the *Greeks* themselves, (to pass over the rest) with whom, the Office of Lawyers was confin'd to mean and low Cases, and was solely taken up with Actions, Forms, and Evasions; so that the Professors, as being of the Dregs of the People, were not honour'd with the venerable Title of Lawyers, but with that of plain Attornies; so that *Cicero* us'd to say <sup>3</sup>, That all the Laws and Customs of other Nations, being compar'd with those of the *Romans*, appear'd ridiculous and trifling. With the *Romans*, none were the Protectors or Guardians of the Laws, but the most excellent Men, indu'd with all Learning and exquisite Knowledge, grave, uncorrupted, severe, and venerable, in whom was lodg'd the Defence of the Citizens: they had their recourse to them for their Advice, as well in publick as private Concerns: To them, either while they were walking in the Market-place, or at home in their Houses, did they apply, not only in Cases concerning the Civil Law, but in all other Matters; if a Father was to marry his Daughter, he took their Advice; or if any Man was to buy a Farm, to plough his Field, and, in short, there was nothing determin'd, neither publick, nor private, nor domestick, which did not depend upon their Advice; so much, that the same *Cicero* was wont to say <sup>4</sup>, That the House of a Lawyer was the Oracle of the City. They had yet three other principal Functions; to advise Parties, which was the only Function of the old Practitioners; to consult with the Judges in Points of Right in Processes, which were to be judged; and lastly, to be Assessors to the Magistrates, to instruct them, and sometimes to judge in Processes, either with or without them <sup>5</sup>. They had yet another Authority, that is to say, That when there arose any difficult Question in *Rome*, they join'd all together in order to debate and concert it, and that Conference was called *Disputatio Fori*, of which *Cicero* makes mention in his first Book, *ad Q. F.* and in the *Topici*; and what they resolv'd in such Assemblies, was call'd *Decretum*, or *Recepta Sententia*, which was a kind of unwritten Law, as it is very methodically treated of by *Revardus* <sup>6</sup>.

But if the Jurisprudence was had in such honourable Esteem in the Time of the free Republick, it was no less under the Emperors, down to the Time of *Constantine the Great*. Afterwards, in the Time of the Decay of the Commonwealth, there not being so many able Lawyers, by the Vice of the Age, by degrees it came to pass, that every one trusting solely to his own Studies, interpreted publicly the Laws after his own Fancy, and according to his own Talent advis'd, and gave Answers; so that by the Multitude of Professors, or by their Ignorance and Sordidness, a Thing of so great Value, and of such Importance, came to be despis'd; or else, as *Pomponius* <sup>7</sup> says, (or whoever may be the Author of that Book) that the Laws might have the greater Authority, it was decreed by *Augustus*, that no Person whatsoever should presume to take upon himself that Power, as had been done in Times past; but that, by his Authority alone, and by his Permission, the Laws were to be expounded, and Consultations given, which they were to acknowledge as a Favour from him, or as a Reward of their eminent Virtues, or singular Knowledge and Skill in the Civil Laws: whence he ordain'd the taking of Licences from him; from whence it came, that the Civilians were reputed Officers of the Empire; at which *Adrian* was offended, not without Reason, saying, That it was not the Emperor's Business to give a Character of the Capacity that was requisite in a Civilian; whence *Pomponius* <sup>8</sup> judiciously remarks, *Hoc non peti, sed præstari solere*; so that from that Time forward, the Civilians, by giving their Advice by the Authority of the Emperor, were reckon'd publick Officers and perpetual Magistrates, at least, as *Manlius* qualifies a Civilian, *Perpetuus Populi privato in limine Prætor*.

<sup>1</sup> L. 2. D. de orig. jur.

<sup>2</sup> Georg. Pasq. de nov. inventis.

<sup>3</sup> Cic. lib. 1. de orat. Vigilius in Præfat.

<sup>4</sup> Cic. loc. cit.

<sup>5</sup> Loyseau, des ordres, cap. 8. num. 24.

<sup>6</sup> Reverd. de auth. Prud. cap. 14. & 15.

<sup>7</sup> L. 2. de orig. juris.

<sup>8</sup> L. 2. D. de orig. jur. in fine.

<sup>9</sup> Loyseau, des ordres, cap. 8. num. 27.

IN those very Times 'tis to be observ'd, that the *Roman* Jurisprudence, by the Favour of the Princes, was at its Height of Greatness and Honour; since Princes themselves, who now a-days mostly encourage the Study of Mathematicks, had nothing more at heart than the Knowledge of the Laws: None others but Civilians were call'd to Council upon difficult and serious Matters; so we read, that *Augustus*, a most prudent Prince, when he was about to give that Force and Authority to the *Codicilli*, which he afterwards gave, our *Justinian* says <sup>1</sup>, 'That he conven'd the most wise Men, among the rest *Trebatius*, on whose Advice he depended much in his most weighty and serious Affairs. So likewise we observe from the Historians of those Times, that *Trajan* had *Neratius Priscus*, and *Celsus* the Father, in great Esteem. *Adrian* advis'd with *Celsus* the Son, *Salvius Julianus*, and other learn'd Civilians <sup>2</sup>. The Works of *Volutius Metianus*, of *Ulpianus*, of *Ulpianus Marcellus*, and others, pleas'd *Antoninus Pius*. *Marcus Antoninus* the Philosopher, in his Deliberations, and establishing the Laws, always had *Cerbidius Scevola*, a most grave Civilian for his Colleague, who had the Honour to have for his Scholars many famous Civilians, and among the rest, *Paulus*, *Trifonius*, and the great and incomparable *Papinianus*. *Alexander Severus* advis'd with *Ulpianus*, neither did he make one Constitution without the Advice of twenty Civilians <sup>3</sup>; and *Maximinus the Younger* consulted *Modestinus*. Neither, at last, did these Emperors, in these very Constitutions, rob those great Men of their deserv'd Honour, since their Opinions are mention'd in them with great Encomiums, as *Carus*, *Carinus*, and *Numerianus* did by *Papinianus* <sup>4</sup>; and as *Dioclesian* did, who, by publick Testimony, valu'd the Opinion of *Scevola*, as other Emperors did those of other Civilians. And truly whoever will but attentively consider, that which is extant of the Works of these Civilians, (since few of those who flourish'd under the free Republick are left us) the greatest part of which *Justinian* depriv'd us of by that Compilation of his, for which I don't know if we ought to blame or praise him; because the Vicissitude and Revolution of worldly Things are such, that perhaps without it, none of them should have reached us; it will clearly appear, not only how admirable their Knowledge and Learning has been, but likewise persuade us, that nothing escap'd their Exactness, by consulting about every thing that could fall out, either in the Courts of Justice, or other Affairs of the Commonwealth. For that Purpose, the Solicitors and Pleaders provided themselves with the Books of the *Questiones* and of the *Responsa*, of the *Decreta*, the *Constitutiones*, the *Epistolæ*, and of the *Digesta*: For those who were assumed to be Magistrates and Judges, there were many Books ready prepar'd, of the Offices of the different Magistrates, their Authority, and Jurisdiction. Those who were curious to learn the legal Discipline of speculative Matters, had many Opportunities of satisfying themselves: They found Books full of Notes which expounded the Laws of the People of *Rome*, the Decrees of the Senate, the Edicts of the Magistrates, the Orations, the Constitutions of Princes, and the *Responsa* of the old Civilians: There were Treatises upon almost every Case that could ever belong to the Jurisprudence: There were not wanting Books upon the various Readings; and, last of all, there were to be found Books, teaching how to reduce Jurisprudence it self to a certain Method and Order, far exceeding that which *Cicero* left us in writing <sup>5</sup>, which the Titles of their Volumes demonstrate to us, the Loss of which we, with good Reason, lament at this Time; such were the *Enchiridia*, the *Pandectæ*, the *Regulæ*, the *Sententiæ*, the *Definitiones*, the *Brevia*, and the Books of Institutions; so that tho' the Course of so many Ages, and the dismal Alterations of the World, have robb'd us of a great many other valuable Antiquities, if they had not likewise taken from us the Books of so many eminent Civilians, we should not have had Occasion now for the Works of those who in barbarous Times succeeded them; or rather, there wou'd not have been Occasion to load the Jurisprudence with so many new and insipid Volumes.

Neither was the Dignity and Elegancy of the Style of these Civilians, inferior to their Prudence and Care. It is a Thing truly worthy of Admiration, that their Elegancy of Expression should be in every thing the same, and perfect, altho'

<sup>1</sup> Justin. in Instit. lib. 2. tit. 25.

<sup>2</sup> Spartian. in vita Adrian.

<sup>3</sup> Lamprid. in Alex. Sever.

<sup>4</sup> L. cum virum 16. c. de fidei comm.

<sup>5</sup> L. casus majoris, C. de Testam. 1. 3. cod. tit.

<sup>6</sup> A. Gell. lib. 1. noct Attic. cap. 22. Bud. Annot. in Pand. lib. 1. de just.

they



they did not flourish at the same Time, but distant by whole Ages, that nothing can be added to it : Or if we consider their Stile and Writings, it cannot be perceiv'd who amongst them deserves the Pre-eminency ; and it is yet worthy of Observation, what *Laurentius Valla* <sup>1</sup>, and *Gulielmus Budeus* <sup>2</sup>, speaking of the Uniformity of the Words and Sentences of their Books, which are collected in the *Pandects*, have written, That it is not inferior to what is observable in the Epistles of *Cicero*, as if these Books had likewise been written by one Person ; since commencing from *Augustus* to the Time of *Constantine the Great*, under whom flourish'd *Hermogenianus*, *Arcadius*, *Carisius*, *Aurelius*, and *Julius Aquila*, (whose Memories we see scatter'd by *Justinian* in his fifty Books of *Digesta*) there were three Ages, during which we observe in the Historians, Orators, Poets, and other Writers, a great Difference of Stile, but in these Civilians 'tis always the same, and constant.

IT is not then to be thought strange, if in the Course of Time, (and especially under *Valentinian III.*) the Authority and Force of the Sentences and Opinions of these Civilians gain'd so much Credit, that *Justinian* says <sup>3</sup>, it was finally resolv'd, that the Judges should not depart from their Opinions.

BUT this being a Point of History not rightly understood, hath occasion'd many Mistakes in some ; but give me leave to observe, that it ought not to be thought, as some have imagin'd, that this Authority was acquir'd, when *Augustus* order'd the Licences to be taken of him, as if giving Counsel by the Authority of the Emperor, had given so much Strength and Authority to their Advice, as that the Magistrates were oblig'd to follow it in giving Judgment : This is repugnant to all the History of the Law ; since that Authority was given them from the Time of the free Commonwealth, but only in case, as we have said above, when there happen'd any difficult Question in *Rome*, and that they join'd together to debate and decide it, and what they concluded in such an Assembly was call'd *Decretum*, or *Recepta Sententia*, which was a kind of unwritten Law, from which the Judges could not depart in their Decisions, as having been long debated, and receiv'd in the Courts of Judicature, and had acquir'd Strength and Vigour, not inferior to the Laws themselves ; which was also practis'd with regard to some of their Decrees receiv'd in Courts in the Times of *Augustus*, and the other Emperors his Successors. But it is altogether repugnant to Truth, that without this, every one of their Sentences and Opinions were no sooner pronounc'd, but they had so much Authority, as that the Magistrates were oblig'd inviolably to follow them ; and much less in the Time of *Augustus*, when the Dispute amongst the Civilians broke out into open Factions ; whence the Sects of the *Sabiniani* and the *Cassiani* on one side, and the *Proculejani* and the *Pegasiani* on the other <sup>4</sup>. These Disputes were never more obstinate than under *Augustus*, when the Commonwealth began to take the Form of a Principality ; since under his Reign, they were maintain'd by *Attejus Capito*, Disciple of *Ofilius*, on the one side, and by *Antistius Labeo*, Disciple of *Trebatius*, on the other : Under *Tiberius*, by *Masurius Sabinus*, who had *Nerva the Father* for Antagonist : Under *Caius*, *Claudius*, and *Nero*, by *Cassius Longinus*, from whom the *Cassiani* had their Name ; and by *Proculus* from whom the *Proculejani* : Under the *Vespasians*, by *Celius Sabinus*, from whom the *Sabiniani*, and by *Nerva the Son*, and *Pegasus*, from whom the *Pegasiani* : And under *Trajan*, *Adrian*, and to the Time of *Antoninus Pius*, on the Side of the *Sabiniani* and *Cassiani*, were *Priscus*, *Favolenus*, *Alburnius*, *Valens*, *Tuscianus*, and *Salvius Julianus* ; and on that of the *Proculejani* and the *Pegasiani*, *Celsus the Father*, *Celsus the Son*, and *Priscus Neratius*.

AND although after the Death of *Antoninus Pius*, the Heat of such sharp Disputes and Contentions was not so obstinate, whence arose the *Mediani* Civilians <sup>5</sup>, who not bearing the Slavery *jurare in verbo Magistrum*, took another Course ; but for all that, the Controversies, and different Opinions did not cease ; so that it behoved, afterwards, to end some of them by the Decision of Princes. Neither can *Justinian* much commend the Care of his *Tribonianus*, who made him believe, that by his Collections he had put an end to all these Disputes, and of

<sup>1</sup> Valla eleg. lib. 2.

<sup>2</sup> Bud. Annot. in P. P. L. 1. de just. & jur.

<sup>3</sup> Justin. in Instit. lib. 1. tit. 1. §. Responsa.

<sup>4</sup> Cont. 1. Succes. 12. Doviart. Hist. juris civil.

<sup>5</sup> Emund. Merill. lib. 1. obs. cap. 5 & 6.

which

which that Prince bragg'd; nevertheless, a great many escap'd his Accuracy, and at this time the Vestiges of them are to be seen in the *Pandectæ*: so that those who were possess'd with such a Prejudice by the Boasts of *Justinian*, gave themselves up to believe, that there was no clashing Contrariety amongst the Laws which he had collected; altho' when they met with that Contrariety of two Laws, it made them sweat and toil to reconcile them, till at last they had no other Business upon their Hands, but, as the Saying is, *Peliam levare*; and 'tis Matter of Fact, that very often we see *Ulpianus* on purpose differ from *Africanus*, and so one Civilian from another.

AMONGST such a Variety of Opinions, it would be foolish to believe, that it could be impos'd upon Magistrates, of Necessity, to follow them, excepting those, which after long debating, had been receiv'd into the Courts of Justice: and much less in the Time of *Augustus*, and the other Emperors, down to *Constantine the Great*, during which time, there were Magistrates adorn'd with many rare and excellent Virtues, and they well knew, by their Learning and Prudence, what Decisions of the Civilians had been receiv'd in the Courts, and consequently what had been reject'd, and what use to make of them in their Judgments; besides that, their Experience and great Knowledge, was able to prevent any Confusion from the Variety of Opinions. Their Prudence, Learning, and exact Judgment, was not inferior to that of the Civilians themselves; since the *Romans* shew'd their Wisdom, not only in establishing and interpreting the Laws, but, as *Pomponius* saith<sup>1</sup>, they knew very well, that the Laws, with the Interpretations of them by the Civilians, would not be answerable Provision for the Necessities of the Citizens, if they did not likewise appoint Judges that were grave, severe, uncorrupted, and most wise, who should be able to do Justice to every body; great was the Care and Diligence they us'd in making good Magistrates: Whence that which *Justinian* says was determin'd, that the Judges could not depart from the Opinions and Sentences of the Civilians, ought not to be attributed to *Augustus*, as *Cujacius* and others have believ'd, from whom, nor any of the other Emperors of these Times, when the Jurisprudence was in its Perfection, can any one Constitution be deriv'd; but we must believe, that *Justinian* speaks of the latter Times of *Valentinian III.*<sup>2</sup>, when the Jurisprudence was in its Decay; when there were no learn'd and grave Civilians, nor bright Magistrates, but Ignorance of the Laws, Decrees, and Decisions prevail'd, and every thing was in such Confusion and Disorder, that the Judges, by their Insufficiency, knew not how to determine Causes, and were often misled by the false Allegations of the Advocates: For remedying such Mischief, it behov'd *Valentinian* to lay down a Rule to the Judges, and to point out to them what Civilians they were to consult in giving Judgment, and not to swerve from their Opinions. He refuted the Notes made by *Paulus* and *Ulpianus* on *Papinianus*, (but afterwards *Justinian* was of a different Opinion as to that Matter); moreover, he ordain'd, that in reciting the different Sentiments, the greatest Number of the Authors should carry it; and if the Numbers were equal, they were to adhere to the Side *Papinianus* was on: And lastly, that if the Opinions were altogether equal, the Discretion and Award of the Judge was to take place. Such a Remedy in the Time of *Valentinian III.* was necessary, the Discipline of the Law was so decay'd: It was not so in the Time of those bright Civilians to that of *Constantine the Great*, when, after *Modestinus*, *Hermogenianus*, and *Arcadius Carisius*, those famous Oracles of the Law, there were none to be found; since those who flourish'd under him and his Sons, of obscure Fame, publish'd nothing of Moment: The ancient and grave Institution of Interpretations and Consultations being quite left off, they were contented to teach in the Schools what these first Civilians had treated of and written, of which we shall afterwards discourse.

WE have thought fit so far to treat of these Civilians, and their Works, only because the Body of the Laws, which after *Constantine* was dispers'd over the East and West, was compos'd, for the most Part, of their Opinions; since of the Laws of the twelve Tables, after the Incurfion of the *Goths* into *Italy*, and the Devastation of *Rome*, when, as *Rittershusius*<sup>3</sup> believes, these were lost, there were

<sup>1</sup> L. 2. D. de orig. jur.

<sup>2</sup> L. un. cod. Th. de Resp. Prud. Jacob. Got. loc. cit.

<sup>3</sup> Ritterf. Comm. in XII. Tabulæ, cap. 5.

transmitted to Posterity, only a few Fragments, which *Cicero*, *Livius*, *Dionysius*, and *A. Gellius*<sup>1</sup>, have given us of some of their Books; and what we have of them at this Day is owing to the good Fortune of our Times, and those of our Forefathers, and to the Industry of some able Men, who collected and interpreted them; amongst the first of which were *Rivallius*<sup>2</sup>, *Olendorpius Forsterus*, *Balduinus*, *Contius*, *Hottomanus*, *Revardus*, *Crispinus*, *Rosinus*, *Pighius*, and *Fr. Piteus*; to whom succeeded, *Theodorus Marcilius*, *Adrianus Turnebus*, *Justus Lipsius*, and *Conradus Rittersusius*; and last of all, 'tis owing to the great Care and Accuracy of *Jacobus Gothofredus*, who in his Tables, hath put them in the Order and Disposition as they were compos'd by the *Decemviri*. As for the other Laws which were afterwards establish'd by the People of *Rome*, to wit, the *Plebiscita*, Decrees of the Senate, and the Edicts of the Magistrates, our Forefathers had no other Knowledge of them, but what they had from the Works of the above-mention'd ancient Writers, and especially from the Books of these same Civilians; in which likewise the Writers of the latter Times have been very careful, who with unwearied Pains have collected them from various Marbles and Tables, and from the Rubbish of Antiquity, in which none excell'd *Barnabas Bissinius*, *Antonius Augustus*, *Fulvius Urfinus*, *Balduinus*, *Franciscus*, *Hottomanus*, *Lipsius*, and many other Lovers of *Roman* Antiquities. The World was full of the Volumes of these Civilians only, by which the Tribunals govern'd themselves, who flourish'd after *Augustus* in the Times preceding *Constantine*; so that afterwards, in the Time of *Valentinian III.* there was a Necessity, because of their Confusion, to make Regulations concerning them; and in the Times following, their Number was so great, that it gave occasion to *Justinian* to compile his *Pandectæ*, which, in the following Ages down to our Time, have made one of the two most famous Parts of the Jurisprudence.

<sup>1</sup> A. Gell. lib. 20. cap. 1.

<sup>2</sup> Rivall. lib. 2. hist. juris Civ. Oldendorp. lib. var. sect. ad jur. Civ. interp. Forsterus, lib. 1. hist. J. C. Rom. cap. 22. Balduin. Comm. ad XII. Tab. II. Cont. lib. 2. subsec. lect. Rosin. antiq. Rom. lib. 8. cap. 6. Pighius, lib. 3. Annal. S. P. Q. R. Turneb. in Adversar. lib. 13. cap. 26. & seqq.



## C H A P. VIII.

### *Of the Constitutions of the PRINCES.*



**I**F the Number of the Books of the Civilians was great, no less afterwards did the Bulk of the Constitutions of the Princes appear to be; so that out of them there were many Compositions and Codes made: Whence all the Body of the Laws is reduc'd to these two principal Parts; to wit, the Books of the Civilians, out of which our *Justinian* compos'd his *Pandectæ*, and the Constitutions of the Princes, from which sprung the Composition of more Codes, and the many Collations by the *Novellæ*, and that besides the *Institutiones*, which were only compos'd to instruct the Youth who took Pleasure in the Study of the Law. And seeing the relating of these Facts hath detain'd me longer perhaps than a general Relation requir'd, 'tis incumbent on me now, that with the same Care I likewise relate distinctly the Constitutions of the Princes who reign'd before *Constantine*, while the *Roman* Jurisprudence was at its Height; by which the Knowledge of what I am to treat of in the Prosecution of this History will be made more clear.

AS soon as the despotick Power was approv'd of by the People of *Rome*, as being more expedient and wholsome for the Commonwealth (*neque enim, says Dio* <sup>1</sup>, *fieri poterat, ut sub populi imperio ea diutius esset incolumis*) all that Power which they had of publishing the Laws, was transferr'd to the Prince, nothing material remain'd with them; therefore the Opinion of some, who believ'd that the People of *Rome* did not strip themselves of their Authority, but communicated it to the Prince, is an Error so well known, and demonstrated by most able Writers, that, besides its being foreign to our Purpose, we should be esteem'd very idle if we undertook to confute it: And it would be thought the Height of Folly to believe, that the People of *Rome* did not strip themselves, or were not altogether stripp'd of that Power, only because the *Roman* Emperor did not take the Title of King and Lord. It was a Piece of great Policy, since they knew that these Titles were abhorr'd by the People, that they appear'd likewise to detest them; and besides, that they might not, all of a sudden, introduce into the Commonwealth a Form altogether new, they kept the same Magistrates, and the same Solemnity of the *Comitia*, and Senate <sup>2</sup>; but in reality, under these specious Appearances, they exercis'd the Kingly Power to the full, as *Appianus Alexandrinus* <sup>3</sup>, and *Dion* <sup>4</sup>, assure us, who say, *Hæc omnia eo fere tempore ita sunt instituta: at re ipsa Cæsar unus in omnibus rebus plenum erat imperium habiturus*; adding afterwards, *Hoc pacto omne populi, Senatusque imperium ad Augustum rediit*. And much less ought we to fall into that Error, because the People had a sort of imaginary and empty Privilege in giving their Suffrages, or that the Senate retain'd a precarious and sham Authority of establishing Laws, since in those Times there were yet remaining, as *Tacitus* very wisely observes, *Vestigia morientis libertatis*; whence *Juvenal* <sup>5</sup>, speaking of the People of *Rome*, said very truly, that they who formerly gave the Empire the *Fasces*, the Legions, and all, in his Time, coveted nothing but only *Panem & Circenses*.

HOWEVER 'tis true, that the Emperors being solicitous to keep up the same Appearance of a Commonwealth, did not usurp the Sovereignty all at once, but by little and little, and in the Course of many Years became afterwards real Monarchs; since the Senate of *Rome* after the Civil Wars, having, either out of Fear or Flattery, conferr'd the Title of Emperor on *Julius Cæsar*: that Surname, or Title of Honour was afterwards continu'd by *Augustus* and his Successors, which they found was very well adapted to their Designs, taking it in a double Sense, and jumbling the two Significations of it together, the first of which gave them the pure Command in the highest Degree; such as the Military Command of the General of an Army, and the other render'd their Charge perpetual, and continual in all Places; it was not so with regard to the other Offices of the *Roman* Commonwealth. And although in the Beginning, these Emperors appear'd to be satisfied with the absolute Military Command, and to be exempted from the Forms to which the ordinary Magistrates were confin'd, by Subjection to the Sovereignty of the Commonwealth, nevertheless they commanded absolutely, and dispos'd of the Commonwealth at their Pleasure, for which Cause *Suetonius* calls their Command *Speciem Principatus* <sup>6</sup>.

ALTHOUGH the first Emperors usurp'd so great Authority, there were still some Remains of ancient Liberty preserv'd, while the Commonwealth was drooping, after which, by degrees, all Remembrance of it vanish'd; 'tis not to be doubted, but that the succeeding Emperors exercis'd, independently, the Character and absolute Power of true Monarchs, and Sovereign Princes; and those who afterwards settled in the East, a conquer'd Country, carry'd it higher.

SUCH a Power then being lodg'd in the Prince, his Pleasure was a Law; but by a cunning Politick, they call'd these their Decrees, Edicts or Constitutions, and not Laws, seeming willing to leave to the People the Power of making Laws: These Constitutions of the Princes were not of one sort, but differ'd by the End or Occasion which the Prince had when he made them. Some were call'd Edicts, and then the Prince, of himself, was mov'd to publish some general Order for the Profit and Good of his Subjects, directing them either to the People or Provincials,

<sup>1</sup> Dio, lib. 47.

<sup>2</sup> Suet. in Tiber. cap. 30.

<sup>3</sup> Appian. Alexan. in Proëm. Hist.

<sup>4</sup> Dio, lib. 53.

<sup>5</sup> Juven. Sat. 10.

<sup>6</sup> Loyseau des Seigneuries, cap. 2. num. 26.  
See Bodin. lib. 1. de Rep. cap. 8.

<sup>7</sup> Loyseau loc. cit.



or, which was more frequent, to the *Præfektus Prætorio*. Others were call'd *Rescripta*, which were issu'd by the Emperors at the Desire of the Magistrates, or at the Request of private Men. Some of these were likewise call'd *Epistolæ*, and that was when the Prince gave Answer to private Men according to their Claim; and those were also call'd *Epistolæ*, which upon the like Occasion he sometimes directed to the Senate, to the Consuls, Prætors, Tribunes, and to the *Præfetti Prætorio*. There were also some that were call'd *Orationes*, directed to the Senate, by which the Emperors confirm'd the Decrees of the Senate, and were often sent also at the Desire of the Senate, or of the Senate and People together. Constitutions were likewise nam'd *Decreta*, which were pronounc'd upon Acts made in the Prince's Council; which was, when the Prince took Cognizance of the Cause himself, heard the Parties, and pronounc'd Decree. This was a commendable Custom of the Emperors, never enough extoll'd by all the Authors of the *Augustan History*; many Examples of which we have in the *Theodosian Code*<sup>1</sup>; there's also another very elegant one in the Pandects of *Justinian*<sup>2</sup>. And these Decrees, although given in particular Cases, yet by the Dignity and eminent Station of the Person who pronounc'd them, they had, in like Cases, the Force and Vigour of Laws<sup>3</sup>.

WE read likewise in the *Theodosian*<sup>4</sup> Code, some Constitutions call'd *Præmaticæ*, pronounc'd on Occasion of Demands sent from some Province, City, or College, and the Prince order'd what he thought convenient; which, when he commanded any thing to be done, were call'd *Jussiones*; when he forbid the doing any thing, they were call'd *Sanctiones*. In fine, there were others which were call'd *Mandata Principis*, and were, for the most part, Injunctions, directed to the Governors of Provinces, Tax-Masters, Inspectors, Tribunes, and some other Officers, on Account of some of their Occasions, which for the Good and Quiet of the Province, requir'd special Provision; of which Injunctions there is an entire Title in the *Theodosian Code*<sup>5</sup>.

All these sorts of Constitutions of which the *Justinian* and *Theodosian* Codes are full, were by *Ulpianus*<sup>6</sup> confin'd to three Sorts, to wit, *Editta*, *Decreta*, and *Epistolæ*; and also *Justinian* himself did the same<sup>7</sup>, by restricting them likewise to these three.

IT was a wonderful Thing, that of all these Roman Emperors, who govern'd the Empire down to *Constantine*, some of them being wicked, cruel, and rather Monsters than of human Kind; such as *Nero*, *Domitian*, *Commodus*, *Helioababalus*, *Caracalla*, and others; their Constitutions nevertheless shone with Wisdom, Justice, and Gravity; all of them wise, prudent, elegant, short, weighty, and quite different from those prolix ones, which by *Constantine*, and his Successors, were afterwards publish'd, being fitter for Orators than Princes<sup>8</sup>; which was owing to nothing else, but the laudable Custom they had in making use of the Works of the famous Civilians, without whose Advice nothing was done, either in the Government of the Commonwealth, or in any other serious Matters. For which Reason the *Justinian* Code ought to be more esteem'd by us than the *Theodosian*; forasmuch as *Justinian* compil'd likewise the Constitutions of the Emperors before *Constantine*, which *Theodosius* did not, who only collected those of the Princes from *Constantine the Great*, down to his own Time: Wherefore we likewise observe, that some Constitutions, of which the Civilians make mention in the *Pandectæ*, are to be found in the *Justinian* Code, but not at all in that of *Theodosius*.

<sup>1</sup> L. ult. C. Th. qui bonis cedere, &c. L. ult. de off. judic. lib. 1. de his, qui admin. lib. 5. & 8. de fide test.

<sup>2</sup> L. 3. D. de his, qui in testam. del.

<sup>3</sup> L. 1. §. 1. D. de Const. Prin. l. ult. C. de legib.

<sup>4</sup> L. 3. C. Th. de decur. & silent. l. 36. de ann. & trib. l. 52. de Hæreticis.

<sup>5</sup> C. Th. de Mandatis Principum.

<sup>6</sup> L. 1. D. de Const. Princ.

<sup>7</sup> Justit. lib. 1. tit. 2. §. sed & quod principis.

<sup>8</sup> Arth. Duck lib. 1. cap. 3. num. 9. & 10.



## C H A P. IX.

*Of the Papirian, Gregorian, and Hermogenian Codes.*

THE Constitutions of those Princes who flourish'd after *Augustus*, down to *Constantine the Great*, were, for their Excellency collected into certain Codes. The first Collection, altho' not Universal of all the preceding Princes, seeing they have not been transmitted to us, was that, which *Papirius Justus* made of the Constitutions of *Verus* and *Antoninus*, which famous Civilian, whom *Justinianus* mentions in his *Pandectæ*, flourish'd in the Time of *Septimius Severus*, and compil'd the Constitutions of these two Brothers, dividing them into Twenty Books<sup>1</sup>. *Jacobus Labittus*<sup>2</sup>, in his ingenious and most useful Work *de indice Legum*, makes a Catalogue of all the Laws which *Tribonianus* collected out of these Twenty Books of *Papirius*. Neither do we find that there were any other made afterwards, except these two of *Gregorius* and *Hermogenianus* the Civilians, who flourish'd under *Constantine the Great* and his Sons, and from them the two Codes took the Names of *Gregorian* and *Hermogenian*. In these two Codes were collected the Constitutions of several Princes, beginning with the Emperor *Adrian* down to *Constantine*; since, in the *Gregorian* Code, there is related a Constitution under the Consulship of *Dioclesian* in the Year 296. ten Years before the Empire of *Constantine*<sup>3</sup>. These two Civilians propos'd the same Epocha, and both of them, in their Codes, collected the Constitutions of these Princes promiscuously, who reign'd from *Adrian* to the Time of *Constantine the Great*, which is manifest from the Laws contain'd in them; whence *Jacobus Gotifredus*<sup>4</sup> deservedly blames *Cujacius* for an Error, in his affirming that *Gregorius* and *Hermogenianus* intended different Epochas, and that, in their Codes, they relate the Constitutions of several Princes, not promiscuously, as they really did, but that some were related by *Gregorius*, and some others by *Hermogenianus*.

*JACOBUS GOTIFREDUS*, not without Reason, believ'd, that these Civilians did begin their Collection from *Adrian*, and not from the preceding Princes, because *Adrian* was believ'd to be the Author of a certain new *Jurisprudentia*, by his famous *Edictum perpetuum*, which he establish'd; the Matter and Order of which serv'd for a Standard and Model of Jurisprudence; and it is the most excellent Body of the Roman Law, which we have at this Day: And which is a manifest Sign of it, *Hermogenianus* himself<sup>5</sup>, in his epitomiz'd Books, the Remains of which we owe to *Justinian*, proposes to follow the same Order of the *Edictum perpetuum*. The Order was very singular and remarkable, into which he put the Administration of Publick and Court Offices, and also the Military Affairs, which Order was constantly observ'd to the Reign of *Constantine*, who began to change it; and afterwards, in the Time of *Theodosius the Younger*, it was totally chang'd, and the Jurisprudence had a quite different Aspect, as shall be seen in the Course of this History. Neither doth it appear unlikely, what *Gotifredus*<sup>6</sup> suspects, that these Codes, in the Time of *Constantine* and his Sons, who were Christian

<sup>1</sup> Jacob. Got. prologom. ad C. Th. cap. 1. Angel. Polit. ep. 9. lib. 5. ad Jacob. modestum.

<sup>2</sup> *Jacobus Labittus* in indice Legum.

<sup>3</sup> Jacob. Got. in prologom. ad C. Th. cap. 1.

<sup>4</sup> Jacob. Gotifr. loco cit.

<sup>5</sup> Hermog. lib. 2. D. de Statu hom.

<sup>6</sup> Got. loc. cit.

Emperors, were made use of by these Heathen Civilians, at least to retain some Shew of ancient Jurisprudence ; since that by the new Laws, which by them, and other Christian Emperors were frequently publish'd, a remarkable Change appear'd in it ; and that there were such Heathen Civilians in the Time of *Constantine* and his Sons, the laudable *Gotifredus*, upon very strong Conjectures, assures us.

HOWEVER 'tis uncertain, whether it was by publick or private Authority that *Gregorius* and *Hermogenianus* compos'd these two Codes : A Place in *Egineta*, related by *Gotifredus*, would persuade us to believe, that they were written by private Authority : But be that as it will, 'tis certain that the Authority of these Codes was very great, and they were publickly receiv'd ; so that the Advocates and Writers of these Times, and much later, whenever they had occasion to cite any Constitution, made use of all their Books. *St. Augustine* <sup>1</sup> took the Advantage of them, as is plain, in *Lib. 2. ad Pollentium*, where he cites a Constitution of *Antoninus* from the *Gregorian* Code, which had been neglected in the *Justinian*. The Author of the Comparison between the *Mosaick* and the *Roman* Laws likewise made use of them, who, according to *Freherus* <sup>2</sup> and *Gotifredus* <sup>3</sup>, flourish'd in the Sixth Century, sooner therefore than *Justinian*, and in the same Age with *Cassiodorus* : By him likewise is cited a Constitution of *Dioclesian's* from the *Gregorian* Code, *Lib. 5. de Nuptiis* ; part of which was inserted by *Justinian* in his Code <sup>4</sup> ; and from the same *Gregorian* Code there is another reported, marking also the Consulship of *Dioclesian* in the Year 296. The Author of that ancient Comparison likewise makes use of them, which being preserv'd from the Injury of Time, by the Industry of *Cujacius*, are to be read among his own Works, in citing the *Hermogenian* Code, *Lib. 2. de Calumniatoribus*. And lastly *Tribonianus* makes use of them, who from these two Codes, and that of *Theodosius*, compos'd his own by the Order of *Justinian*. Besides, the Author of the said old Comparison, *Papinianus* in his Book of Answers, and other Writers of latter Times, as shall be told in its Place, made use of the Compendium of them. Of these two Codes, there are scarcely any Remains left us, but some Fragments, which by the Toil of *Tribonianus* have reach'd us, and which are owing purely to the Care of *Cujacius*.

AS for the Compiling of the *Theodosian* Code, it being made many Years after the Time of *Theodosius the Younger*, we shall have Occasion to treat of it at large, when we come to speak of the famous Deeds of that Prince.

<sup>1</sup> S. August. lib. 2. ad Pollentium, de Adulterio, cap. 8.

<sup>2</sup> Freherus pareg. 9.

<sup>3</sup> Got. in prolog. cap. 3.

<sup>4</sup> L. 7. C. de incest. nupt.



CHAP.



## C H A P. X.

*Of the ACADEMIES.*

**N**O T only in these most flourishing Times, and especially under the Emperor *Adrian*, by so many famous Civilians, and by the Wisdom of that Prince, by his Edict, and by so many Constitutions of the other most knowing Princes, was the Jurisprudence, and the Study of it, in its greatest Splendor, and at the Height of its Greatness; but the two celebrated Academies of the World, that of *Rome* in the West call'd the *Athenæum*, and the *Schola* of *Berytis* in the East, were likewise two bright Ornaments of it.

## S E C T. I.

*Of the ACADEMY of ROME in the West.*

**B**EFORE *Adrian*, there were no publick Academies in the famous City of *Rome*. The Masters taught in their private Chambers, which they call'd *Pergulæ*; there it was the Youth were train'd up<sup>1</sup>: and the Civilians themselves, besides their commendable Employments of Interpreting, Writing, Answering, Consulting, and others above-mention'd, used to teach the Civil Law to the Youth in their Houses: And *Cicero* tells of himself, that he was employ'd in these Studies under the Discipline of *Q. Scævola*, Son of *Publius*, altho', as he says, *Nemini ad docendum se dabat*<sup>2</sup>. *Labæo*<sup>3</sup> divided the Year thus; six Months were employ'd in *Rome* by the Students, in learning of him the Legal Discipline, and the other six Months he retired to his Country House to compose Books, of which he left four hundred Volumes. *Sabinus*, as *Pomponius* relates<sup>4</sup>, not having Means sufficient of his own, was often supply'd by his Scholars; *Huic nec amplæ Facultates fuerunt: sed plurimum a suis auditoribus sustentatus est*; and so it was practis'd in other Professions, as the Mathematicks, for which we have the Testimony of *Suetonius*<sup>5</sup>, and for Grammar, we have the Author of the illustrious Grammarians.

*ADRIAN* was the first, who in the eighth Region of the *Forum Romanum*, founded the *Athenæum*, where Discipline and Learning were publicly taught; and that Place, which is situated at the Foot of the *Aventine Hill*, retains the Memory of the *Greek Schools* to this Day<sup>6</sup>, forasmuch as the Profession of the *Latin Eloquence* was no less studied there than that of the *Grecian*, and the *Rhetoricians* and *Latin Poets* had their Stations there as well as the *Grecian*. *Dio*<sup>7</sup>, *Lamprius*, *Capitolinus*, *Gordianus*, and *Simmacus*<sup>8</sup>, make honourable mention of this *Athenæum*.

<sup>1</sup> Sueton. in *Craffitio Grammatico*.<sup>2</sup> Bud. in Annot. ad Pan. L. 1. de just. & jur.<sup>3</sup> L. 2. D. de or. jur.<sup>4</sup> Cit. L. 2. D. de orig. jur.<sup>5</sup> Sueton. in *Augusto*.<sup>6</sup> Jacob. Got. in C. Th. lib. 1. de Medic.<sup>7</sup> Dio in *Juliano*, *Lampr.* in *Alex. Severo*. *Capitol.* in *Pertinace*.<sup>8</sup> *Simmac.* lib. 1. epist. 15.

ALEXANDER SEVERUS enlarg'd it, and put it in a more noble Form. He establish'd Salaries for the *Rhetoricians*, *Physicians*, *Grammarians*, and all the other Professors. He instituted the publick *Auditoria*, and allotted some Revenues to the Students, whose Parents were Poor, in order to make them ingenious<sup>1</sup>. The *Romans* did not make these Men of Letters an Order by themselves, but they were reckon'd of the third Rank; and they had not so many Persons as we have, who took themselves to Learning as their Profession or special Calling<sup>2</sup>. Next to the few they had of them, were those of the Military Profession, which in a manner were perpetual Employments; so that they were had in more Esteem with them, than with us, and they honour'd them with very great Privileges, as may be seen in the *Theodosian Code*.

SO that by the Renown of that famous Academy, the Youth from all Parts flock'd to *Rome*, in great Numbers, to acquire Learning, and especially the Legal Discipline. It was not our Provinces, which now make the Kingdom of *Naples*, only, which sent their Youth to study in *Rome*, but likewise those more remote and distant; they came not only from *France*, but also from *Greece* and *Africa*. There are yet some Vestiges remaining in our Pandects, which assure us of the Custom of sending our Youth to study in *Rome*: We have an Advice of *Scævola's*, in favour of a young Man, who *Studiorum causa Romæ agebat*, reported by *Ulpianus*<sup>3</sup>, who was likewise speaking of the Provision which was ordinarily given by Fathers to their Sons when they sent them to *Rome* to study: and this same Civilian<sup>4</sup> elsewhere makes mention of that Custom of sending the Youth to study in *Rome*; of which also *Modestinus*<sup>5</sup>, and others of our Civilians give an Account. And the *Grecian* Youth came to *Rome*, particularly to study the Laws; whence it was, that the impudent Lust of *Domitian* was likewise made notorious, who caused *Arca* to be imprison'd, a comely Youth, who came from *Arcadia* to *Rome* to learn the Jurisprudence, only because, by a rare and memorable Example, he would not consent to his unchaste Desires<sup>6</sup>; for which the Youth, according as *Philostratus*<sup>7</sup> has it, all in Tears, blam'd his Father, because he could have been taught the *Grecian* Learning in *Arcadia*, but he would send him to *Rome* to learn the Laws. The *Greeks* themselves, who are not usually satisfied but with themselves, and their own Things, were even oblig'd to confess, that from the *Roman* Laws only, was to be learn'd a just and upright Rule of Manners; whence *Dio Chrysostomus*<sup>8</sup> haranguing the *Corinthians*, and endeavouring to persuade them, that he having been long in *Rome*, with the Emperor *Trajan*, had always liv'd vertuously, made use of this Argument; That he being in *Rome*, had been in the Center of the Laws, and those who convers'd in them could not go astray. They came likewise from *Africa*, as in the latter Times the incomparable *Augustine*<sup>9</sup> testifies of *Alipius*, of whom he says, that *Romam processerat, ut jus disceret*. From *France*, and the other Western Provinces in Times less remote from us, the Concourse of Youth was frequent in *Rome* for studying the Laws. Of *Germanus* Bishop of *Auxerre*, *Henry* of *Auxerre* in his Verses<sup>10</sup> witnesseth. And *Constantius* in his Life says<sup>11</sup>, *Post auditoria Gallicana, intra Urbem Romanam juris Scientiam plenitudinem perfectionis adjecit*. *Rutilius Numatianus*<sup>12</sup>, speaking of *Palladius* a noble *French* Youth, says, that he had been sent to *Rome* to learn the Laws;

*Facundis juvenis, Gallorum nuper abarvis  
Missus Romani discere jura fori.*

AND *Sidonius*<sup>13</sup> *Apollinaris* persuaded *Eutropius*, to go to *Rome* to learn the Law, for which Cause he call'd it *Domicilium Legum*: Whence not only from the

<sup>1</sup> Lampr. in Alex. Severo.

<sup>2</sup> Loyseau des ordres, cap. 8.

<sup>3</sup> Ulpian. L. cum filius, D. de reb. credit.

<sup>4</sup> Ulpian. L. Longius, §. ult. D. de judic.

<sup>5</sup> Modestinus, L. Titto, D. ad Munic.

<sup>6</sup> Alteser. rer. Aquitan. lib. 3. cap. 5.

<sup>7</sup> Philost. lib. 7. de vit. Apoll. cap. 17.

<sup>8</sup> Dio Chrysost. orat. 87. Altes. loc. cit.

<sup>9</sup> August. lib. 6. Conf. cap. 8.

<sup>10</sup> Erric. Altistodor. lib. 1. de vita S. Germ.

Incitus his animus, talique cupidine raptus  
Qua caput est orbis terrarum maxima Romæ  
Tendit iter, Latii nodos addiscere juris,  
Et didicit, palmamque brevi tulit ille la-  
boris.

<sup>11</sup> Constant. in vita S. Germani, cap. 1.

<sup>12</sup> Rutil. Numat. lib. 1. itine.

<sup>13</sup> Sidon. lib. 1. epist. 6.



Writers of those Times, but also from the succeeding, did Rome deserve these Encomiums, not only for Jurisprudence, but likewise for Eloquence, and all other Discipline. Thus we read in *Claudian*, that Rome was call'd *Armorum, Legumque Parentem, quæ prima dedit cunabula juris*<sup>1</sup>; and elsewhere, *Legum Genetricem*: and by *Simmachus*, *Latioris facundiæ domicilium*<sup>2</sup>; and *Ennodius*, *Hieroni*, *Cassiodorus*, and many other Writers gave her such like Epithets.

SO great was the Care and Study of the Emperors, to be watchful over the Decorum and Re-establishment of that Academy, that in the Time of *Valentinian the Elder*, Rome being now decay'd in its ancient Splendor, and the Youth being given to all sorts of Luxury and Vice, insomuch that the Academy was much fallen from its Institution, and many Abuses having crept into it, that Prince, who had the Care of the Exercises of Rome much at heart, thought of redressing these Disorders: He publish'd there for that end, that famous Constitution, which in the Year 370. he directed to *Olibrius*, Præfect of that City, part of which may be yet read in the *Theodosian Code*<sup>3</sup>, where he establish'd eleven Academical Laws for redressing so many Abuses, of which in a more proper Place I shall speak: So that being restor'd by these Laws, it might, for a long time after, maintain its Splendor, and draw to it self, as before, the Youth from all Parts of the West for attaining Learning, and especially the Jurisprudence. So in the Time of *Theodorick the Ostrogoth*, we see the Custom of sending the Youth to Rome for Instruction continu'd; but he would not allow them to return home, until they had compleated their Studies in that City. In effect, he deny'd such a License to *Philagrius*, altho' he deserved well at his Hands, who having sent some Nephews to Rome to study, and being about to recal them, he order'd *Festus* to hinder them from departing, extolling mightily the Residence in Rome for Youth; *Nulli sit ingrata Roma, quæ dici non potest aliena: illa eloquentiæ fecunda mater: illa virtutum omnium Latissimum Templum*<sup>4</sup>. He deny'd it likewise to *Valerianus*, who had sent his Sons to study at Rome; he wrote to *Simmachus* not to let them go<sup>5</sup>. The same Injunction was continu'd by *Athalarick* his Nephew, who, imitating *Valentinian*, took special Care of it; and we read yet in *Cassiodorus*<sup>6</sup>, a Letter he wrote for that purpose to the Senate of Rome, in which he enjoyn'd the Studies, and re-establish'd the usual Salaries, for those who taught in that Academy; in which, besides the Grammarians, Orators, and other Professors, there were Expositors of the Laws; by which new Restoration, Rome might afterwards, and also in the most barbarous Times, deserve those Honours and Encomiums, which most of the Writers of that low Age gave it, which are collected by *Savaro* on *Sidenius Apollinaris*<sup>7</sup>.

<sup>1</sup> Claudian. in Panegy. 3. Stilliconis.<sup>2</sup> Simmac. lib. 8. epist. 69.<sup>3</sup> C. Th. L. 1. C. de studiis liberalibus urbis Romæ.<sup>4</sup> Cassiodor. lib. 1. var. ep. 39.<sup>5</sup> Cassiodor. lib. 4. cap. 6.<sup>6</sup> Cassiodor. lib. 9. cap. 21.<sup>7</sup> Savaro in Sidon. lib. 1. ep. 6.

## S E C T. II.

*Of the ACADEMY of BERYTIS in the East.*

**B**ERYTIS, a City in *Phœnicia* in the East, was so deserving at the Hands of *Theodosius the Younger*, that he adorn'd it with the Title of Metropolis of *Phœnicia*, as he did *Tyre*: A City no less famous for the Study of the Laws in the East, than Rome in the West; and as the Civil Law was taught at Rome in *Latin*, so it was at *Berytis* in *Greek*. On account of the famous Academy establish'd here, it was call'd the *City of Laws*, because it replenish'd the World with them. By whom this Academy was instituted is not certainly known: 'Tis beyond all Dispute, that it flourish'd a long Time before the Reign of *Dioclesian* the Emperor, as is manifest from a Decree of that Emperor, which we see in the *Justinian Code*<sup>1</sup>,

<sup>1</sup> L. 1. C. qui stat. vel profess. se excus. lib. 10.

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directed to *Severinus*, and other Scholars in *Arabia*, who, for learning the legal Discipline, stay'd in *Berytis*.

ALL the Youth of the Provinces in the East flock'd to this City, as to the Mansion-house of the Laws. A most clear Testimony of which, is that which *Gregorius Thaumaturgus*, Bishop of *Neocæsarea*, gives us in the Panegyrical Oration on *Origen*<sup>1</sup>, where he tells, that he had learn'd the Roman Jurisprudence in the Academy of *Berytis*, famous for the Study of all Professions, but particularly for that of the Law. Neither was the Fame of this Academy less under *Constantius* and *Constans* about the Year of Christ 350. The ancient Geographer<sup>2</sup> (which Author we owe to the Diligence of the learned Civilian *G. Gotifredus*) who flourish'd at the same time, speaking of the City of *Berytis*, and of the Academy of the Laws, says thus, according to the ancient Latin Translation; *Berytus Civitas valde delitiosa, & Auditoria legum habens, per quæ omnia judicia Romanorum. Inde enim viri docti in omnem orbem terrarum adfident iudiciis, & Scientes Leges custodiunt Provincias, quibus mittuntur Legum ordinationes.* For which Cause, *Nonnus*<sup>3</sup>, in his *Dionysiacks*, said, That *Berytis* fill'd all the World with Laws. *Eunapius*<sup>4</sup> likewise, who flourish'd under *Constantius*, *Zacharias Scholasticus*<sup>5</sup>, and *Libanius*<sup>6</sup>, who liv'd under *Valens*, upon the same Account, call'd her the Mother of the Laws. And in the Time of *Valens* the Emperor, there was such a Crowd of Youth in that City learning the Laws, that *Libanius* himself was sorry for having neglected the Study of Eloquence for that of the Laws. And *Agathias*<sup>7</sup>, speaking of the Ruin of *Berytis*, occasion'd by an Earthquake which destroy'd almost the whole City, affirms, that there was a great Slaughter among the Citizens, and those who were learning the Laws of Rome. Lastly, our *Justinian*<sup>8</sup> calls *Berytis* the City of the Laws; and in another Place, the Nurse of them: Whence he caus'd *Dorotheus* and *Anatolius* to come, that they might, jointly with the others, have a Share in composing the Digests, and would not allow the Explaining of the Laws to any other Academy in the East, but to those of *Berytis* and *Constantinople* (because this last was founded in his Time by *Theodosius the Younger*, in the Year 425.) as in the West to that of Rome.

THESE were, in these Times, in some Cities of the East, other Academies, where Learning was profess'd, as in *Laodicea*, of which *Alexander Severus* makes mention in one of his Constitutions, which we read yet in the *Justinian Code*<sup>9</sup>. In *Alexandria*, call'd the *Museum*, of which *Agathias* speaks<sup>10</sup>; and in *Cæsarea*. So in the West, besides that famous one at Rome, some Cities had likewise their Schools where Youth were taught. Neither did our *Naples* want; of which, when we come to treat of the Establishing of the *Neapolitan Academy*, we shall speak; *Frederick* the second, Emperor, was not the first who built it from the Foundation, but that City had always been, as the same *Frederick* calls it, *Antiqua Mater, & domus studii*; for which Cause he was induc'd to renew its ancient Studies, and enlarge it to a more noble and magnificent Form, advancing the *Neapolitan Academy* above all others; and for that End order'd, that the Youth, as well of that Kingdom as those of *Sicily*, should go to *Naples* for learning Discipline, of which we shall discourse more at large when we come to treat of that Re-establishment. There were not wanting Schools in the other Greek Cities in these our Provinces; but those Schools, while Rome flourish'd, remain'd obscure, as soon as the *Athenæum* appear'd; and after Rome had spread its Laws over the whole Empire, the Western Provinces sent their Youth to that City, as their Mother, to be taught them; as those of the East sent theirs to *Berytis*. And these lesser Schools were entirely suppress'd, when *Justinian* gave the Privilege of Explaining the Laws to three Cities only, to wit, the two Romes, and *Berytis*; not to *Alexandria* nor *Cæsarea*, nor, in fine, to any other City of the two Empires.

<sup>1</sup> Gregor. Thaum. in Paneg. ad Origen. Socrat. lib. 4. cap. 22. Alteser. rer. Aquitan. lib. 3. cap. 5.

<sup>2</sup> Verus orbis descriptio, num. 17. §. 3.

<sup>3</sup> Nonn. lib. 41. Dionys. v. 174.

<sup>4</sup> Eunap. in vita pro. pag. 150.

<sup>5</sup> Zaccar. Scholast. de Opis. Mund.

<sup>6</sup> Liban. Orat. 26. Apolog. pag. 525. & ep. 329. & 450. ad Anatol.

<sup>7</sup> Agat. lib. 2. Hist.

<sup>8</sup> Justin. proœm. Dig.

<sup>9</sup> l. 2. c. de incolis.

<sup>10</sup> Agat. lib. 2.

<sup>11</sup> Petr. de vin. lib. 3. cap. 10.

WE shall not here mention the Academy of *Constantinople*, as being a long time after the Year 425. founded by *Theodosius the Younger*, and reduc'd into a Form, of which we shall give an Essay in the following Book of this History.

## S E C T. III.

**B**EHOLD in what flourishing Condition these our Provinces were, before the Reign of *Constantine*, when every City studied to put in order her own Polity and Government, in Imitation of *Rome*, of which they boasted of being small Resemblances and Images: When they liv'd according to their own Laws; and when the *Roman* Jurisprudence, which was their Rule and Pattern, was arriv'd to its Height, and the greatest Esteem; if we either consider the Favour of the Princes, or the Wisdom of their Decrees, the Knowledge of the Civilians, the Majesty of the Academies, and the Learning of the Professors, or the Probity of the Magistrates. 'Tis well known, that some merely out of too great a Love for Novelty, and of being made remarkable by some Extravagancy, could not contain themselves from blaming the *Roman* Laws, as being too subtle and far-fetch'd, and often repugnant to good Sense, and the common Understanding of Men. Others again, have presum'd to examine into, and reject some of them, as contrary to Reason and Equity. Others have compos'd particular Treatises, which *George Pasquius* hath related<sup>1</sup>; and among us the Cardinal *de Luca* hath attempted it likewise, in several long Discourses<sup>2</sup>. But they might easily perceive how far they were misled, who with the weak and short Sight of their Understandings, have pretended to impugn a Truth, evident for so many Ages, and profess'd by the greatest Men who flourish'd when Mankind had reach'd to such an Elevation and Eminency, that the like was never known before, and we don't know that it shall ever arrive again to that Sublimity, which was wonderful as long as the *Roman* Empire lasted. The *Romans* gave us wise and just Laws, as by Experience they are known to be most useful, conformable to natural Equity, and adapted to civil Society, and human Commerce: If it were allow'd to every one to make himself Judge of the Laws, and by his own Judgment and Caprice to give Directions about what might be needful in these Matters, we should see every Man, by trusting to his own Understanding, maintaining his own Opinion, to be equal to that of any other; whence Disorders and Confusion, and at last, a deplorable Scepticism would be introduc'd among us. *Solen* being ask'd, If he had given the most just and wise Laws to the *Athenians*? answer'd, The best, having made them most suitable to their Customs, and fitted for their Advantage; forasmuch as the Justice and the Knowledge of the Laws depend not on abstracted and metaphysical Reasons, but on their being beneficial to the People, to Commerce and Civil Life, of which the *Romans* for many Ages gave sufficient Testimony; whence it came, that altho' the Empire was ruin'd, yet the Majesty and Use of their Laws was continu'd in the new Dominions that were establish'd in *Europe*. The *Utile* and *Honestum* are the Rule of Laws, and these will always be found just which prove the *Utile* and *Honestum* of the People; which deserves a Treatise by itself, but 'tis not to our Purpose. There are others who fill the World with Complaints against the *Romans* on account of the Multiplicity of so many Laws: That Complaint is not new, but very old, even since the Time of the Free-Commonwealth; so that *Cæsar*<sup>3</sup> and *Pompey* thought of giving some Remedy to it, by reducing the *Roman* Jurisprudence to a certain Order, which could never be put in Practice by so famous Men, much less can it be expected to be done by others, being an Undertaking altogether impracticable and impossible. But these Complaints had been better bestow'd, had they been levell'd at the Depravity of the Manners of Men, their Ambition, and Dissoluteness, than at the Laws; for 'tis very certain that the Multiplicity of Vices are the Cause of the Multiplicity of Laws, and the one always produceth the other, whence *Arcefilaus*<sup>4</sup> was wont to say, That where there are many Medicines, and many

<sup>1</sup> Georg. Pasq. de nov. inventis.<sup>2</sup> Card. de Luca, conflict. legis, & rat.<sup>3</sup> Sueton. in Jul. cap. 24. Cic. lib. 1. de orat.<sup>4</sup> Joh. Stob. Sem. 12.

Physicians;

Physicians, there are always abundance of Diseases: So where the Laws abound, there is much Injustice; nevertheless there is not much Injustice, and many Vices, because there be many Laws, but there are many Laws because there are many Vices: For to rectify the corrupt Customs of Men, there was no other Remedy but that of the Laws. The *Roman* Empire had been ruin'd much sooner, if from Time to Time the Wisdom of some Prince had not given Remedies by means of the Laws. The *Romans* had always many domestick Examples before their Eyes, which taught them, that there was no Bridle so powerful against the Dissoluteness of Men, as the Laws. They well knew, that from the Beginning of their Commonwealth, nothing was more eagerly coveted by the licentious *Roman* Youth, than not to be govern'd by Laws, and that every Thing might be remitted to the King, and to his Determination; and that for no other Reason, but that which *Livy* reports with great Elegancy<sup>1</sup>: *Regem, said they, hominem esse, a quo impetres ubi jus, ubi injuria opus sit; esse gratiæ locum, esse beneficio, Et irasci, Et ignoscere posse: Inter amicum, Et inimicum discrimen nosse. Leges, rem Surdam, inexorabilem esse, Salubriorem, melioremque inopi, quam potenti; nihil laxamenti nec veniæ habere, si modum exceßeris: Periculosum esse, in tot humanis erroribus, sola innocentia vivere.* Sentiments too licentious and hurtful, and directly opposite to that which *Aristotle* teacheth in his Politicks<sup>2</sup>. Where there is a Commonwealth without Vices, 'tis certainly as wrong to load it with Laws, as it would be to apply Medicines to a sound Body. But if it be given to Riot and Luxury, and threatens Ruin, there's no other Remedy but to have recourse to the Laws. And it were much better in that Case, that the Commonwealth should abound in Laws, which foresee and oppose themselves to all Vice<sup>3</sup>, than to remit every Thing to the Determination of the Magistrates, whose Judgments are subject to Passions, and the Machinations and Snares of Pleadings.

'TIS certainly true, that the Corruption of Manners can't be sufficiently redress'd by the Laws; and in this Case, that grave Instruction of *Bacon* Lord *Verulam*<sup>4</sup>, can't be enough commended, which Princes ought always to have before their Eyes, who says, That their greatest Care and Thoughts ought not to be so much about redressing of Abuses and Corruptions by the Laws, as in watching over the Education of the Youth. All the Severity of the Laws should be employ'd about their Education, since by that Means the Number of Vices would be in a great measure lessen'd, and consequently the Number of the Laws. They should be chiefly intent about re-establishing and providing the Academies with good Statutes and Professors. Of late we have seen some Care taken to restore the Colleges for the Education of Youth, in which the *Jesuits* have been eminent. But now again they begin to fall off from their first Discipline, we see likewise the ancient Fervency abated, and all the good Institutions corrupted. These Things require a Censor rather than an Historian; therefore what we have hitherto surmised being sufficient for a Preparative to what is to follow, after having given an Account of the Ecclesiastical Polity of these Ages, we shall take a Step to the Reign of *Constantine*, from which this History takes its Beginning.

<sup>1</sup> Liv. lib. 1.

<sup>2</sup> Arist. lib. 3. Polit.

<sup>3</sup> Georg. Pasq. cap. 5. de var. fortun. doct.

jur. 6. 3. Adam. Rupert. in Com. ad Pomp. cap. 6.

<sup>4</sup> Bacon. de Augum Scientia, lib. 1.





## C H A P. XI.

*Of the Ecclesiastical Polity in the Three first Centuries.*

THE new Christian Religion, which from *Jesus Christ* our Lord, began in the Time of *Octavius Augustus* to spread itself amongst Men, made known unto us two Powers in this World, by whom it was necessary it should be govern'd, the Spiritual and the Temporal'. The Spiritual in the Priesthood or Ecclesiastical State, which administers Divine and Sacred Things: The Temporal in the Empire or Monarchy, or the Political State, which governs Human and Prophane Things; each of them having its different Objects: The Princes because they are to take care of worldly Things; the Priests of Spiritual. Each having his own Power different and distinct; that of the Prince to punish or reward with corporal Pain; that of the Priests with Spiritual. In short, to each was given his own Power apart; hence, not without Reason, the Magistrate carries the Sword, and the Priests the Keys of the Kingdom of Heaven.

IT was not so among the Heathens, who did not acknowledge these two Powers in the World as distinct and separate; but they conjoin'd them in one single Person; whence their Kings were sole Heads and Governors: And the Reason was, because they made Religion only serve for the Preservation of the State, and did not direct it, as we do, to another more sublime End. Thus among the *Romans* the High Priesthood continu'd a long Time in the very Person of the Emperors<sup>2</sup>; and altho' they had separate Colleges of Priests, to whom the Care of their Religion was committed, nevertheless, as they us'd it only for the Preservation of the State, consequently they were obliged to report their most serious Deliberations to the Prince as their Head; an Institution which was transmitted to them by their Forefathers, with whom, as *Cicero* says<sup>3</sup>, *Qui rerum potiebantur, iidem auguria tenebant; ut enim sapere, sic divinare, regale ducebatur.* Hence *Virgil*<sup>4</sup> thus sings of King *Annius*.

*Rex Annius, Rex idem hominum, Phœbique Sacerdos.*

WE see the same Custom among the ancient *Grecians*, whom *Homer* representeth to us, where the Heroes, that is to say the Princes, were those who offer'd Sacrifice: *Plato* gives the same Account of the *Athenians*, and many of the Cities of *Greece*: Among the *Ethiopians*, as *Diodorus* writeth, the Kings were the Priests: So likewise among the *Egyptians* as *Plutarch* hath it; and among the *Spartans* according to *Herodotus*<sup>5</sup>.

BUT among Christians, Religion is not directed for the Preservation of the State, and the Quiet of this World, but to a more sublime End, which regardeth Eternal Life, and respecteth God, and not Man; whence among us the Priesthood is accounted so much higher and nobler than the Empire, by how much Divine Things are superior to Human; and as the Soul is more noble than the Body and Temporal Things. But on the other hand, the Sword having been given by God to

<sup>1</sup> Novel. 6. Can. duo sunt 56. Dist. can. Quoniam, Dist. 10. & can. principes, Caus. 22. Quæst. 5.

<sup>2</sup> Dio lib. 54. Anast. German. lib. 1. de sacr. immun. cap. 9. num. 3.

<sup>3</sup> Cic. de Divin.

<sup>4</sup> Virgil. lib. 3. ver. 80.

<sup>5</sup> Grot. de imperio summ. potest. cap. 2. num. 4.



the Empire for governing Worldly Things, that Power hath become stronger in itself, that is to say in this World, than the Spiritual Power given by God to the Priesthood, to whom the Use of the material Sword is forbidden; since it hath for its Object only Spiritual and not Sensible Things, and the principal Effect of its Power is reserv'd to Heaven; as our gracious Redeemer testifieth, by saying, That his Kingdom is not of this World, and that if it were, his People would fight for him.

THESE two Powers being acknowledg'd amongst us as Proceeding from the same Principle, which is God, from whom all Power is deriv'd, and terminating in the same End, which is Beatitude, the true End of Man; 'tis necessary that they should have a Correspondence and Concord together<sup>1</sup>; that is to say, a Harmony and Agreement compos'd of different Materials, by communicating mutually their Virtue and Energy; so as that the Empire may assist the Priesthood with its Force for maintaining the Honour of God; and the Priesthood on its side, may bind and unite the Affections of the People to the Obedience of the Prince; thus all the State will be happy and flourishing: On the contrary, if these two Powers disagree amongst themselves; and if the Priesthood by abusing the Devotion of the People, should incroach upon the Empire, or Political and Temporal Government; or if the Empire, by turning that Force against God, which he hath put into its Hands, should incroach upon the Priesthood; all will go into Disorder, Confusion, and Ruin.

IT is God, who hath put these two Powers in different Hands, and hath made them both Sovereign in their Kind, that the one might serve as a Counterpoise to the other, for fear that their unbounded Sovereignty might degenerate into Irregularity and Tyranny. As it happens when the Temporal Sovereignty infringeth the Laws of God, the Spiritual opposeth it immediately; and in like manner, the Temporal withstandeth the Spiritual<sup>2</sup>, which is most acceptable to God when 'tis done in a lawful Way, and especially when 'tis done directly and purely for his Service and the Publick Good, and not for Self-interest, and the one incroaching upon the other.

AND since these two Powers of Necessity meet together in all Places, and at all Times, and ordinarily in different Persons; and besides they being Sovereign in their kind, the one quite independant of the other; Infinite Wisdom, for preventing the extreme Disorder which is occasion'd by their Disagreement, hath fix'd such firm Limits, and put such visible Partitions betwixt them, that whoever gives but the least way to his Reason, may easily perceive what belongeth to the one and the other; for what is more easily distinguish'd than Things Sacred from Prophane, and Spiritual from Temporal? There's no more requir'd, than to put in practice that beautiful Rule which our Saviour pronounc'd from his own Mouth, *Reddite quæ sunt Cæsaris Cæsari, & quæ sunt Dei Deo*. An Instruction short enough, but very elegant and clear; because, when the Care of Souls and Holy Things belongs to the Priesthood, the Monarch himself must submit in that which directly concerneth Religion, and the Worship of God, if he perceiveth that he hath a Soul, and would be number'd among the Sons of God and the Church: Manifest and famous is the Example of the Emperor *Theodosius*, who yielded to the Censure of a simple Archbishop, and perform'd the Publick Penance which was injoin'd him: The Example of *David* likewise testifieth it, *Qui & si regali unctione Sacerdotibus, & Prophetis præ erat in causis sæculi, tamen suberat eis in causis Dei*<sup>3</sup>.

AND reciprocally, since the Government of Temporal Things belongeth to Princes, and the Church being in the Commonwealth, as *Optatus Milevitanus* saith, and the Commonwealth not in the Church, it behoveth that all the Ecclesiasticks, and likewise the Prelates of the Church, obey the Secular Magistrate in Matters of Civil Polity<sup>4</sup>. *Si omnis anima potestatibus subdita est ergo, & vestra* (saith *S. Bernard*<sup>5</sup> and *Henry Archbishop of Sens*) *quis vos exceptit ab universitate? Certè, qui tentat excipere, tentat decipere*; and *S. Jo. Chrysostom* explaining the Passage of *S. Paul*: *Omnis anima potestatibus sublimioribus subdita est*, saith he, *etiam si fueris Apostolus, Evangelista, Propheta, Sacerdos, Monachus, hoc vero pietatem non lædit*<sup>6</sup>.

<sup>1</sup> Novel. 42. Just.

<sup>2</sup> Loyseau des seign. cap. 15. num. 4.

<sup>3</sup> Can. 41. §. Item cum David. caus. 2. qu. 7.

<sup>4</sup> Du Pin. de Antiq. Eccl. disc. diff. 7.

<sup>5</sup> Bern. ep. 42.

<sup>6</sup> Chrysost. ad ep. Paul. ad Rom. 13.

In short, S. Gregory the Great, Pope, <sup>1</sup> *Agnosco, faith he, Imperatorem à Deo concessum, non militibus solum, sed & sacerdotibus dominari.*

SEEING then the Distinction of these two Powers is so important, it is very necessary to give them different Names; that is to say, those who have the Ecclesiastical Power, are call'd *Pastors* and *Prelates*, and those who possess the Temporal, are call'd *Lords* and *Rulers*; an Appellation forbidden to the Ecclesiasticks from the very Mouth of our Saviour, who at two different times, that is, in the Demands of the Sons of *Zebedee*, and in the Dispute which arose amongst the Apostles about Precedency, a little before his Passion, repeated to them this Lesson; *Principes gentium dominantur eorum, vos autem non sic, &c.* A Lesson which St. Peter hath collected in his first Epistle, saying to the Bishops; *Pascite, qui in vobis est, gregem Dei, non ut dominantes in Cleris, sed forma facti gregis*; that is to say, Establish'd in the Form of a Flock, whose Shepherd is not the Lord and Proprietor, but the Minister and Governor only<sup>2</sup>. So saith God; *Pasce oves meas, and not tuas*<sup>3</sup>.

AND truly the Ecclesiastical Power being directed to Spiritual and Divine Things, which are not properly of this World, can't belong to Men in Property, nor direct Dominion, as worldly Things do, but only for Exercise and Administration; so that God (who is sole Master and Lord of our Souls) committeth to them that supernatural Power, to exercise it visibly in this World, in his Name and Authority, as his Deputies and Lieutenants, every one in his own Hierarchic Degree, just as in the Civil Polity, many Officers, being subordinate one to another, exercise the Power of their supreme Lord.

ALL this is said only in order to explain the Propriety of the Terms of the Subject of this Work, not at all to diminish, in the least, the Ecclesiastical Power, which, on the contrary, relating to God directly, ought to be esteem'd much more worthy than that of the Princes of the Earth, who in the Beginning had not theirs, but by way of Office and Administration, the Sovereignty, or to speak more properly, the perfect Liberty belong'd to the State as a collective Body: So in those Days they were only call'd the *Pastores* of the People, as they are termed by *Homer*; but the Object of their Power, which consisteth of worldly Things, being adapted to receive Dominion or Power in Property, they have, long ago, gain'd and obtain'd it in all Countries of the World; and there are a great many of them who have not only acquir'd the publick Dominion, but the private likewise, reducing their People to Slavery.

THERE can't be found more authentick Proofs of the Distinction betwixt these two Sorts of Powers, nor more remarkable Examples of changing the Power both as to Office and Exercise, into that of Property and direct Dominion, than that which happen'd to the People of God, when being tir'd with the Government of their Judges, who exercised a Sovereignty over them, by Office and Administration only, they would have a King, who from that time forth had the Sovereignty by direct Dominion; which much offended God, who said to *Samuel*, the last of the Judges, *They have not rejected thee, but me, that I may not reign any more over them*; and a little after, *Such shall be the Right of the King, &c.*<sup>4</sup>; which signifies, that God himself was King of that People, and had over them the Property and Power, when they were govern'd by simple Judges and Officers<sup>5</sup>; but it shall be so no more, when they shall have a King, who shall change that Power into Property. An excellent Instruction for Ecclesiasticks to leave the Property of the Spiritual Power to God, and to content themselves with the Exercise of it, as his Vicegerents and Lieutenants, the highest and noblest Quality that can be upon Earth.

SUCH is the Distinction betwixt Spiritual and Temporal Power, which well demonstrates, that the one doth not include and produce the other; neither are they superior to one another, but that both are Sovereign or Subaltern, in their Right and in their Kind.

NOTWITHSTANDING, this Distinction hindreth not, but that the one, and the other, may reside in the same Person, and sometimes, which is more, on

<sup>1</sup> S. Greg. lib. 2. ep. 94.

<sup>2</sup> Loyseau, loc. cit. num. 10.

<sup>3</sup> August. ad cap. 21. Joan. Richerius pars 3. axiom. 30. in Apol. pro Joa. Gersonio.

<sup>4</sup> 1 Reg. 8. ver. 7.

<sup>5</sup> Loyseau, loc. cit. num. 13.

Account of the same Dignity. However, 'tis to be observ'd, that when it resideth in the same Dignity, it must be an Ecclesiastical Dignity, and not a Lordship or Temporal Office, seeing the Spiritual Power is more Noble than the Temporal : And as it can't depend on, nor be accessory to it, so neither can it be in the Person of a Laick, to whom ordinarily belongeth the Temporal Power ; and above all, the Spiritual Power cannot be held by direct Dominion, nor convey'd by Succession, nor possess'd hereditarily as Temporal Dominions.

WHENCE it follows, by the bye, that it was repugnant to common Sense for the Kings or Queens of *England* to have assum'd to themselves the Supremacy of the Church of *England*, in the same manner as they assum'd the Secular Power of their Realm, as if the one depended on the other<sup>1</sup> : This proceeded from the particular Spite which *Henry VIII.* had against the Pope, who would not approve of his Divorce ; for which he was so offended, that he refus'd paying, any more, the Tribute which for a long time had been paid by *England* ; and which is more, giving way to his unbridled Passion, he declar'd himself Head of the Church of *England* next to *Jesus Christ*, and oblig'd his Subjects to swear, That they acknowledg'd him to be supreme Lord, as well in Spiritual as Temporal Matters ; a Solecism which appear'd plainly afterwards, when his Daughter, *Queen Elizabeth*, came to reign ; forasmuch, as a Woman was then seen to be Head of the Church of *England*, and the Spiritual Sovereignty fallen to the Distaff.

NOW altho' these two Powers have been for some time in the same Persons among the People of God, yet it was in such a manner, that the Temporal was always accessory to the Priesthood ; but afterwards, when the People would be govern'd by Kings, these Kings had not the Spiritual Power ; and if at any Time they undertook it, they were severely punish'd by God, as is manifest by the History of *Hosea*<sup>2</sup>. As for the Heathens, we have seen already, that in many Nations the Kings have been Priests, by subjecting Religion to the State ; and they made use of it no otherwise, than so far as it was subservient to the State : But we being instructed in better Schools, have been taught to prefer Religion, which respecteth God and regardeth Eternal Life, to the State, which concerneth only Man and the Quiet of this World. But there's no Inconveniency nor Repugnancy in annexing the Temporal Power, and rendering it accessory and dependent on the Priesthood ; as in the following Books of this History we shall observe in the Person of the Pope of *Rome*, and other Prelates of the Church ; not as if it sprung from the Spiritual Sovereignty, and were one of its necessary Appurtenances, but as it hath been acquir'd, from Time to Time, by human Titles, by Concessions of Princes, and Lawful Prescriptions, not *Apostolico jure*, as *St. Bernard* saith<sup>3</sup>, *Nec enim ille tibi dare, quod non habebat, potuit.*

Behold these two Powers met in Sovereignities independent the one on the other, and acknowledging one only Source, which is God ; distinct, by well fix'd Limits from the Mouth of our Saviour, in such a manner, that the one hath no occasion to interfere with the other.

<sup>1</sup> Loyseau, loc. cit. num. 16.

<sup>2</sup> Paralipomen. 26. Grot. cap. 2. de imp.

Sum. potest. num. 5. V. Bodvadilla Polit. lib. 2. cap. 17 & 18.

<sup>3</sup> Bernard. lib. 2. de Confid. cap. 1.

## S E C T. I.

### *The Ecclesiastical Polity of the first Three Ages in the East.*

WE acknowledging then, by the Christian Religion, these two Powers in the World, it will be necessary, that we give an Account, how the Spiritual began to be administred among Men, and how by Degrees the Polity came to be establish'd in the Empire, and in these our Provinces, and the Ecclesiastical State ; which in the succeeding Ages made one of the greatest Changes in the Political and Temporal State of this Kingdom.

IN these three first Ages of Man's Redemption, before that *Constantine* embrac'd the Christian Religion, no outward Ecclesiastical Polity could be thought on in the Empire with Stability. The Apostles and their Successors, being intent solely on preaching the Gospel, did not much mind the Establishing of it; and besides, were hindred by Persecutions, which constrain'd them privately and in Corners, to maintain the Exercise of their Religion among the Faithful.

OUR gracious Redeemer then, being to return to the Father, who sent him into this World to shew us a more secure Way of Salvation, after having given us so many good Rules, left on Earth his Lieutenants, to whom he communicated that Spiritual Power, to the End, that as his Vicegerents, they might maintain and publish every where his Religion. He did not make use of the Ministry of Angels, but was pleas'd to advance Mankind, neither did he make choice of the mighty Men of the Earth for these profound Mysteries, but the most vile and abject; being willing by that to give us another Mark of Distinction between these two Powers, that the one doth not regard Pedigree, nor other Honours, which the World puts a Value upon, but only the Spirit, not Blood, and other human Considerations. He left therefore that Power to the Apostles, his dear Disciples, who while he convers'd with us on Earth, follow'd him: He gave them in Charge to teach and preach his Law over all the World, and gave them Power to bind and to loose, as they saw meet; engaging his Word, that those whom they should loose on Earth should be loos'd in Heaven, and whom they should bind on Earth should be bound in Heaven.

THE Apostles, altho' they acknowledg'd St. *Peter* for their Head, in the Beginning, thought of nothing less than establishing an outward Ecclesiastical Polity, seeing they were intent on the Preaching of the Gospel only, and in bringing Mankind to the Belief of that Religion, which they were about to establish and propagate through all the Provinces of the World; they apply'd themselves to that only: For that end, they dispers'd themselves, and travell'd to different Places, whither Necessity or Occasion led them. The first Provinces they visited were those of the East, as being the nearest to *Jerusalem* and *Palestine*: They went to *Antioch*, *Smyrna*, *Ephesus*, *Alexandria*, and other Cities of the Eastern Provinces, in which they made wonderful Progress, bringing those People to the true Faith; in which they were but little diverted or hindred by the Imperial Officers, those Provinces being far from *Rome*, the Head and Seat of the Emperors, their Proceedings were not so narrowly look'd into; whence they were able to establish Religion in many Cities of these Provinces, and to unite the Faithful more closely in many Places, which they call'd Churches. But at first, as St. *Hieronymus* saith, they having founded Churches in the Cities, these were govern'd, with common Consent, by Presbyters, as an Aristocracy. Afterwards, the Number of the Faithful encreasing, and Confusions and Divisions arising by reason of the Multitude, to obviate Disorders, altho' the Government was continu'd with the Presbytery, they began to think of giving the Superintendency to one of the Priests, who should be their Head, whom they call'd Bishop, that is to say, Inspector, who being plac'd in a more high Degree, had the Inspection over all the Priests, and to whom belong'd the Care of the Church, governing it together with the Presbytery; so that the Government of the Church became mix'd of Monarchy and Aristocracy; whence *Peter de Marca*<sup>1</sup> took Occasion to say, That the Monarchical Government of the Church was temper'd with the Aristocratical.

SOME have endeavour'd to maintain, that in those early Times, the Government and Polity of the Church, was simply and purely Aristocratical in the Hands of the Priests only, yielding nothing more to the Bishops than to the Priests, giving them no Power nor Supremacy above the others: But the incomparable *Hugo Grotius*<sup>2</sup>, hath fully confuted that Error; and the contrary is clear from the Catalogue of so many Bishops, which we have from *Irenæus*, *Eusebius*, *Socrates*, *Theodoretus*, and others, by which it is manifest, that from the Time of the Apostles, the Bishops had the Superintendency of the Church; and being

<sup>1</sup> Hieronym. in epist. ad Titum.

<sup>2</sup> Petr. de Marc. de Patriarc. juxta receptum ab omnibus Theologis axioma, Monarchicum

Ecclesiæ regimen Aristocratico temperat.

<sup>3</sup> Grot. de Imp. Sacra potest. cap. 11. num. 5.

plac'd in a more eminent Degree, were above the Priests, as their Head. Thus, not to speak of the Bishops of Rome, as being a Thing so well known, in Alexandria, upon the Death of St. Mark the Evangelist, who had govern'd that Church, as St. Hieronymus<sup>1</sup> relateth, the Priests had always one whom they chose for their Head, *Et in Celsiori gradu collocatum Episcopum nominabant*. St. Mark died in the Sixty Second Year of the Incarnation, and in the Eighth of the Emperor Nero<sup>2</sup>: And after him, St. John the Apostle being yet alive, Anianus succeeded; to Anianus succeeded in the Government of that Church, Abilius, and to him Cerdo, and so from one to another the rest<sup>3</sup>. In Antiochia, Evodius, Ignatius, &c. In Jerusalem, while St. John was yet alive, after the Death of St. James, the Bishops of that City were Simon, Justus, &c. In Smyrna, Polycarpus was put over the Priests as their Bishop, by St. John, who govern'd that Church Eighty Six Years. Thus likewise the Church of Ephesus, altho' it was govern'd by the Priests, yet there was one of them who presided; and after Timothy, St. John himself, for some time, was Head of it; for which Reason he was call'd the Prince of the Clergy, and Angel of the Church; after that Titus and others succeeded; so that in the Council of Chalcedon<sup>4</sup>, from the Mouth of Leontius Magnesians, we read, *A Sancto Timotheo, usque nunc XXVII. Episcopi facti, omnes in Epheso ordinati sunt*.

NEITHER ought it to seem strange, to say it *en passant*, that the Evangelists, whose Business it was to be going to and fro in the Provinces of the Empire, and to preach the Gospel, could have been Bishops in any City; since, as Hugo Grotius well informeth us<sup>5</sup>, they likewise went to settle in some Places, where they perceiv'd, that their longer Abode would be of greater Advantage; and where they staid, they perform'd all the Offices of a good Bishop, by presiding in the Presbytery: For which Reason we read, that the same Apostles were Bishops of some Cities, because having remain'd long in them, they had govern'd their Churches, as all other Bishops did who had been ordain'd by them.

THUS, in Process of Time, the Christian Religion being spread over all the Provinces of the Empire, altho' the Apostles dy'd, the Bishops succeeded in their Places, who being above the Presbyters, govern'd the Churches; therefore we see Bishops appointed in the Cities, as St. Cyprian witnesseth; *Jam quidem per omnes Provincias, & per urbes singulas constituti sunt Episcopi*: whence it was firmly establish'd, that in the Government of the Churches, one of the Priests was to have Rule over the Rest, to whom the Care of the Church was to belong, as St. Hieronymus testifieth, *In toto Orbe decretum est, ut unus de Presbyteris electis cæteris super poneretur, ad quem omnis cura Ecclesiæ pertineret*<sup>6</sup>.

AND altho' St. Cyprian saith, That Bishops were appointed in every City; yet nevertheless 'tis known, that many Cities had none, but were govern'd and rul'd by the Presbytery only; since the Apostles did not appoint Bishops in all Churches, but left many of them to be govern'd by the Presbytery, when there were none amongst them worthy of being made Bishops, as St. Epiphanius<sup>7</sup> declareth; *Presbyteris opus erat, & Diaconis, per hos enim duos Ecclesiastica compleri possunt; ubi vero non inventus est quis dignus Episcopatu, permansit locus sine Episcopo; ubi vero opus fuit, & erant digni Episcopatu, constituti sunt Episcopi*. And these Churches which continu'd without Bishops, saith St. Hieronymus, *Communi Presbyteriorum consilio gubernabantur*. Thus Meroe, a City in Egypt, as Athanasius<sup>8</sup> writeth, even to his Time, had not had a Bishop, and was govern'd by the Presbytery only; and many Writers of those Times declare the same of many other Cities of the Empire.

SUCH was the Polity of the Ecclesiastical State in the first Ages; neither was there any other Hierarchy known, nor any other different Degrees, but that of Bishop, Priest, and Deacon, who took Care of the Oblations, and likewise of what belong'd to the Ministry of Holy Things. These made up one Body, of whom the Bishop was the Head, and the other Ministers, whether the higher or lower, were the Members, and the Council or Senate of the Bishop, who,

<sup>1</sup> Hieronym. epist. 85.

<sup>2</sup> Euseb.

<sup>3</sup> Grot. loc. cit.

<sup>4</sup> Conc. Chalcedon. sessio. 11.

<sup>5</sup> Grot. loc. cit.

<sup>6</sup> Hieronym. ep. 85.

<sup>7</sup> S. Epiphani. hæres. 75.

<sup>8</sup> Du Pin. de Antiq. Eccl. disc. dissert. 1. §. 8.

together



together with him govern'd the Church. Whence *S. Hieronymus* <sup>1</sup> reasoning about the Bishops, said, that they likewise had their Senate, that is the Congregation of Priests: And as *S. Basil* likewise said <sup>2</sup>; and *Ignatius* writing to the *Trallians* affirm'd, That the Priests were the Bishops Counsellors and Assessors, and that they ought to look upon themselves as having succeeded in the Place of the Apostolical Senate; whence it was that *S. Cyprian* never treated of any Thing of Moment, without the Assistance and Advice of his Priests and Deacons, as may be gathered from his Letters <sup>3</sup>.

SOME have believ'd that this Polity of giving the Superintendency to the Bishops, and a Superiority over the Priests, had been introduc'd likewise from the Example of the Heathens, who had different Degrees in their Priesthood; which was practis'd not only by the *Greeks* and *Romans*, but had been a very ancient Discipline of the *Druids* in *Gallia*, as *Cæsar* expresseth in his Commentaries <sup>4</sup>: *Druidibus preest unus, qui summam inter eos habet auctoritatem*. The *Burgundians* had also their High-Priest, as *Marcellinus* <sup>5</sup> relateth; and in the *Jewish* Commonwealth, God Almighty approved of the same Custom likewise, when he put one of greater Authority over all the Priests.

BUT however probable it may be, that such an Order had been instituted in imitation of them, nevertheless, according to the Opinion of *Grotius* <sup>6</sup>, it is more probable that such a Polity was introduc'd in imitation of the *Jewish* Synagogues, whereof the Churches founded by the Apostles seem to be Images and Resemblances; and indeed, we observe, that in many Places the Synagogues had no coercive Power, any more than the Church itself, all its Power being Spiritual: We likewise see, that the Apostles, while they were Preaching in *Palestine* and the neighbouring Provinces, found many Synagogues which had been well regulated from the Time of the *Babylonish* Dispersion; and these receiving the Faith of Christ, by the Preaching of the Apostles, because the Gospel was first preach'd to them, there was no Reason why they should change their Polity, and forsake that which the Experience of many Ages had approv'd of, and recommended; add to this, that the Work of the Apostles was more easy, because, when they were to plant a new Religion in the Gentile World, the Novelty of the Thing made no Noise, nor was taken Notice of by the Imperial Officers, who were little concern'd in the Matter, seeing there was no Change in the outward Polity, when the Synagogues were converted into Churches; and when Churches were founded elsewhere, altogether conformable to the *Jewish* Institutions, to which the Imperial Officers were no Strangers, little or no Innovation was observ'd, at least not so much as could give any Disturbance to the Civil State of the Empire.

AS in every Synagogue there was one, who was above the rest, whom they call'd the Ruler, in his Place they appointed a Bishop; they had Pastors, to whom the Priests succeeded; there were likewise *Eleemosinaries*, who were much the same with Deacons.

<sup>1</sup> Hieron. in cap. 2. *Isaiæ*: Et nos habemus Senatum nostrum Cætum Presbyterorum.

<sup>2</sup> S. Basil. ep. 319.

<sup>3</sup> Cyprian. ep. 10. lib. 1. ep. 7. lib. 2. ep. 2. lib. 4. ep. 10. lib. 3. ep. 10. lib. 4.

<sup>4</sup> See Claud. Fonteius in dissert. de Antiq. Jur. Presbyt. in reg. Eccl. cap. 7, 9.

<sup>5</sup> Amm. Marcel. lib. 28. hist. cap. 5.

<sup>6</sup> Grot. loc. cit. cap. 11. num. 8.

## S E C T. II.

*The Ecclesiastical Polity in the West, and in these our Provinces.*

WHILST this new Religion was spreading in the East, and having made wonderful Progress in those Parts, it was resolv'd to establish it likewise in the West, some of the Apostles, and many of the Disciples for that end travell'd into these our Provinces. 'Tis said that St. *Peter* himself, their Head, leaving the See of *Antioch*, having appointed *Evodius* Bishop of that Church, sail'd with many of his Disciples towards *Italy*, in order to go to *Rome*: That he landed first at *Brun-*  
*dufum*,

*dufum*, from thence he went to *Otranto*<sup>1</sup>, and then to *Tarentum*, in which City he preach'd the Faith of Christ, and converted a great many of the Citizens to the Faith, leaving *Amasianus* Bishop of the Place<sup>2</sup>; some will have it<sup>3</sup>, that he likewise visited *Trani*, *Oria*, *Andria*, and sail'd by the *Adriatick* to *Sipontum*; from thence he return'd, and coasting along our Shore arriv'd at *Rbegium*, in which Cities he planted the Christian Religion: Then departing from *Rbegium* with his Followers, sailing through the *Tyrrhenian* Sea, he arriv'd in ours, and beholding the pleasant Situation of the City of *Naples*, resolv'd to land and convert it to the true Faith: And they will have it, that he met at the Gate of the City a Lady call'd *Candida*, and with her, and her Brother *Asprenus*, wrought many Miracles, at which the *Neapolitans* being moved, they received Baptism from him, and before he departed for *Rome*, he appointed *Asprenus* Bishop of that City, who was the first. 'Tis also said, That in that Journey St. Peter himself went as far as *Capua*; and after having converted that City, he left there *Priscus*, one of the ancient Disciples of Christ, for Bishop, in whose House he caus'd to prepare *Easter*, and eat with his Disciples in the Parlour. And afterwards having gone to *Atina*, a City now destroyed, appointed *Mark* Bishop of it: And lastly, taking Journey for *Rome*, pass'd by *Terracina*, of which Place he ordain'd *Epaphroditus* Bishop. The People of *Bari* likewise pretend, that St. Peter was also in their City, as well as in *Tarentum* and *Otranto*<sup>4</sup>. Those of *Beneventum*, that he left with them *Photinus* their first Bishop<sup>5</sup>. *Sessa* pretends the same, and that he gave to them *Simisius* for their Bishop. In short, if one should mind such Stories, there is not a City in our Provinces that doth not pretend to have had their Bishops either from St. Peter or St. Paul, as *Rbegium* boasteth of *Stephen* its first Bishop, or from some one or other of the Seventy-two Disciples of Christ our Lord; or lastly, from the Disciples of the Apostles. Indeed, *Pozuolo* reckoneth its first Bishop *Patrobas*, one of the Seventy-two Disciples, and Disciple of St. Paul, of whom he maketh mention in his Epistle to the *Romans*, who being ordain'd Bishop by St. Peter, and arriving at *Pozuolo*, preach'd there the Christian Faith.

'TIS reported likewise, that St. Peter was no sooner arriv'd at *Rome*, than he was oblig'd to fly for it, because of the rigorous Edicts which the Emperor *Claudius* had put forth against the *Jews*, ordering them all out of *Rome*<sup>6</sup>. That he having return'd to *Jerusalem*, and ordain'd many other Bishops in the Cities of the East, came back a second Time to *Italy*, in order to go to *Rome*; and that in this second Voyage arriving in the Town of *Resina*, near *Naples*, by his Preaching he converted that People, and left with them *Ampello* to instruct them better in the Faith of Christ: Thence returning to *Naples*, was receiv'd by *Asprenus* and the *Neapolitan* Christians with infinite Marks of Kindness and Rejoicing, and founded a Church there; and that in this second Passage he visited many other Cities in *Puglia*. Thence going to *Rome*, he establish'd his Chair in that City, and ordain'd *Linus* Bishop of it, who having suffer'd Martyrdom, had for his Successor *Clemens*, to whom succeeded *Cletus* and *Anacletus*, and the other Bishops according to the Catalogue which we have of the Bishops of *Rome*<sup>7</sup>.

ON the other hand, there are some who pretend to throw to the Ground all these Accounts, and render them Fabulous; since they have undertaken with as great Temerity as Stubbornness, to maintain, that St. Peter never was in this our Country, but impudently have been so bold as to assert likewise, that he never was at *Rome*. The greatest Stickler on that Side is *Salmasius*<sup>8</sup>, who, contrary to what the ancient Fathers<sup>9</sup> of the Church believ'd, and what hath been handed down to us by the ancient Tradition of our Forefathers, will maintain at any rate, that St. Peter never was at *Rome*; calling in Question, that which the Church hath

<sup>1</sup> P. Carac. de Sacr. Neapol. Eccl. Mon. cap.

3. §. 4.

<sup>2</sup> Juven. Hist. Tar. l. 8. c. 1. & l. ult. cap. 1.

<sup>3</sup> Summont. lib. 1. cap. 1.

<sup>4</sup> Beatil. Hist. de Bari, lib. 1.

<sup>5</sup> Carac. de Sacr. Eccles. Mon. cap. 3. §. 3.

<sup>6</sup> Suet. in Claud. cap. 36. Judæos impulsore Christo assidue tumultuantes, Roma expulit.

<sup>7</sup> Oratus, Rufinus, S. August. Grot. de Imp. Sum. Pot. cap. 11. num. 5.

<sup>8</sup> Salmaf. in apparatu ad libros de primatu Papæ: De quo admiratur Grotius defendere Sententiam a toto orbe destitutam, Grot. ep. 53.

<sup>9</sup> Irenæus lib. 3. cap. 1. Tertullian. de Præscript. de Unit. Eccl. Arnob. adv. gentes Lactant. lib. 4. cap. 1. Cajus, Dionysius, Corinthius, and others mentioned by Leo Allacius de Ecclesia Occidentali & Orientali, Confes. lib. 1. cap. 2. num. 7.

always

always with Stedfastness and Constancy believ'd: Which gave occasion to *John Owen* 'tally to believe, That that Point was still undecided.

*An Petrus fuerit Romæ, sub iudice lls est?*

BUT whatever may be in that Dispute, which we must leave altogether to the Ecclesiastical Writers, who have at large confuted that Error, 'tis sufficient for our Purpose, that it is incontestable, that either by St. Peter himself, or by the other Apostles, or their Disciples, or other Successors, the Christian Religion was introduc'd into these our Provinces, and many Churches founded in many Cities of them; for which End, many Bishops were ordain'd long before *Constantine the Great* embrac'd our Religion, that is to say, in the first three Ages of Man's Redemption: All which is made very clear, not only by the frequent Martyrdoms, which happen'd in our Provinces, but by the ancient Registers we have of the Bishops of many Cities. *Naples* reckoneth a great many before *Constantine the Great*; *Asprenus*, *Epaticus*, *Maurus*, *Probus*, *Paulus*, *Agrippinus*, *Eustacius*, *Eusebius*, *Marcianus*, *Cosma*, and others. *Capua* numbers also its own, *Priscus*, *Sinotus*, *Rufus*, *Augustinus*, *Aristeus*, *Proterius*, and *Protus*. *Nola*; *Felix*, *Calionius Aurelianus*, and *Maximus*. *Pozzuolo*, *Patrobas*, *Celsus*, *John*. *Cuma*, *Maxentius*. *Beneventum* likewise reckoneth its own, amongst whom the famous *Januarius*, who suffer'd Martyrdom under *Dioclesian*. *Atina* boasteth of its Bishops from the Time of the Apostles, *Mark*, *Fulgentius*, and *Hilarius*. *Sipontum*; *Bari*, *Otranto*, *Tarentum*, *Rhegium*, *Salernum*; and other Cities of these our Provinces, had theirs before *Constantine*, of whom *Ferdinandus Ugellus*, in his laborious Work *de Italia Sacra*, hath given us a long Catalogue.

BUT as 'tis beyond all Dispute, that the Christian Religion was introduc'd into many Cities of these our Provinces in the first Ages, and that there was in each of them, a great Number of the Faithful, acknowledging the Bishops for their Moderators; so it can't be doubted, but the Exercise of that Religion was perform'd with much Caution, privately and in the most hidden Corners of their Houses, and often in the most unknown Caves, and farthest from the Resort of Men. Certainly our first Bishops in these Provinces being so near *Rome*, had greater Difficulty in maintaining this Religion amongst the Faithful, than those of the Eastern Provinces, as being at a greater Distance from *Rome*. The Roman Emperors were altogether intent on extinguishing this new Religion: They were uneasy at the very Name of a Christian, and to render them more detestable, they were branded as guilty of many Crimes and Villainies; that they were Murderers, adding, that they kill'd Children and fed upon their Flesh: That they were Incestuous, and that in their Night Assemblies they all mingled, and polluted themselves with execrable Lusts: And those, who by their manifest Probity, to whom they could impute none of these Wickednesses, were made detestable to the Emperors, as Despisers of the Worship of their Gods; that they did not pay the Honour due to the Emperors; that they slighted the Roman Laws, and their Customs, and every thing else, did not invoke their Gods, nor vouchsafe to offer them Sacrifices; for which Cause they were call'd Atheists, Sacrilegious, Disturbers of the State and Customs, and an eternal Pestilence to Mankind and Nature; since by the Contempt they had for their Gods, they said, they provok'd them to Wrath and Revenge, by which they were the Occasion of many Mischiefs among Men and Nations; so much that with the Heathens it pass'd current and as a continual Quarrel, that the Christians were the Cause of all their Misfortunes; which wicked Opinion lasted in *Rome* to the Days of *Marick*, when he took that City, attributing that Disgrace to the Wrath of their Gods, who for the Contempt they had them in and their Religion, reveng'd themselves after that manner upon the Romans; which mov'd *St. Augustine* to write his Books of the City of God, and *Orosius* to write his *Orchestra*, or History against the Pagans.

FOR which Causes the Emperors began to persecute them; and the Persecution of *Nero* was the most terrible of all, who, by severe Edicts, condemn'd

<sup>1</sup> *Owen* lib. 1. epigr. 8.

<sup>2</sup> *Minutius Fel. Tert. Apol.* cap. 7, 8, 9. *Orig. cont. Cels.* 6. p. 293. *Voss. in Com.* ad

*Epist. Plin. ad Trajan. de Christianorum Persecut.*

<sup>3</sup> *Voss. loc. cit.*

them to Death, as publick Enemies of the State and Mankind<sup>1</sup>. *Domitian* follow'd his Footsteps. *Trajan* was not so cruel against them; for in returning Answer to *Pliny*, then Proconsul in *Pontus* and *Bythinia*, who being terrified by the great Number they grew to daily in these Provinces, wanted to know how he should punish them, he ordain'd, That they being accus'd and convicted, he should proceed against them with Severity; but if they were not accus'd, he should rather wink at them. By which, as *Vossius* observeth, the Clemency of *Trajan* the Heathen, was greater towards Christians, than that of Christians, not only towards the *Mahometans*, but even towards Christians themselves who are charg'd with Heresy, against whom the Inquisition, a Tribunal lately introduc'd, proceedeth with much Rigor, without being accus'd; of which Tribunal we shall have Occasion to treat more at large in another Place. *Adrian*, the *Antonines*, *Severus*, *Maximinus*, *Decius*, *Valerianus*, *Dioclesian*, *Maximinianus*, *Galerius*, and lastly *Maxentius*, were most cruel Enemies of the Christian Name; and if these Persecutions were cruel in the other Provinces of the Empire, they were much more so, without doubt, in our *Campania*, and the other Provinces which at present compose this Kingdom, as being nearer to *Rome*. The Officers by whom they were govern'd, in order to please the Inclinations of the Princes, and to be taken notice of as zealous for their Service, as being more narrowly observ'd, put their Edicts in Execution, with the more Rigour and Readiness: Whence it is, that with Reason, *Campania*, and these our Provinces, boast of so many Martyrs<sup>2</sup>, and that all these first Bishops of their Cities, are now worshipp'd as Saints, as they, who in the Midst of such fierce Tempests, always confess'd the Faith of Christ, and being intrepid, did not value Slaughter nor Death. There are yet remaining the Vestiges of the Burying Place of *Nola*: The Memory of the Martyrdoms in *Pozzuolo*, in the Time of *Dioclesian*, and many other Burying Places of Martyrs in several Parts of the other Provinces, which afterwards, when *Constantine* gave Peace to the Church, were discover'd by the Faithful, and made known; whence it was, that the neighbouring People out of Devotion, flocking to the Tombs of the Martyrs, there were so many Inhabitants near these Places, and new Towns and Castles built; And from this it was, that these new Towns in our Kingdom took their Names from these tutelar Saints<sup>3</sup>.

IN these troublesome Times, no outward Church Polity could be thought of in these our Provinces: The Faithful, for the most Part, absconded as Fugitives, and in such Confusion, that they could not but clandestinely perform the Exercise of their New Religion. The Bishops, with much Danger, attended only the Conversions, and that in Cities altogether Heathen, as need requir'd, they run sometimes to one City, sometimes to another; so that they could not apply themselves to the Political Government of their Churches.

FOR which Reasons, there could no Change or Alteration happen in the Polity of the Empire, and much less in these our Provinces, in such Times, on Account of the new Christian Religion. The Cities were all Heathen, the Religion which was publicly profess'd by the Magistrates, the Laws, Customs, and Rites, were all Heathen. The Christians were reputed as publick Enemies, Disturbers of the State, and, as such, excluded the Commonwealth: Their Meetings severely punish'd; they could not have separate Colleges; their Churches had no Revenues. All the Cities of these our Provinces, altho' there were many Christians who liv'd in them privately, and that the Number encreas'd daily, yet were Heathen, and Heathenism was publicly profess'd. Every City took Example from *Rome*, and many of the *Roman* Magistrates imitated the Religion of their Head; and it was not only the Municipal, the Colonial, and the Praefectural, but also the Confederated Cities, which had more Liberty.

<sup>1</sup> Sueton. in *Neron*. cap. 16. Tacit. an. 15.

<sup>2</sup> P. Carac. de Sacr. Neapol. Eccl. Monum. cap. 2. Sect. 2 & 5.

<sup>3</sup> Camil. Per. in Falcon. Benzv. pag. 179.

## S E C T. III.

NAPLES, as also all the other Cities of this Kingdom, were universally Heathen.

NAPLES, as is believ'd, did not become entirely Christian, from the first Preaching of the Gospel, which they say was by *St. Peter*. 'Tis very probable, that some *Neapolitans* embrac'd immediately the Faith of Christ, and with much Caution follow'd their Bishop *Asprenus*, living hiddenly in that Belief; but all the rest were Idolaters, and that Worship publickly profess'd. So that of all the Greek Cities in these our Provinces, *Naples* was certainly the most superstitious and most addicted to the Errors of the Heathens, and its old Religion. It had its publick Temples, in honour of various Deities: of *Eumelus* its Country God, of *Ebo*, who had for an Adjunct that of *Clarissimus* given him, or most resplendent God; they believ'd him the same as *Apollo*, and he was also call'd the God *Mitra*: They had *Castor* and *Pollux*, *Diana*, *Ceres*, and a great many other Deities. It had its Brotherhoods (as hath been already observ'd) not only dedicated to its Country Gods, but likewise to Heroes, and in private Temples built by them, Sacrifices were offer'd by the Families that met there. Innumerable were the Games also which they had for celebrating their Feasts with the greater Pomp and Solemnity, and so famous that they drew Spectators from the remotest Parts: the most renown'd of which were the Olympick Games, which they celebrated with so much Care and Skill, that they entic'd the Emperors themselves to be Spectators of them: Neither were the Feastings at the Temple of *Ceres*, near the Sea, less admir'd, from which that Goddess is call'd by *Statius*, *Actia Ceres*.

SOME vainly believe, that these Festivals and these Temples ceas'd, as soon as *St. Peter* preach'd the Gospel there; whereas 'tis manifest, that they were continu'd for a long time after. *Statius*, who wrote under *Domitian*, in his *Sylvæ*, and elsewhere, makes mention frequently of these Feasts and Games. Others have been yet more foolishly persuaded, that Learning was taught in the Academy, which, in *Naples*, was dedicated to *Hercules*, and that it was honour'd with *Ulysses* for a Scholar; as if in the midst of his so long and painful Wanderings, it could have enter'd into his Head to go to *Naples* in Quest of Learning. The Academy was instituted for exercising the Body in Courting, Fencing, Wrestling, the *Gymnici Ludi*, and *Athletic Exercises*: And that Academy was famous and remarkable for the rare and extreme Valour of the Wrestlers, that it not only drew to it Strangers from the most distant Countries, but (which is more remarkable) even the Emperors themselves, who went frequently to this City, and were delighted in seeing the Exercises, and in being seen performing them. That Academy was much esteem'd by *Augustus*, *Tiberius*, *Caligula*, *Claudius*, and much more by *Nero*. *Titus* was much delighted with it, and it being thrown down by an Earthquake, he rebuilt it. *Domitian*, *Trajan*, *Adrian*, *M. Aurelius* the Philosopher, *Commodus*, *Septimius*, and *Alexander Severus*, and almost all the Emperors who preceded *Constantine*, honour'd it. *Naples* then, on Account of these Exercises, being so much frequented by these Emperors, the greatest Part of whom had been unmerciful, bitter, and cruel Persecutors of the Christian Religion; who can ever be persuaded, that this City, after *St. Peter's* passing through it in his going to *Rome*, had forsaken Heathenism, and publickly embrac'd the Christian Religion? Neither the Manners of the *Neapolitans*, who were most tenacious of the Worship of their Country Gods; nor the frequent Stay the Roman Emperors made in this City; nor the mortal Hatred they bore to the Christians, can make us believe it, but much rather prove the contrary, and what great Mistake it was to imagine there were never any Martyrs in

\* *Macrob. Saturnal. lib. 1. cap. 18. Tutin. dell' Origin. de Seggi, cap. 19.*



*Naples*, when 'tis indisputable : Neither can *P. Carracciolo* himself deny it, that there have been many and frequent Martyrdoms there ; and Cardinal *Baronius* <sup>1</sup> speaking of *St. Faustus* and *Julita*, gives an Account, that they suffer'd Martyrdom in *Naples*. Forasmuch as this City, whatever they may believe, that as a Confederated City, it was not subject to the Roman Edicts, was of it self Idolatrous, and consequently a most bitter Enemy to the Christians, and such were they who govern'd it. But by reason of the great Superstition of the *Neapolitans*, and the great Veneration for their Paterhal Gods, even after *Constantine the Great* gave Peace to the Church, it was very difficult for a long time to get the false Worship so entirely abolish'd, as it was in other Cities of the Empire, and in *Rome* it self, before the Reigns of *Arcadius* and *Honorius*, most religious Princes, and resolute in exterminating Idolatry out of the Empire. And 'tis a very ill contriv'd Story, which gives an Account of the so many Churches and Altars erected in *Naples* by *Constantine the Great*, as shall be plainly shewn in the following Books of this History ; whence, with good Reason, *Jordanus* follow'd by *Tutini* <sup>2</sup>, believed, That the Temple in *Naples*, dedicated by *Tiberius Julius Tarsus* to *Castor* and *Pollux*, had been afterwards, by the *Neapolitans*, dedicated to the true God in Honour of *St. Paul* the Apostle, not in the Time of *Constantine the Great*, but of *Theodosius* the Emperor. *Symmachus* <sup>3</sup>, who liv'd in the fourth Century, lets us see, that *Naples* continu'd Heathen many Years after *Constantine* had embrac'd the Christian Faith ; whence, for its Constancy in not having follow'd the Example of the other Cities, but having kept the ancient Religion, he praises and adorns it with the Title of *Urbs Religiosa* ; these are his Words ; *Quamprimum Neapolim petitu Civium suorum visere studeo : Illic honori Urbis Religiosæ intervallum bidui deputabo. Debinc si bene Dii juverint, Capuano itinere, venerabilem nobis Romam, Larèmq; petemus.* Every Body knows that *Symmachus* was a fierce and cruel Enemy of the Christians, and consequently would by no Means have called it *Urbs Religiosa*, on Account of the Christian Religion ; but only because Heathenism was overturn'd every where else, he reckon'd *Naples* conspicuous and religious, because of the false Religion which it constantly retain'd and profess'd.

*Camillus Pellegrinus* <sup>4</sup> left to the Learned of *Naples*, the Care of solving the Difficulty which that Passage of *Symmachus* left them in ; for 'tis truly incompatible with the common Belief of the *Neapolitans*, that that City should become Christian from the first Preaching of *St. Peter*. But this difficult Passage was soon unriddled by our accurate *Chioccarelli* <sup>5</sup>, ( whom with good Reason *P. Lafena* used to call the Beagle, on Account of his diligent Searching ) and he endeavour'd to surmount it, by giving various Meanings to the Word *Religiosa*, that is, he would have *Symmachus* to mean, not the Heathen, but the Christian Religion : An Interpretation, truly far from the Circumstances of these Times, and the Religion of the Author, to which he was as much addicted, as he was an implacable Enemy of the Christian. A bare-footed Carmelite Fryer <sup>6</sup> in our Time, hath undertaken that Dispute ; but his Pen was not equal to the Undertaking, and he came but badly off. But if we lov'd Truth above every thing else, and were free from the Passion of an affected Love for our Native Country, and would look on it impartially, we should very easily unriddle the Matter : We should see there was no Intricacy in it, in our Opinion, if we would but consider the Circumstances of that City so near to *Rome*, and which it was vain in imitating in all its Proceedings ; we should perceive, that these our Western Provinces did not shake off Idolatry before the Reigns of *Arcadius* and *Honorius*.

In the other Provinces, and especially in the East, the Ecclesiastical Polity could be better minded, and the Christian Religion profess'd with more Freedom, the Persecution not being so furious and cruel there ; but for all that, the Civil State suffer'd no Change nor Alteration ; nevertheless, being persecuted and interdicted, it could not be publicly kept up, much less profess'd.

<sup>1</sup> Baron. Annot. ad Mart. 15. Maii, P. Lafena  
Gin. Nap. cap. 6. pag. 104.

<sup>2</sup> Tutin. dell' origin. de Seggi. cap. 4.

<sup>3</sup> Symmach. ep. 27. lib. 8.

<sup>4</sup> Cam. Pel. in Camp. in su.

<sup>5</sup> Chioccar. de Episc. Neap. in Severo.

<sup>6</sup> Discorso del P. Fr. Girolamo Maria de S.  
Anna Carm. Scal. dell' ant. Cattol. Relig. &  
Nobiltà di Nap.

## S E C T. IV.

*Of the Ecclesiastical Hierarchy and Synods.*

**T**HE Church knew no other Hierarchy, nor Dignities in these first three Ages, but those of Bishop, Priest, and Deacon. The Bishops, who had the Superintendency, and whom all the Orders of the Church obey'd, if, peradventure, any Division arose amongst the Faithful, they by their great Zeal and Charity, immediately made it up, and quieted their disturb'd Minds. The Charity of all was equal; in the first, by using their Pre-eminency with Moderation; and in the others, by obeying with an entire Resignation. If at any time they were to deliberate about any Affairs of Moment concerning Religion, to the end that they might maintain a fix'd Concord and Unanimity amongst all the Churches, and that there might be no jarring, the Bishops were us'd to communicate to one another what had fallen out, and by the Means of Messengers or Letters, which they called *Formata*, they maintain'd a Correspondence; and thus being all united by a strict Tye, representing the Universal Church, they fortified themselves against all Divisions and Schisms which could ever arise<sup>1</sup>.

WHEN any Thing fell out, and if the Persecution gave them any breathing, so as they could from different Cities meet in one, they conven'd in Synods for deciding the true Faith, for regulating the Polity and Manners of Christians, or for punishing the Guilty, and deliberating about any other Matter that happen'd; following in that, the Footsteps of the Apostles, and of St. Peter their Head, who having conven'd the Faithful in *Jerusalem*, held a Council, which was the first, and on that Account called the Council of *Jerusalem*, and which is inserted in the Acts of the Apostles by St. Luke<sup>2</sup>.

IN the second Age, when Religion was more diffus'd, as well in the Eastern as Western Provinces, they held other Synods: The first were in *Asia*, *Syria*, and *Palestine*. In the West likewise they began in this Age, being held in *Rome*, and in *Gallia*, against the Heresy of *Montanus* and the *Cataphrygians*; and on Account of the Paschal Controversy<sup>3</sup>.

IN the third Age, they were more frequent in *Rome* against *Novatus*, and his Followers, but more in *Asia* and *Africa*.

<sup>1</sup> Grot. de Imp. Summ. Pot. cap. 11. num. 8.  
<sup>2</sup> Act. cap. 15.

<sup>3</sup> Van Mastric. de Or. & Pr. Jur. Can. cap. 1.  
Doviat. Hist. Jur. Can. par. 1. cap. 1.

## S E C T. V.

*Of the ECCLESIASTICAL REGULATIONS.*

**T**HE Church in the first Ages had no other Regulations, but those which were in the Holy Scriptures, neither were there any other Books known: Afterwards by the Councils that were held, there were other Regulations made, by which the Churches of these Provinces were govern'd.

THESE were only Regulations concerning the Discipline of the Church, it never having been deny'd to the Priesthood to take Cognizance of the Differences in Religion, and to make Regulations concerning their Discipline. It was allow'd to the Heathen Priests likewise to do the same, and it was the common Right, as well of the Romans as of the Greeks, that all lawful Communities should take Cognizance of their own Affairs, and make Regulations about them. *Cajus* our Civilian, speaking of such a Community and College, says, *His autem potestatem facit lex, potestatem quam velint sibi ferre, dum ne quid ex publica Lege corrumpant*: There is

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a Law of *Solon* mention'd, in which the same was establish'd amongst the *Greeks* <sup>1</sup>. *John Doviat* <sup>2</sup>, and *Du Pin* <sup>3</sup>, a great Divine of *Paris*, taught, that the Church not only had such Authority by common Right, by which every Society ought to have some Form of Government, to keep it from Confusion and Disorders, and to establish Regulations; but that the Power of making Canons concerning Church Discipline, was also granted by Christ to the Apostles. 'Tis not to be doubted, but that our Saviour gave Authority to his Apostles, and their Successors, to govern the Faithful in all that concern'd Religion, as well to clear the Points of Faith, as concerning the Rule of Manners: And these were the first Foundations and Principles from whence the Canon Law hath its Origin, which for a long Tract of Years hath vied with the Civil Law, and, as 'tis manag'd by the Popes, dares not only compare with it, but it must entirely yield; so that in the same Dominion, against all the Laws of Government, two Bodies of different Laws are seen, encroaching upon one another; the Source, from whence flow'd so many Disputes about Jurisdiction, and so many Changes in the Political and Temporal State of the Empire, and of these our Provinces, as shall be distinctly shewn in the Course of this History.

THEREFORE in these first Ages, such Regulations had no Influence to cause any Alteration in the Polity of the Empire: They were solely confin'd to the Differences in Religious Matters, and to what concern'd the Government of the Churches, and their Discipline. As to the Civil Matters of the Empire, they did not interfere with them, leaving entirely the Government of the Commonwealth to the Prince, as formerly.

<sup>1</sup> L. Sodales 4. D. de Colleg. V. Desider. | <sup>2</sup> Doviat. Hist. du Droit Canonique, pars 1.  
Herald. Obser. & Emend. lib. cap. 42. Salm. | cap. 1.  
Observ. ad jus Attic. & Rom. cap. 4. | <sup>3</sup> Du Pin. de Ant. Eccl. Disc. dissert. 1.

## S E C T. VI.

### Of the Cognizance of CAUSES.

THE Church had likewise in these Times, as a Thing belonging to her Discipline, the Censure and Correction of the Manners of Christians. If any of the Faithful, by going out of the right Way, stumbled upon some Heresy, or by any publick or notorious Sin scandaliz'd others, he was first privately rebuk'd that he might reform, and if he did not amend, he was denounc'd to the Church, that is to say, to the Bishop, Presbytery, and the Believers, by whom he was a second time rebuk'd; and if, after all, he continu'd obstinate in his Error and Way of Living, he was banish'd their Communion, and reputed as the other Heathens and Publicans; depriving him of all that which the Church gives to her Faithful, and leaving him in the Civil Society with the other Heathens; and it was after true Repentance and a rigorous Penance, that he was again admitted into their Communion.

THAT Correction of Manners, during the popular State of *Rome*, resided in the Censors, for which they were call'd *Magistri Morum*, who had Power to put a Mark of Ignominy on all sorts of Persons for Causes, of which the Law took no notice, as *Bodinus* wisely and at large treateth. An Institution certainly very commendable, which being laid aside under the Emperors, was taken up by the first Christians, who, by the Means of this Censure, kept themselves in a singular Purity of Manners, as *Pliny* witnesseth of the Christians in his Time; and it is what *Tertullian* saith in his Apologeticks speaking of the Assembly of the Church; *Ibidem*, says he, *exhortationes, castigationes, & Censura Divina*; whence it is, that they call'd the Head of each Church *Episcopon*, which is to say, the Inspector of the Manners of his Church: For which Cause, Excommunications and other Punishments of the Church, are call'd to this Day Ecclesiastical Censures; a Matter

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which would require much longer Reasoning, but we shall leave it to *Bodin* to make up what is wanting.

T H E R E was in those Times, a Custom introduc'd amongst Christians of submitting their Differences to the Judgment of the Church, that they might not be oblig'd to plead before the Heathen Judges, according to the Precept of *St. Paul* in the first to the *Corinthians*. So that we see in *Tertullian*, *Clemens Alexandrinus*, and other Authors of those Times, That those who would not submit, but made Christians plead before the Heathen Magistrates, were look'd upon to be almost Heathens, or at least bad Christians: But those Decrees which the Bishops gave, were only arbitral Opinions, which did not bind the Parties but upon Honour; as when Persons of Consideration interpose in making up any Difference. In a word, they were not oblig'd to submit: Neither after Sentence were they tied to observe it, leaving them at Freedom to have their recourse to the Secular Magistrate.

T H E Church, in her Infancy, took Cognizance of these three Occurrences only, to wit, of Matters of Faith and Religion, of which she judg'd by Form of Polity: Of Scandal and lesser Faults, which she took under her Cognizance by way of Censure and Correction; and of the Differences among Christians, which they brought before her, which she decided by way of Arbitration and charitable Agreement. Whence it may be seen, that the Ecclesiasticks had not that compleat Power of trying Causes, which in the Law is call'd *Jurisdiction*; but their Justice was call'd *Notio*, *Judicium*, *Audientia*, and never *Jurisdiction*.

## S E C T. VII.

### *Of the Election of MINISTERS.*

I T belong'd likewise to the Church Discipline to provide her with Ministers; and *Du Pin* writes, That this Power was bestow'd by Christ on the Apostles, of providing Successors in their Churches, to wit, Bishops, Priests, and other Ministers. And indeed the Apostles, as may be gather'd from Sacred History, ordain'd Bishops in many Places, and left them to govern the Churches which they had founded: But afterwards, the Apostles being dead, when by the Death of any Bishop the Church became vacant, they proceeded to the Election of a Successor; and then they call'd the most neighbouring Bishops of the same Province, at least two or three, it being a difficult Matter to have numerous Councils in those Days, if it were not in the Intervals of Persecution, and sometimes the Sees remain'd a long time vacant; and these joyning with the Presbytery, and the faithful People of the City, proceeded to the Election<sup>1</sup>. The People propos'd the Persons they desir'd might be elected, and gave Testimony of the Life and Manners of each of them; and lastly, being united with the Clergy and the Bishops present, consented to the Election, and immediately the new Elect was consecrated by the Bishops. Sometimes the Clergy and the People had a greater or lesser Share in the Elections, seeing in some they only express'd their Desire, and gave Testimony of their Life and Manners; in others they join'd in the Election<sup>2</sup>, as happen'd in the Election of *St. Fabian* Bishop of *Rome*, who, as *Eusebius* reports, was chosen by the Voice of the People, who had seen a Dove sitting on his Head: Which when it fell out, and the Bishops thought it convenient, they approv'd of the Election, and ordain'd the Elect'd; and the Election and Consecration were perform'd at the same Time, and the same Bishops were Electors and Ordainers: Nothing more being requir'd; forasmuch as in those first three Ages, the Right of Metropolitans to ordain the Bishops of their Pro-

<sup>1</sup> *Du Pin. de Antiq. Eccl. Disc. dissert. 1.*

<sup>2</sup> *Aët. 14. ver. 23. 2 ad Corinthian. 8. ver. 19.*

<sup>3</sup> *Can. Sacrorum dist. 63. Can. quanto. Can. nosce. ead. dist.*

<sup>4</sup> *Ciron. in cap. 1. de Restitut. Spoliat. Marca de Concord. lib. 8. cap. 2. §. 2.*

vinces was not yet declar'd by Canons, as it was afterwards in the fourth Age; of which we shall treat in the following Book, when we shall have Occasion to speak of the exterior Ecclesiastical Polity of the fourth and fifth Centuries.

IN short, this was the Ecclesiastical Discipline concerning the Election of Bishops in these three first Centuries, as may be learn'd from the Letters of St. *Clement* the Pope, and St. *Cyprian*, Writers in the third Century<sup>1</sup>. The Election of Priests and Deacons belong'd to the Bishop, to whom the Ordination solely appertain'd, altho', in the Election, the Clergy and People had their Share.

<sup>1</sup> Cyprian. epist. 33.

## S E C T. VIII.

### Of TEMPORALITIES.

IN those early Times, there were not so much Wealth and Goods, as to make it worth while to seek the Administration and Distribution of them, nor yet to make Regulations about them. Neither had they fix'd Foundations, nor even the necessary Tythes settled<sup>1</sup>. The common Goods of the Churches, consisted only of Moveables, Provisions for the Mouth, Cloathing, and ready Money, which the Faithful offer'd every Week, or Month, or when they pleas'd, there being no settled Rules nor Compulsion in these Offerings. As for Immoveables, the Persecutions did not allow them to acquire any, or at least to possess them any time. The Faithful willingly gave Oblations and First Fruits, for keeping of which there were Persons appointed, and, in our Saviour's Time, *Judas* had the Custody of them: But they had no other use for these Things, than only to supply them when they wanted Cloaths and Victuals, and all that was over and above was distributed amongst the Poor of the City.

THE Apostles, after our Saviour's Death, kept up the same Custom, and laid up in common all that they collected from the Faithful, who, in order to follow them, sold their Houses and Farms, offering to them the Price of them; and, as is said, put the Money to no other use, but for their own Necessities, and the Maintenance of those whom they appointed to preach the Gospel, and for relieving the Poor and Needy of the Places they pass'd through. And as the Number of the Faithful increas'd, of course the Oblations were greater; and when they saw that they super-abounded, that they not only were sufficient for the Occasions of the Church of one City, but that there was still an Overplus, they were wont to distribute it amongst the other Churches of the same Provinces, and often to send it to Provinces more remote, as their Necessities requir'd: So we observe in the Scripture, that St. *Paul*, after having made many Collections in *Macedonia*, *Achaia*, *Galatia*, and *Corinth*, used to send a great Part of them to the Churches in *Jerusalem*; and after the Death of the Apostles, the same Custom was observ'd by the Bishops their Successors. Afterwards, it was thought more profitable and expedient, that the Faithful should not sell Possessions, to give the Price of them to the Churches; but that the Churches themselves should keep them, that with the Fruits of them, and the other Oblations, they might be enabled to provide for the Poor and their own Wants; and altho' the Administration belong'd solely to the Bishops, yet they being intent on more sublime Works, such as the Preaching of the Gospel, and Conversion of the *Gentiles*, left the Care of disposing of the Money to the Deacons; but that did not alter the Method of distributing it, seeing one Portion of it went to the Priests and other Ministers of the Church, who for the most part liv'd together, and in common, and the Remainder was bestow'd upon the Poor of the Place.

<sup>1</sup> Tertullian, Nam nemo compellitur, sed sponte confert. Du Pin. ad Censur. in Bibliot. rom. 6. in fine, cap. 3. §. 13.

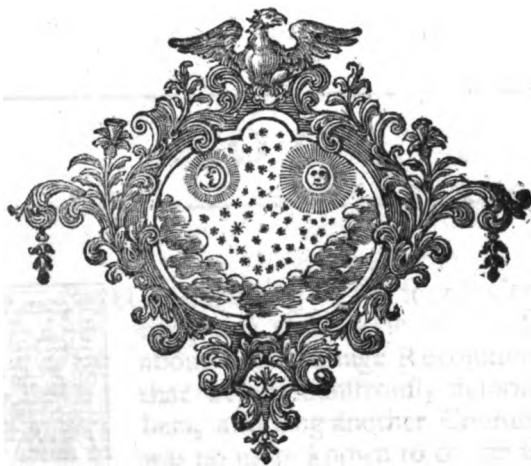
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IN Process of Time, in the Pontificate of *Simplicius*, about the Year 467. there having been some Frauds discover'd in the Ministers in the Distribution of these Revenues, it was ordain'd, That all that was collected from the Incomes and Oblations should be divided into four Parts, one of which was for the Poor, another for the Priests and other Ministers of the Church, the third for the Bishop himself and the Strangers he used to entertain, and the fourth was spent in building publick Churches, and in making more sumptuous Edifices (which began in the Time of *Constantine the Great*) and encreasing the Number of Ornaments and Holy Vessels, and repairing the same. Neither was that Distribution always equal, seeing if the Poor were numerous in any City, their Portion was the greater, and if the Churches wanted but little Reparation, their Share was the less.

THIS, in short, was the Ecclesiastical Polity in these three first Centuries of the Church, which being confin'd to it self, had no Influence on the Polity of the Empire, and much less on the State of these Provinces, in which, by reason of the cruel Persecutions, it was scarcely thought on. We shall behold it in a different Aspect in the succeeding Ages, after *Constantine* gave it Peace; but monstrous enough, and in more strange Forms shall we see it, in the Ages less distant from us, when it was not thought enough to have transformed in so many Shapes both the Civil and Temporal State of Princes, but it was likewise attempted to subject Empire altogether to the Priesthood.



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THE  
CIVIL HISTORY  
Of the KINGDOM of  
N A P L E S.

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B O O K II.

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THE Beginning of the fourth Century of Man's Redemption, and the Course of the subsequent Years, brought about such strange Revolutions in the *Roman* Empire, that being monstrously deform'd in its Head and Members, assuming another Countenance and new Shapes, it was no more known to be the same it formerly had been. For all generous Customs being laid aside, and the *Romans* having given themselves up a Prey to Ease and Luxury; from robust and courageous, they became effeminate and feeble; from grave, severe and uncorrupted, full of Ambition and dissolute. By which means their military Discipline became enervated and decay'd; and those Arms which formerly had carried Terror and victorious Banners to the utmost Limits of the World, so despicable and unfit for War, that they were no longer able to keep under the Power of the very Nations, over whom they had so much and so often gloriously triumph'd; but, to their eternal Ignominy, yielded, and suffer'd themselves to be shamefully subdued, and the Empire in a short Time destroyed and miserably over-run. *Pannonia*, *Rhetia*, *Mesia*, *Thracia*, and *Illyricum* were subdued by the *Huns*: The two *Gallias* lost: *Spain* under the Power of the *Vandals* and *Goths*: *Africa* already possess'd by the *Vandals*: *Britain* by the *Saxons*: And *Italy*, the Queen of the Provinces, vanquish'd and overcome likewise by the *Goths*: And *Rome* itself sack'd and destroyed. Neither had the *Romans* better Fortune in process of Time in the East.

East. *Syria, Phœnicia, Palestine, Egypt, Mesopotamia, Cyprus, Rhodes, Crete* and *Armenia* were possess'd by the *Saracens*. *Asia Minor* lost, and at last all the Provinces of the *Roman Empire* subdued and overcome.

AS the Empire decay'd, so did Learning and all Discipline: The Jurisprudence began to lose its Lustre, and that Dignity, in which, for a Tract of so many Years, so many Civilians, the Favour of the Princes, the Wisdom of the Magistrates, the Learning of the Professors, and the Excellency of the Academies had maintain'd it. The Names of *Papinianus, Paulus, and Africanus* were no more heard of: The Oracles ceased, we shall never have any more *Responsa* given us by their Successors; who being of obscure Fame, undertook no other Charge, but to teach in the Academies, that which those great Souls had left by their illustrious Labours. And even of these (such lamentable and calamitous Times succeeding) scarcely a Trace or obscure Knowledge hath reach'd Posterity; which likewise would have been altogether lost, if the Wisdom of *Valentinian III.* opportunely with his Constitutions, had not restor'd them. And also the Knowledge of the Laws, which was only profess'd by the brightest Genius's of the City of *Rome*, was now basely manag'd and reduced to be the Employment of the vilest Men in the World.

THOSE prudent and wise Constitutions of the Princes, fram'd with so much Elegancy and Conciseness, were no more read with Admiration and Amazement; but from that Time forward, prolix and swelling ones, more becoming a Declaimer than a Prince, and not to be compared with the first, either for Eloquence, Gravity, or Civil Prudence.

THE Magistrates having lost that Rigour and Learning, took other Names, and with new Names, likewise new Customs; of Uncorrupted became Mercenary; of Wise and Grave, Ignorant and Inconstant; of Moderate, Ambitious; and finally, full of Extortion and so Licentious, that if the Prudence of *Constantine, Valentinian*, and some other Princes from Time to Time, had not repress'd their Venality and Ambition, by the means of many Edicts<sup>1</sup>, which they publish'd for that End, grievous and enormous Disorders would have ensu'd.

THE Academies, by the Ignorance of the Professors, and the depraved Manners of the Youth, were already render'd useless and full of Irregularities. The Youth given up to Riot, intemperate Feasts, Games, Shews, Whores, and a thousand other Sorts of Wickedness, seldom frequented them; so that they would have been altogether laid aside, if the Care of *Valentinian the Elder* had not been ready to restore them with his *XI.* Academical Laws, which he directed to *Olibrius Præfect* of *Rome*, in the Year 370.

SO many and strange Changes, ought to be attributed not only to corrupt Discipline, and depraved Manners, but likewise to that new Division and new Form, which *Constantine* was pleased to make in the Empire. He was the first that put in practise that which *Diosclesian* had attempted formerly, to divide the *Roman Empire* into two principal Parts, and of one to make two Empires<sup>2</sup>. Forasmuch as altho' sometimes there had been more than one Emperor who reign'd at the same time; nevertheless they had never made any Division amongst them; neither had ever the Empire or the Provinces, or the Legions been allotted by way of Heritage. *Constantine* was the first, as *Eusebius* says<sup>3</sup>, who divided the *Roman Empire* into two Parts, *Quod quidem nunquam antea factum esse memoratur*. For which Purpose he applied himself wholly to the founding of *Constantinople* in the East, in which he employed all his Magnificence and Power, that it might vie with *Rome*; and as the one was Head in the West, so the other might be in the East<sup>4</sup>. Therefore he divided the Empire into the Eastern and Western, assigning to each its Provinces. All these *Ultramarine* Provinces, from the Streights of the *Hellespont*, to the Mouth of the *Nile, Egypt, Illyricum, Epirus, Achaia, Greece, Thessaly, Macedonia, Thrace, Crete, Cyprus*, all *Dacia, Mesia*, and the other Provinces of that Tract, he put under the Eastern Empire, and *Constantinople* as its Head, and were divided into many Jurisdictions. To the Western Empire, and the City of *Rome*, he left *Spain, Britain, the Gallia, Noricum, Pannonia*, the Provinces of *Germany, Dalmatia*, all *Africa* and *Italy*; disposing them in such a manner, that two Emperors might govern the Empire, the one in the West, the other in the East. He divided likewise the

<sup>1</sup> We read it under the Tit. de Off. Reft. Provin. in Cod. Theodof.

<sup>2</sup> Pag. diff. de Consulib. pag. 79.

<sup>3</sup> Euseb. lib. 8. cap. 7. Valef. ibid.


<sup>4</sup> Jacob. Guthier. de Off. domus Aug. lib. 2. cap. 6.

Senate, and those Senators who were elected for the Provinces of the Western Empire, were to remain at *Rome*, and those for the Eastern at *Constantinople*; and divided the Consuls after the same manner. He gave to *Constantinople* as well as *Rome*, the Prefecture with the same Pre-eminencies and Privileges; and all the other Parts of the Empire were divided in different Manners. Which new Division we must here distinctly treat of, since it will not only serve for understanding the special Polity, and Temporal State of our Provinces, but also be of Use, for giving a more distinct Knowledge of the Ecclesiastical Polity, and how it came to be introduced into the Empire and our Kingdom, in the manner it now is.



## CHAP. I.

### *Of the Disposition of the Empire under Constantine the Great.*

 **ONSTANTINE**, by the Example of his Predecessors, being jealous of the too great Power of the *Præfetti Prætorio*, who had often usurped the Empire, divided that Office into four Parts, by making four Prefectures, and dividing the *Roman World* into four Climates or Regions. These encompassed an immense Space of Heaven and Earth; and within their Limits were comprehended many Jurisdictions: These were the *Oriental*, the *Illyrick*, the *Gallican*, and the *Italian*, to which he gave four *Rectores*, whom he call'd by the ancient Name, but by a new Administration, *Præfetti ad Prætorium*: We have put *Italy* in the last Place because we are to stop there.

#### The O R I E N T A L.

UNDER the Command of the *Præfetus Prætorio* of the *Oriental*, he put five Jurisdictions, which were, the *Oriental*, the *Egyptian*, the *Asiatick*, the *Pontick*, and the *Thracian*; which Jurisdictions, as is manifest from the *Theodosian Code*, and from the Acts of some ancient Councils, were made up of many Provinces<sup>1</sup> in those Days.

1. IN the *Oriental* Jurisdiction, the Head of which was the City of *Antioch*, there were XV. Provinces. I. *Palestine* the First, II. *Palestine* the Second, III. *Phœnicia* the First, IV. *Syria*, V. *Cilicia*, VI. *Cyprus*, VII. *Arabia*, VIII. *Isauria*, IX. *Palestine* the Healthy, X. *Phœnicia* of *Libanus*, XI. *Euphratenfis*, XII. *Syria* the Healthy, XIII. *Osdroena*, XIV. *Mesopotamia*, XV. *Cilicia* the Second.

2. IN the *Egyptian* Jurisdiction, the Head of which was *Alexandria*, there were VI. Provinces. I. The Upper *Lybia*, II. The Lower *Lybia*, III. The *Thebaide*, IV. The *Egyptick*, V. The *Arcadian*, VI. The *Augustianick*.

3. IN the *Asiatick* whose Head was *Ephesus*, there were X. Provinces. I. *Pamphylia*, II. *Hellepont*, III. *Lydia*, IV. *Pisidia*, V. *Lycaonia*, VI. *Phrygia Pacasiana*, VII. *Phrygia* the Healthful, VIII. *Lycia*, IX. *Caria*, X. The Islands of *Rhodes*, *Lesbos*, and those of the *Egean Sea*.

4. THE *Pontick* had XI. Provinces, and its Head was *Cæsarea*, and these were, I. *Papblagonia*, II. *Galatia*, III. *Bythinia*, IV. *Honorides*, V. *Cappadocia* the First, VI. *Cappadocia* the Second, VII. *Pontus Polemoniacus*, VIII. *Helenopontus*, IX. *Armenia* the First, X. *Armenia* the Second, XI. *Galatia* the Healthful.

<sup>1</sup> Jacob. Guther. de Off. domus Aug. lib. 2. cap. 6.

instit. Du Pin. de Antiq. Eccl. disc. Differ. 2. §. 8. 1. 9. C. Th. de Legatis, l. 2. C. Th. de equor. conlat. Balsamo in cap. 9. Conc. Chalcedon.



5. THE *Thracian*, first had *Heraclea* for its Head, afterwards *Constantinople*, and was made up of six Provinces. I. *Europe*, II. *Thracia*, III. *Emimontus*, IV. *Rbodope*, V. *Mesia* the Second, VI. *Scythia*.

### The ILLYRICK.

UNDER the Government of the *Præfectus Prætorio* of *Illyricum* there were two Jurisdictions, the *Macedonian* and the *Dacian*.

1. THE *Macedonian*, the Head of which was *Thessalonica*, was compos'd of six Provinces. I. *Achaia*, II. *Macedonia*, III. *Crete*, IV. *Thessaly*, V. *Epirus* the Old, and *Epirus* the New, VI. A Part of *Macedonia* the Healthy.

2. THE *Dacian* of five. I. The *Mediterranean Dacia*, II. *Dacia Ripensis*, III. *Mesia* the First, IV. *Dardania Prevalitana*, and V. Part of *Macedonia* the Healthful.

### The GALLICAN.

UNDER the Administration of the *Præfectus Prætorio* of the *Gallia*, there were three Jurisdictions, the *Gallican*, the *Spanish* and *British*.

1. THE *Gallican* was made up of seventeen Provinces, and were I. The *Vienensis*, II. The *Lugdunensis* the First, III. *Germania* the First, IV. *Germania* the Second, V. *Belgium* the First, VI. *Belgium* the Second, VII. The *Maritime Alps*, VIII. The *Appennine Alps*, IX. *Maxima Sequana*, X. *Aquitaine* the First, XI. *Aquitaine* the Second, XII. *Novem Populana*, or *Gascony*, XIII. *Narbonensis* the First, XIV. *Narbonensis* the Second, XV. *Lugdunensis* the Second, XVI. *Lugdunensis Turonia*, XVII. *Lugdunensis Senonica*.

2. THE *Spanish* was compos'd of seven Provinces. I. *Betica*, II. *Lusitania*, III. *Gallicia*, IV. *Terragonensis*, V. *Carthaginensis*, VI. *Tingitania*, VII. The *Baleares*.

3. THAT of *Britain* of five. I. *Maxima Cæsariensis*, II. *Valentia*, III. *Britannia Prima*, IV. *Britannia Secunda*, V. *Flavia Cæsariensis*.

### The ITALIAN.

LASTLY, under the *Præfectus Prætorio* of *Italy*, there were three Jurisdictions; the *Italian*, the *Illyrick*, and the *African*. The Jurisdiction of *Illyricum*, of which *Sirmium* was the Head City, was compos'd of six Provinces. I. *Pannonia Secunda*, II. *Sarvia*, III. *Dalmatia*, IV. *Pannonia Prima*, V. *Noricum Mediterraneum*, VI. *Noricum Ripense*. The *African* of five. I. *Africa*, where *Carthage* stood, II. *Bisacena*, III. *Mauritania Sitipensis*, IV. *Mauritania Cæsariensis*, V. *Tripolitana*.

*ITALY* was divided into seventeen Provinces, as they were distinguish'd under *Adrian*; and that Division continu'd as far down as *Longinus's* Time, whose Order, according to the Book of the *Notitia* of the Empire (which no-body doubts of its being very Ancient, and compos'd in the Time of *Theodosius the Younger*) is as followeth, I. *Venetia*, II. *Emilia*, III. *Liguria*, IV. *Flaminia*, and *Picenum Anonarum*, V. *Tuscia* and *Umbria*, VI. *Picenum Suburbicarium*, VII. *Campania*, VIII. *Sicilia*, IX. *Puglia* and *Calabria*, X. *Lucania* and the *Bruttii*, XI. *Alpes Cottia*, XII. *Rbetia Prima*, XIII. *Rbetia Secunda*, XIV. *Samnium*, XV. *Valeria*, XVI. *Sardinia*, XVII. *Corfica*.

*PAUL WARNIFRIDE*<sup>1</sup>, Deacon in *Aquileja* ranketh them several ways; as for Example, *Liguria*, which is here in the third Place, and *Emilia* in the Second, he placeth in the Second and Tenth. But there is a greater Difference amongst them, since *Paul*, by dividing the Province of the *Alps* into two, calling the other the *Appennine Alps*, adds one more to their Number than is describ'd in the *Notitia*, where only the *Alpes Cottia* are found. But he, as *Camillus Pellegrinus* saith<sup>2</sup>, having made that for his own Pleasure, since he citeth in his own Favour, *Aurelius Victor's* way of Reasoning against those who did not count them two, and did not rather cite an Imperial Rescript, which would have been a proper

<sup>1</sup> Paol. Diac. Hist. Long. lib. 2. cap. 11.

| <sup>2</sup> Pellegrin. nella Campania.

Authority for supporting his Belief; so likewise for his own Pleasure he ought to have chang'd the abovesaid Order of ranking, which is of much less Consequence.

ALL these Provinces were not on the same Footing, altho' they all obey'd, and were under the Direction of the *Præfectus Prætorio* of *Italy*, yet they had several other more immediate Administrators, to whom the Government of them was committed. They were first divided into two Lieutenancies, the one of *Rome*, and the other of *Italy*. In the Lieutenancy of *Rome* there were ten Provinces; *Campania*, *Hetruria* and *Umbria*, *Picenum Suburbicarium*, *Sicilia*, *Puglia* and *Calabria*, *Lucania* and the *Brutii*, *Samnium*, *Sardinia*, *Corfica*, and *Valeria*. In the Lieutenancy of *Italy*, the Head of which was *Milan*<sup>1</sup>, there were seven Provinces; *Liguria*, *Emilia*, *Flaminia*, and *Picenum Annonarium*, *Venetia*, to which afterwards *Istria* was added, the *Alpes Cottia*, and both the *Rhetia*. The first were under the Government of the Lieutenant of *Rome*, whence they were call'd *Provincia Suburbicaria*. The second were under the Lieutenant of *Italy*, and therefore by some Writers simply call'd Provinces of *Italy*, distinguishing them from the others; which altho' they were inclosed between the *Alps* and the two Seas, and so a Part of *Italy*, (taking that Word in its large Signification) nevertheless, strictly speaking, the Provinces of *Italy* were those only that were under the Command of the Lieutenant of *Italy*, whose Seat was *Milan*. Thus we observe in the Acts of the Council of *Sardica*, which was celebrated in the Year 347; the Custom then being, that the Bishops who were at the Council, not only sign'd with the Name of their City, but likewise their Province, some of them sign'd after this manner: *Januarius a Campania de Benevento*. *Maximus a Tuscia de Luca*. *Lucius ab Italia de Verona*. *Fortunatus ab Italia de Aquileja*. *Stercorius ab Apulia de Canusio*. *Securius ab Italia de Ravenna*. *Ursacius ab Italia de Brixia*. *Portafius ab Italia de Mediolano*, &c. And the Reason was, because *Verona*, *Aquileja*, *Ravenna*, *Brescia* and *Milan* were of the Provinces which were under the Government of the Lieutenant of *Italy*, which could not be said of *Beneventum*, *Lucca*, and *Canusium*, which were in the Provinces of the Lieutenancy of *Rome*, and not in that of *Italy*.

THESE Provinces had likewise other more immediate Officers, to each of whom in particular, the Government of a Province was committed; but they were not all of the same Rank and Quality. Some were call'd *Consular*, because such was the Quality of their Commander: As *Venetia*, *Emilia*, *Liguria*, *Flaminia* and *Picenum Annonarium*, *Toscana* and *Umbria*, *Picenum Suburbicarium*, and our *Campania*. Others were call'd *Correëtorial*, because they were govern'd by *Correëtores*, and not by Consuls; such were *Sicilia*, *Puglia* and *Calabria*; *Lucania* and the *Brutii*. And lastly, some were call'd *Præsidial*, because they were under the Direction of Presidents; and these were the *Alpes Cottia*, the two *Rhetias*, and our *Samnium*, *Valeria*, *Sardinia* and *Corfica*. So the Chief Rulers of these Provinces were *Præfecti Prætorii*, the next *Vicarii*, and the last and more immediate were *Consulares*, *Correëtores* and *Præsides*; of which Offices and Employments it will be necessary briefly to treat in this Place.

<sup>1</sup> P. de Marca de Concor. lib. 1. cap. 3. num. 12.





## CHAP. II.

### *Of the Officers of the EMPIRE.*



THE *Præfetti ad Prætorium* were those, on whom, next to *Cæsar*, all the chief Honours and prime Dignities of the Empire were conferr'd <sup>1</sup>: To them was given the Sword by the Emperor, as a Badge of their great Authority <sup>2</sup>: Under whose Management and Government there were many Jurisdictions compos'd of many Provinces: They had under them the *Vicarii*, the *Rectores* of the Provinces, the *Consulares*, *Correctores*, *Præsides*, and all the Magistrates of these Jurisdictions which were under their Care. They were to attend vigilantly, and to supply the Defects of these Magistrates <sup>3</sup>, to admonish them, to inform them of the Laws; and, in a Word, to watch over all their Actions: Which Magistrates for their Part were to have recourse unto the *Præfetti*, to report to them, and advise with them in dubious and difficult Matters. Moreover, it was lawful to appeal from all the foresaid Tribunals to the *Præfetti*, who were to examine into the Causes of the Appeals, and to confirm or refuse the Sentences; and from the Decisions of the *Præfetti Prætorio* there was no room for Appealing but only by *Retraction*, which we now call *Reclamation* <sup>4</sup>.

THE Emperors for the most part were wont to direct their Statutes to the *Præfetti*, that they might proclaim them in the Provinces under their Government: They had likewise under their Inspection the Proconsuls, and they had many other Prerogatives, of which *Codinus*, *Gottifredus*, and *James Guterus* have learnedly written <sup>5</sup>. There were besides these, two other *Præfetti* appointed for the Government of the two principal Cities of the World, to wit, *Rome* and *Constantinople*, under whose Power were the *Præfetti Annonæ*, who had the overseeing of the Markets, and many other Magistrates, who were by various Employments appointed to take Care of, and govern these Cities, whom we have no occasion to mention here.

AFTER the *Præfetti* the Proconsuls were next; an illustrious Dignity, and adorn'd with high Ensigns, the *Ax*, and the *Fasces*. In the East there were two of them, to wit, in *Achaia* and *Asia*, and sometimes there was a third in *Palestine*. In the West there was only one, and that was in *Africa*.

THE *Vicarii* held the third Place, inferior to the Proconsuls, but much superior and more eminent than the other Magistrates. These, because they represented the Office and Person of the *Præfetti*, were call'd in old Inscriptions *Propræfetti*; and were set over whole Jurisdictions, and the Provinces of which they were compos'd. They were above *Rectores*, and other inferior Magistrates. Their principal Care was to inspect the Tributes and the *Annonæ*; to punish Deserters and Vagabonds; and keep them till they acquainted the Prince of them <sup>6</sup>. They not only judged *ex Ordine*, but often *ex Appellatione*, and sometimes likewise *ex Delegato* <sup>7</sup>. The *Vicarii* had *Asia*, *Pontica*, *Thracia* the East, *Macedonia*, *Africa*, *Spain*, *Gallia*, and *Britain*. There was besides, the *Vicarius* of the City of *Rome*, under whose Direction, as hath been said, were some Provinces of *Italy*; on which account they were call'd

<sup>1</sup> Jacob. Guth. de Off. domus Aug. lib. 2. cap. 1.

<sup>2</sup> Plin. in Paneg.

<sup>3</sup> Guth. loc. cit. cap. 2. de Off. dom. Aug.

<sup>4</sup> Guth. loc. cit. cap. 3.

<sup>5</sup> Codin. de Off. Aul. Const. Got. in Notit. P. P. to 6. C. Th. Guth. de Off. dom. Aug. lib. 2. cap. 1, 2, 3, 4.

<sup>6</sup> Petr. de Marca de Patriarch. Constit. Instit.

<sup>7</sup> Jacob. Got. in Notitia, to 6 C. Th.

*Provincia Suburbicariae.* Italy also had its *Vicarius*, under whose Government were some other Provinces, whence they were properly said to be of *Italy*. And all these, as being of a high and eminent Degree, were call'd *Judices Majores* <sup>1</sup>.

THEN follow'd the Officers of lower Degree, for which they were call'd *Judices Minores*; among these the *Rectores* of Provinces were the Chief, to whom the Government and Administration of some of them was given: These were under the Direction of the *Propraefecti P.* to whom Appeals could be made. They had *Jus gladii*; and their principal Charge was to determine Pleas both Civil and Criminal, either where the Goods or the Life of Men were concern'd; and to see that no Wrong or Detriment was done by the lesser Officers to their Provincials; and for that End, they were oblig'd at certain Times of the Year to make Circuits over all the Province, not only in the Cities, but likewise in all the Villages, to hear the Complaints of the Provincials, and diligently to enquire into the Insolencies and Disorders that had happened, and to redress them. To them was directed that Golden Edict, which punish'd Bribery and Extortion so severely in Magistrates, which we read in the *Theodosian Code* <sup>2</sup>.

IN the second Place were the *Consulares*, to whom the Government of one single Province was committed. These were of greater Dignity than the *Correctores* and the *Præsides*; and they had likewise for their Badge the *Fasces*, and were distinguish'd by the Title of *Clarissimi*. The Emperors were wont also to direct their Constitutions to the *Consulares*; and on that account they were of greater Dignity than the *Correctoriales* and the *Præsidiales*. Among others, *Phœnicia* had its *Consularis*, who had his Residence sometimes in *Tyre*, sometimes in *Berytis*, and sometimes in *Damascus*, to whom many Laws were directed by the Emperors. All the most noted Provinces of *Italy* were for the most part under the Government of the *Consulares*, such as *Emilia*, *Liguria*, *Venetia*, *Picenum*, *Sicilia*, *Flaminia*, and our *Campania*.

NEXT to the *Consulares* were the *Correctores*, to whom likewise was committed the Government of Provinces, under the Direction of the P. P. and were also dignified with the Title of *Clarissimi*. These were scarcely any thing inferior to the *Consulares*, therefore much above the Dignity of the *Præsides*: And also to them the Princes directed their Constitutions. Some Provinces of *Italy* were govern'd by *Correctores*, such as *Toscany*, whose Residence was in *Florence* <sup>3</sup>: *Puglia* and *Calabria*, *Lucania* and the *Bruttii*, of which we shall hereafter treat more distinctly.

IN the last Place come the *Præsides*, to whom likewise the Government of Provinces was committed; they were also called *Clarissimi*, and had for Ensign the Banner, and were under the Command of the P. P. The other Provinces of *Italy* were under the Administration of the *Præsides*, such as *Samnium*, *Valeria*, the *Alps*, the two *Rhetias*, *Sardinia*, and *Corfica*; and seldom did the Emperors direct their Constitutions to them. *James Guterus* <sup>4</sup> ranketh them otherwise, putting the *Præsides* first, next the *Consulares*, after them the *Correctores*, and in the last Place the *Rectores* of Provinces, following in that *Zeno* <sup>5</sup> in one of his Constitutions, which we read in the *Justinian Code*. But we rather choose with *Gotifredus* <sup>6</sup> to follow the Order held by the Emperor *Gratian* in the *Theodosian Code*, where the *Præsides* are in the last Place.

<sup>1</sup> L. c. f. de Off. Rect. Provinc. Revard. Coll. 3.  
<sup>2</sup> 10. Got. l. unic. C. Th. de om. a. f. impetr.  
<sup>3</sup> Cod. Th. tit. de Off. Rect. prov.  
<sup>4</sup> L. 8. C. Th. de accusat.

<sup>4</sup> Gut. de Off. domus Aug. lib. 1. cap. 5,  
 6, 7, 8.  
<sup>5</sup> Zeno in l. 1. C. ut om. Jud. tam Civil.  
<sup>6</sup> L. 13. C. Th. de Accusationib.



T

CHAP.



## C H A P. III.

*Of the Officers to whom the Government of our Provinces was committed.*



**T**HAT which we now call the Kingdom of *Naples*, whether we regard the Disposition of *Adrian*, or that of *Constantine*, was divided into four Provinces only; so that *Campania* is not now altogether within its Bounds, but part of it is without them, and comprehendeth several Countries which now belong to the State of the Church of *Rome*. These Provinces were I. *Campania*, II. *Puglia* and *Calabria*, III. *Lucania* and the *Bruttii*, IV. *Samnium*. Of which one was *Consular*; two *Correctorial*; and the other *Præsidial*. And all of them in the *Vicariate* of the City of *Rome*; for which reason they were all call'd *Suburbicaria*.

IN the mean time, the Order of this Work requireth, that we should discourse severally of each of these Provinces; of the Magistrates to whom the Government of them was committed; of the Laws, and their Institution; that we may see what Form of Polity they had in the Time of *Constantine*, down to the last Emperors of the West.

## S E C T. I.

*Of CAMPANIA and its Consulares.*

**T**HAT Country, which, as *Paul<sup>1</sup> Warnisfrides* saith, for the Fertility and Pleasantness of the Fields which are about *Capua*, was call'd *Campania*, had of Old at different Times, sometimes more narrow, sometimes more spacious Bounds, than it hath at this Day. Once it was extended from the Precincts of *Rome* to the River *Silaris* in *Lucania*; it included *Beneventum*: On the other side it spread its Limits to *Equo-Tutico*, now call'd *Ariano*. It was therefore reputed one of the most famous and noted Provinces of *Italy*; and for the Largeness of its Extent, and the many and famous Cities which adorn'd it, but especially *Capua* its Head and Metropolis, it was renown'd and illustrious; therefore, for the Government and Administration of this Province there were no *Correctores* nor *Præsides* sent, but *Consulares*: A Magistrate, as is said, altho' inferior to the *P. P.* and the *Vicarius* of *Rome*, under whose Direction it was govern'd, nevertheless adorn'd with greater Prerogatives than the *Correctores* and the *Præsides*. Their Seat was at *Capua*: It was in such Esteem with the Emperors, that frequently they directed the Constitutions and Imperial Mandates to them.

*CONSTANTINE the Great*, after having defeated and kill'd *Maxentius* (who had caus'd himself to be proclaim'd *Augustus* in *Rome*, and had lorded it for six

<sup>1</sup> Paul Diac. l. i. cap. 11.



Years over *Italy*) triumphing in *Rome* and all *Italy*, and all the other Provinces of the West submitting themselves willingly to his Government, as the *Gallia*, *Spain*, and *Britain* had done before them, while in the Year 313. he resided in that City, he began to repair the Damages which *Italy* had sustain'd, and to provide for its Necessities. He publish'd, for that End, many profitable and wholesome Decrees, which he directed to the People of *Rome*, and which we have to this Day in the *Theodosian Code*<sup>1</sup>; and from thence going to *Milan*, by Means of other Edicts, which he publish'd in that City, he re-establish'd the Affairs of *Italy* the best Way he could. Afterwards he went into *Gallia* and *Pannonia*, and having made Peace with *Licinius*, from thence he return'd to *Italy*, and in the Year 315, he staid some time in *Aquileja*, and from that went to *Rome* and *Milan*: And in the succeeding Years, after he had travell'd into *Dacia* and *Gallia*, he returned to *Rome* in the Year 319, where, for the four Years following, he was busied and intent, as much as in him lay, by various Edicts in restoring the Affairs of *Rome* and *Italy* to their ancient Form.

BUT afterwards passing into the East, and in the Year 325, having vanquish'd and kill'd *Licinius*, and being now Monarch of all the Empire, he began (as *Pagi*<sup>2</sup>, contrary to the common Belief, attempteth to prove) to lay the Foundation of *New Rome*; and although in the following Year 326, returning into *Italy*, by *Aquileja*, he went to *Milan*, and thence to *Rome*; nevertheless he afterwards left that City and never return'd, but remov'd his Court into the East for ever; where, in the Year 328, being desirous to finish the huge Bulk of *Constantinople*, he apply'd himself to it with all his Care and Industry, and there he spent the Remainder of his Life, being satisfied to look on the Affairs of these our Parts at a Distance. Hence arose all the Mischiefs in the West, which in Process of Time brought on the Destruction of *Rome*, and the Dissolution of the Empire: From thence so many Complaints of the *Romans*; which gave occasion to *Porphyrus*, in his Panegyrick on *Constantine*, conjuring him, to say,

*Et reparata jugans maesti divortia Mundi  
Orbes junge pares; det Leges Roma volentes  
Principe te in Populos.*

For which Cause some have reputed him rather the Destroyer of ancient *Rome* than the Builder of the New. Having entrusted the Government of *Italy* to his Officers, all good Discipline began to decay; and he being at a Distance, they abused the great Power that was put in their Hands, and in a short Time the Strength and Vigour of these our Provinces began to decline. He left the Administration to the *Præfettus Prætorio*, to the *Vicarii*, and lastly to the *Consulares*, the *Correctores*, and the *Præsides*, to whom the Government of each Province was committed.

THE *Præfettus Prætorio* of *Italy* under that Prince, in the Year 321, was *Menandrus*: In the following Years, 334, 335, and 336, *Felix* was; who, from being *Præses* of *Corfica* in the Year 319, was in these Years advanc'd by *Constantine* to such a high Dignity. He had for his Successor in the same Year 336, *Gregorius*, of whom *Optatus Milevitanus* in his Books frequently maketh mention. Of the *Vicarii* of *Rome* who govern'd under *Constantine*, there is no other Memory, but of a certain *Gennarus* or *Gennarinus*<sup>3</sup>, in the Year 320.

BUT as for the *Consulares* of this our Province of *Campania*, we are necessitated, from long Oblivion, where they have been bury'd to this Day, to subtract the Records of them.

THE first, of whom we have any Account, that govern'd under *Constantine the Great* immediately in our *Campania*, was *Barbarius Pompejanus*. He, as all the other *Consulares* of this Province did, kept his Residence in *Capua*, which was the Head of it and the Metropolis. *Constantine the Great*, in the Year 333. while he staid in *Thracia*, and properly in *Apros*, a Place not far distant from *Constantinople*, directed to him, at his Request, that so renown'd and famous Constitution<sup>4</sup>, by which it was enjoin'd to all Magistrates, to enquire narrowly into the Truth of the Supplications, contain'd in the Rescripts obtained from the Prince, so as

<sup>1</sup> L. 1. de Cens. lib. 1. de Petit. & Delat.

<sup>2</sup> *Pagi* in *Dissert. de Consulib.* pag. 145.

<sup>3</sup> Got. in *notitia Dign.* tom. 6. C. Th.

<sup>4</sup> L. 4. C. Th. de Divers. Rescript.

that

that they might not be put in Execution, if the Allegation of the Party was not conformable to Truth; with which *Justinian* was so well pleased, that he would have inserted it in his Code likewise<sup>1</sup>; which the Popes since have also imitated, by inserting it in their Decretals<sup>2</sup>.

THE other *Consularis* of this Province, who govern'd under the same Prince, was *Marvortius Lollianus*, from the Testimony which *Julius Firmicius* gives us<sup>3</sup>: To him, *Firmicius*, in the Reign of *Constantine*, dedicated his Books of Astronomy, extolling, in the Preface of the Work, the great Merits of such a great Personage<sup>4</sup>, who after having laid down the Badge of *Consularis* of *Campania*, was, by *Constantine*, rais'd to higher Honour, by giving him the Government of all the East, and lastly the Badge of an ordinary Consul; and *Constantine* being dead, he was afterwards in the Year 342, under *Constans*, again made *Præfectus* of the City of *Rome*; and under *Constantius*, his Brother, was likewise made *Præfectus Prætorio* of *Italy*. *Ammianus Marcellinus* maketh mention of him also, in which Author, in the Transactions of the Year 356, we likewise find his Elogy<sup>5</sup>.

WE have no Knowledge of any other *Consulares* of this Province during the Reign of *Constantine*: Neither do we read in the *Theodosian* Code, any other Constitutions of that Prince directed to any other *Consulares* of our *Campania*; yet there are not wanting in his other Edicts directed to the *Præfectus Prætorio* of *Italy*, or to the *Vicarius* of *Rome*, to whom he not only enjoine the Care of the Jurisdictions committed to their Charge in general, but in many of his Laws, other special Provisions are made for this Province in particular.

IN the mean time, in the Month of *May* in the Year 337, this Prince died, whose magnanimous Enterprizes gave him the Surname of *Great*, and his Son *Constans* succeeded to the Empire of the West; to whom, by the Division made with his other Brothers, *Africa*, *Illyricum*, *Macedonia*, *Græcia*, and *Italy* belong'd, and consequently these our Provinces. On which Account, we read many Constitutions of this Prince in the *Theodosian* Code, concerning the Government of them, and particularly of *Campania*; and tho' we know not the particular *Consularis* who had this Province under *Constans*, yet we see his Laws, by which we perceive that he had the particular Care of it much at Heart. Of this Prince is that Law inserted in the abovesaid Code, under the Title *de Salgamo*, read and accepted in *Capua*, the Metropolis of this Province, proclaimed by him in the Year 340, for repressing the Insolency of the Soldiers, who, on Occasion of the War he had at that Time in *Italy*, with *Constantine* his Brother (who that same Year was vanquish'd and kill'd near *Aquileja*) were making Disturbance in *Campania*, and by their Misbehaviour and military Licentiousness, were robbing the People both of their Honour and Substance; and what *Athanasius* writeth in his Apology to *Constantius*<sup>6</sup>, is a strong Argument for making us believe, that *Constans* had made some Stay this Year in *Capua*.

BUT about the Year 350, *Constans* dying, ten Years after his Brother *Constantine*, his other Brother *Constantius* remain'd sole Emperor; by which, these our Provinces, with *Italy*, fell under his Empire. In whose Reign, in the Years 352 and 353, *Merilius Larianus* was *Præfectus Prætorio* of *Italy*; to whom succeeded *Marvortius Lollianus* in the same Year 353. In this and the following Years, *Taurus* was *Consularis* of our *Campania*, to whom *Constantius* directed many of his Constitutions. At the same Time, *Volusianus* govern'd as *Vicarius* of *Rome*, to whom likewise *Constantius* directed many of his Laws<sup>7</sup>. And altho' we know not who were *Consulares* of *Campania* under this Prince, neither do we read of their Names, nor any Edicts directed to them by *Constantius*, nevertheless there are many of his Constitutions directed to the *Præfectus Prætorio* of *Italy*, by which he taketh particular Care of this Province. Indeed, in the Year 355, he directed one of his Constitutions to *Marvortius Lollianus* at that time *P. P.* of *Italy*, which, because it concern'd the Affairs of this Province, was read and proclaim'd in *Capua*, as the Subscription testifieth<sup>8</sup>. And it was this Prince, who, to remove all Debates about Jurisdiction, which often fell out between the *Præfecti P.* of *Italy*, and the *Præfecti* of *Rome*, concerning Appeals, divided the Provinces; and while he resided

<sup>1</sup> L. & Si. 4. C. si contra Jus, &c.

<sup>2</sup> Cap. de cætero s. extr. de Senten.

<sup>3</sup> Got. in Protopogr. verb. Lollianus, tom. 6. C. Th.

<sup>4</sup> Firmic. in Præfat. oper. lib. 8. cap. 15.

<sup>5</sup> Ammian. Marcell. lib. 16. pag. 72. in gest. Ann. 356.

<sup>6</sup> Ath. in Apolog. ad Constant. p. 526.

<sup>7</sup> Gotofr. in Protopogr. tom. 6. C. Th.

<sup>8</sup> L. 25. C. Th. de Appellat.

in *Sirmium*, an illustrious City in *Pannonia*, in the Year 357, he directed to *Taurus P. P. of Italy*, that famous Constitution<sup>1</sup>; whereby he ordain'd, That all Appeals from *Sicily*, *Sardinia*, our *Campania*, *Puglia*, and *Calabria*, *Lucania* and the *Brutii*, *Picenum*, *Emilia*, *Venetia*, and the other Provinces of *Italy*, should be brought to *Rome*, not to be decided by the *Præfectus* of *Rome*, but by the *Præfectus* of *Italy*.

*CONSTANTIUS* govern'd the Empire eleven Years, having finish'd his Days in the Year 361, and *Julianus* succeeded him, to whom these our Provinces likewise fell. *Mamertinus* was *P. P. of Italy* under him, and *Imerius Vicarius* of *Rome*; to them *Julianus*, and particularly to the first, directed many Laws. *Symmachus*<sup>2</sup> sheweth plainly in the Tenth Book of his Epistles, who were the *Consulares* of *Campania* in the Reign of *Julianus*. Where he maketh appear, the Conjunction which was in those Days between the People of *Pozuolo* and those of *Terracina*, who were both under the same *Consularis*: *Symmachus* saith, That *Lupus* being *Consularis* of *Campania*, under *Julianus*, perceiv'd well, and consider'd the distressed Circumstances of the Inhabitants of *Terracina*. They preserve the Memory of this *Lupus* to this Day in *Capua*, by an Inscription on Marble fix'd in the Wall of the Church belonging to the *Carmelite* Fryars, where we read these Words, altho' something defaced<sup>3</sup>.

- - R I U S L U P U S  
- - - - V. C.  
- - O N S. C A M P  
- - - U R A V I T

FROM the same Epistle of *Symmachus* we likewise gather, that *Lupus* was succeeded in that Command by *Campanus*. The Memory of another *Consularis* of *Campania* is likewise preserv'd in *Naples*, call'd *Posthumius Lampadius*: The Marble may yet be seen lying on the Ground before the Church of the *Rotunda*; on which we read,

P O S T U M I U S  
L A M P A D I U S  
V. C. C O N S. C A M P.  
C U R A V I T.

BUT in the *Theodosian* Code there is no Vestige, that either by *Julianus* or his Successor, there had been any Edict or Imperial Mandate directed to them.

*JULIANUS* dying in the *Persian* War in the Year 363. and likewise soon after him *Jovianus*; the Reign of that most religious Prince<sup>4</sup> having been only eight Months, if we will believe *Zosimus*<sup>5</sup> and *Sozomenus*, or Ten according to *Philostorgius*<sup>6</sup>; *Valentinian* was assum'd to the Empire, who gave his Brother *Valens* the Title of *Augustus*; by which means the Empire was divided betwixt them<sup>7</sup>.

*VALENTINIAN* kept the West intirely to himself, that is to say, all *Illyricum*, with *Macedonia*, *Africa*, the *Galliæ*, *Spain*, *Britain*, and *Italy*; and left all the East to *Valens*<sup>8</sup>.

*VALENTINIAN* then, to whom *Italy* was subject, after having travell'd over the other Countries of his Empire, and having provided what was necessary for them, came into *Italy*, and first to *Aquileja*, where in the two Months of *September* and *October* only, in the Year 364. he publish'd ten Constitutions, and employ'd his Time in looking after the State and Government of *Italy*; and many Edicts were directed by that most prudent Prince<sup>9</sup>, as well to the *Consularis* of *Campania*, as to the *Correctores* of *Lucania*, the *Brutii* and *Tuscany*, and to *Mamertinus* at that Time *Præfectus* of *Italy*.

THERE govern'd in his Empire as *Præfecti P. of Italy*, *Mamertinus*, so much renown'd in the Works of *Ammianus Marcellinus*, *Rufinus*, *Probus*, and lastly *Maximinus*. In the Year 364, *Severus* was *Vicarius* of *Rome*, and in the Year 367.

<sup>1</sup> L. 7. C. Th. de Appel.

<sup>2</sup> Symmac. ep. 53. lib. 10. Div. Juliano moderante Remp. cum Lupus Consulari jure Campaniæ Præsidents, Terracinentium contemplaretur angustias.

<sup>3</sup> Camil. Pell. in Campania.

<sup>4</sup> Idatius in fastis.

<sup>5</sup> Sozim. lib. 3. p. 733. Sozomon. lib. 6. c. 6.

<sup>6</sup> Philostorg. lib. 8. c.

<sup>7</sup> Gothofr. Prolog. C. Th. cap. 8.

<sup>8</sup> Pagi Dissert. de Consulib. pag. 259.

<sup>9</sup> Am. Marcel. lib. 27. p. 360.

*Magnus*, and in 372. *Probus*, and in 373. *Simplicius*. We read also of more *Consulares* of our *Campania*, to whom diverse Laws were directed.

IN the Year 364. *Bulephorus* was *Consularis* of *Campania*, to whom, while *Valentinian* resided in *Altinum* a *Venetian* City, there were two Constitutions directed, which we read in the *Theodosian* Code; the one under the Title *Quibus equorum usus*, the other under the Title *Usus interd.* By which the Exportation of Horses and Arms was severely prohibited, ordaining that no Person should export them without his Licence, in order to extirpate Theft and many other Disorders out of that Province. To the same *Bulephorus*, while he was *Consularis* of *Campania*, he directed in the following Year 365. that other Constitution which we read under the Title *De cursu Publico*<sup>2</sup>, while he stay'd in *Milan*. This Prince likewise made very proper Regulations, in order to exterminate the Robbers who greatly infested *Campania*, and to restore Peace and Tranquillity in this Province. The *L. i. de Pascuis*, and some other Constitutions were likewise his, by which he took Care of the Quiet of *Italy*, and particularly of the Provinces which compose the Kingdom of *Naples*. He, also in the same Year 365. while he was in *Verona*, made Provision for the common good of *Avelline*, a City within the Confines of this Province, commanding, by a particular Constitution<sup>3</sup>, which we read in the *Theodosian* Code, the abolishing of all that had been done by the Judge Ordinary, in prejudice of that Community contrary to their ancient Custom.

*FOELIX* succeeded in this Year 365. as *Consularis*, to *Bulephorus*, to whom, the same Year, *Valentinian* being in *Milan*, directed that Constitution<sup>4</sup> which we read in *C. Theod.* under the Title *Ad S. C. Claudianum*; of which also, the Author of that ancient Consultation inserted by *Cujacius* amongst his own in *cap. 10.* maketh mention. And altho' that Author in place of *Campania* writeth *Macedonia*, nevertheless, as the most exact *Gotifredus*<sup>5</sup> observeth, the Subscription which it beareth ought to convince us of the Mistake, by which it is clear, that it had been subscrib'd by *Valentinian* Emperor of the West, while he was in *Milan*, and consequently ought to belong to the West, and not to the East, where *Macedonia* is situated.

TO *Felix*, under the same *Valentinian*, *Amphilochius* succeeded in the Charge of *Campania*. To whom, in the Year 370. *Valentinian* being in *Triers*, directed that Law, which under the Title *de Decurionibus*, is yet seen in the *Theodosian* Code<sup>6</sup>.

*VALENTINIAN* govern'd the West, *Italy* and these our Provinces, with so much Prudence, that there was nothing more could be desired: He re-establish'd the Academy of *Rome*, and restored the Jurisprudence already much decay'd, and almost nothing left of its ancient Lustre and Renown: He suppress'd the Extortion and Venality of the Judges by various Edicts. A most religious Prince, to whom, next to *Constantine the Great*, the Christian Religion is much indebted; and *Italy* would have reaped much Benefit by him, if he had not been snatch'd from the World after only twelve Years Reign.

*VALENTINIAN* dying in the Year 374. six Days after, his Son *Valentinian* was made Emperor in *Pannonia*, who with *Gratian* his Brother divided the Empire of the West after this manner (the East being govern'd by *Valens* their Uncle) to *Gratian* belong'd the *Gallia*, *Spain* and *Britain*; and to *Valentinian*, *Illyricum*, *Africa* and *Italy*<sup>7</sup>.

UNDER *Valentinian* II. and *Gratian*, *Maximinus*, *Antoninus*, *Hesperius*, *Probus*, *Sigarius*, *Ipatius*, *Flavianus*, *Principius*, *Eusignius* and *Pretestatus*: Under *Valentinian* alone, *Trisolius*, *Polemius*, *Tatianus*, *Apodemius*, *Dexter* and *Eusebius* were *Præfetti* P. of *Italy*; and *Potitus*, *Antidius*, *Ellenius* and *Orientius* were *Vicarii* of *Rome*<sup>8</sup>.

BUT there is no Vestige remaining of those who were *Consulares* of *Campania* under this Emperor. Nevertheless there are many Constitutions of *Valentinian* II. who having reign'd eighteen Years, took great Care in providing for the Government of these Provinces, and of *Italy* in general. That Law<sup>9</sup>, which under the Title *de Extra ordin.* we read in *Cod. Theod.* is of this Prince, which in the Year 382. he directed to *Segarius Præfectus* P. of *Italy*, by which he taketh Care of *Campania*,

<sup>1</sup> Gothofr. in Prosopogr. C. Th. tom. 6.

<sup>2</sup> L. 24. C. Th. de Curs. Pub.

<sup>3</sup> L. 68. C. Th. de Decurionib.

<sup>4</sup> L. 5. C. Th. ad S. C. Claudian.

<sup>5</sup> Got. ind. l. 5.

<sup>6</sup> L. 71. C. Th. de Decurionib.

<sup>7</sup> Got. Prologom. C. Th. cap. 8.

<sup>8</sup> Got. in Prosopogr. C. Th. tom. 6.

<sup>9</sup> L. 14. C. Th. de Extra ordin.

*Puglia and Calabria, Lucania and the Brutii*, which were much troubled and afflicted in these Times.

*VALENTINIAN II.* died in *Vienna* in the Year 392, after having reign'd eighteen Years; and after him *Theodosius the Great, Arcadius* and *Honorius* his Sons succeeded. The West fell to *Honorius*, by which *Italy* and these our Provinces were subject to him. And *Theodosius* dying in the Year 395. *Honorius* then govern'd all the West, while *Arcadius* his elder Brother reign'd in the East. Many were the *Præfetti P. of Italy* under *Honorius*, who liv'd long, and commanded the Western Empire Thirty-one Years; and these were, *Messala, Theodorus, Adrianus, Longinianus, Senator, Curtius, Theodorus II. Cecilianus, Jovius, Joannes, Palladius, Melitius, Liberius, Felix, Faustinus, Joannes, Selevius, Adrianus, Palladius, Joannes* and *Proculus*. The *Vicarii of Rome*, who govern'd in the Time of *Honorius*, were *Varus* and *Benignus*<sup>1</sup>; and of *Consulares of Campania*, we read under him only *Gracchus*, to whom, while *Honorius* resided in *Milan*, he directed in the Year 397, that Constitution which we read in the *Theodosian Code* under the Title *de Collegiatis*<sup>2</sup>. *Honorius* likewise provided for this Province, in granting some Privileges concerning paying of Tributes, which is evident from that Constitution<sup>3</sup> he directed to *Dexter Præfetus P. of Italy*. And we have many other Laws by which he governed these our Provinces, at the same time that *Theodosius* the younger Son of *Arcadius* reign'd in the East.

AT last *Honorius* dying in *Ravenna* in the Year 423. altho' *Theodosius the Younger* reign'd over both the Empires alone for a Year, nevertheless in the following Year 424. he made *Valentinian III.* Emperor of the West, to whom *Italy* with our Provinces were subjected. Under him *Volusianus* and *Theodosius* were *Præfetti P. of Italy*. And altho' we read not of any Constitutions of this *Valentinianus* directed to the *Consulares of Campania*, nevertheless he was a Prince, to whom not only *Italy* and these our Provinces owed a great deal, for his particular Care and provident Government of them, but likewise our Jurisprudence, which was heretofore much decayed, he restored in the West, at the same time that *Theodosius* his Collegue was wholly intent upon restoring it in the East; of which in a more proper Place we shall treat at large. These then were the Officers by whom in the Reign of *Constantine the Great*, to the End of that of *Valentinian III.* our *Campania* was govern'd. Therefore we observe some Marbles of ancient Buildings in the Cities of this Province, for good Deeds done by the *Consulares of Campania*, inscrib'd to them by the Inhabitants of *Campania, Naples, Beneventum*, and others, which may be seen in that laborious Work of *Gruterus* of the Inscriptions of the old Roman World; and in *Capua* and *Naples*, as we have shewed, their Memory is preserv'd to this Day. *Capua* was the Place of their Residence, as being in those Times the Head and Metropolis of *Campania*, as *Atbanasius* calls it<sup>4</sup>, who speaking in his *Epistola ad Solitarios* of the Council of *Sardica*, and of the Legates sent by him, amongst whom was *Vincentius* Bishop of *Capua*, in order to induce the Emperor *Constantius* to allow the Bishops whom he had driven away, to return, saith, *Missis a Sancto Concilio in Legationem Episcopis Vicentio Capuæ, quæ Metropolis est Campaniæ, &c.* And for that Reason we see many Constitutions in the *Theodosian Code*, read and accepted in *Capua*, because the *Consularis* who resided in that City, was to publish them, and to take care they should be dispersed thro' the other Cities of that Province, that they might be known to all the Inhabitants.

<sup>1</sup> Got. in *Protopogr.*

<sup>2</sup> L. 1. C. Th. de Colleg.

<sup>3</sup> L. 1. C. Th. de Indulg. debit.

<sup>4</sup> Athan. ep. ad Solitarios.

## S E C T. II.

*Of Puglia and Calabria, and their Correctores.*

AFTER *Campania, Puglia and Calabria* follow, in which is the Country of the *Salentini*, who being united together according to the Book of the *Notitia* of the two Empires, form the ninth Province of *Italy*, and according to the Reckoning of *Paulus Diaconus*<sup>1</sup>, the Fifteenth. This large Province extendeth itself East-

<sup>1</sup> *Paul. Diac. lib. 2. cap. 11.*

ward



ward to the *Adriatick* Sea which confineth it, and towards the West and South its Bounds were *Samnium*, the *Brutii* and *Lucania*. Its most famous and flourishing Cities were *Lucera*, *Sipontum*, *Canosa*, *Acerenza*, *Venosa*, *Brundisum* and *Tarentum*, and in the left Point of *Italy*, which extendeth itself for fifty Miles, is *Otranto*, a commodious City, and fitted for any Commerce, and deservedly may be call'd its common Mart.

*PUGLIA* and *Calabria* then were under one Government. For Largeness and Extent this Province required to be govern'd by a *Corrector*, and not by a *Præses*, who was an inferior Officer. But who were the *Correctores* of this Province, or where they had their Residence, nothing can be affirmed for certain. There is not one Imperial Edict in the *Theodosian* Code, directed to these *Correctores*: Only in *Venosa*, a City of *Puglia*, among the ancient Monuments which are preserv'd, we read an Inscription on which a certain *Emilius Restitutus* *Corrector* of *Puglia* is mentioned in these Words <sup>1</sup>:

LUCULLANORUM. PROLE, ROMANA  
AEMILIUS. RESTITUTIANUS  
V. C. CORECTOR. APULIAE. ET. CALABRIAE  
IN. HONOREM  
SPLENDIDAE. CIVITATIS. VENUSINORUM  
CONSECRAVIT

*Symmachus* <sup>2</sup> likewise maketh mention of the *Correctores* of *Puglia*, whom he also improperly calleth *Restores*. Sometimes instead of a *Corrector*, a Magistrate of equal Power was sent into the Provinces who was call'd *Juridicus*. Of whom two Inscriptions reported by *Guterus* <sup>3</sup> preserve the Memory; one of them we read thus:

HERCULI. CONSERVATORI  
PRO. SALUTE. L. RAGONI  
JURIDIC. PER. APULIAM  
PRAEF. J. D.

The other which is in *Rome*,

C. SALIO. ARISTAENETO. C. V.  
JURIDICO. PER. PICENUM. ET  
APULIAM

WE meet frequently with many Laws in the *Theodosian* Code, by which there was particular Provision made for the Necessities of that Province. It was under (besides the *Corrector* who had the immediate Command of it) the Direction of the *Præfectus P. of Italy*, to whom, by way of Appeal, they had recourse; and tho' there be no Constitutions directed to the *Correctores*, yet there are not wanting of them directed to the *Præfectus P. of Italy* concerning the Government of the same. In the Reign of *Valentinian the Elder*, it was infested and troubled with Robbers; so that it behoved that most prudent Prince to make severe Laws for restraining and rooting them out; and for that end, directed his Constitution to *Rufinus* at that Time *P. P. of Italy* in Place of *Mamertinus*, whose Business it was to take Care of that Province, as well as the others of *Italy*, by which Constitution <sup>4</sup> a timely Remedy was procur'd for so great an Evil.

THERE is likewise in the same Code another Law of the same *Valentinian*, dated in *Lucera* in the Year 365. with this Subscription: *VIII. KAL. Octobris. Dat. Luceriae ad Rufinum (in Locum Mamertim) P. P. Italiae*. *James Gotofredus* <sup>5</sup> suspecteth, that this *Lucera* is not that of *Puglia*, but the other situated in *Gallia Circumpadana*, betwixt *Milan*, *Verona* and *Aqueleja*, now call'd *Luzara*; but by what may be gathered from the Argument of that Law, and its relating to Pasturage, we have greater Ground to believe that it was this *Lucera* in *Puglia*, because of its fruitful and plain Fields, which the other never had, for feeding Herds of Cattle, and Flocks

<sup>1</sup> We read it Apud Ugel. Italia Sacr. de Episc. copis Venus.  
<sup>2</sup> Sym. lib. 10. Epist. 5. & 53.

<sup>3</sup> Gut. de Off. dom. Aug. lib. 1. cap. 8.

<sup>4</sup> L. 1. C. Th. Quibus equor. us.

<sup>5</sup> Got. in Chronologia C. Th. pag. 76.

of Sheep, on which Account it was famous and remarkable among the *Romans*, and all Writers of Rural and Pastoral Matters, and also over all *Europe*. But be that as it will, it is most certain, that the other Emperors of the West, to whom the Government of *Italy* belong'd, took as great Care of this Province as of any other.

IN the Reign of *Honorius*, *Puglia* and *Calabria* were infested with *Jews*, who, by their living licentiously, were the Occasion of no small Confusion, and of great Detriment to the Christian Religion: At the same time, *Theodorus*, a most religious Man, was *Præfectus P. of Italy*, as vehement an Enemy to that Nation, as he was a Lover of the Christian Religion; insomuch, that he deserv'd that Esteem which *St. Augustine* had for his Person, by dedicating to him that Book of his, intitled, *de Vita Beata*, as he himself testifieth <sup>1</sup>. For remedying so great an Evil, *Theodorus* order'd the Suppressing of such an insolent and licentious Life which the *Jews* led; for which End, he obtain'd from *Honorius*, that so Praise-worthy and never-enough to be extoll'd Constitution <sup>2</sup>, with which he repress'd their Arrogance, and subjected them to very hard Conditions.

*HONORIUS* likewise, in the Year 413, granted some Immunity and Indulgence in the Tribute, to this Province, as we read in one of his Constitutions <sup>3</sup>, of which we shall discourse in a more fit Place: There are not wanting other Constitutions relating to the Government and right Administration of so vast and considerable a Province by other Princes, directed to the *Præfecti P. of Italy*, of which we shall speak in a proper Place.

<sup>1</sup> August. lib. 18. de Civit. Dei, c. ult.

<sup>2</sup> L. 158. C. Th. de Decurionibus.

<sup>3</sup> L. 7. C. Th. de Indulg. Debit.

### S E C T. III.

*Of Lucania and the Brutii, and their Correctores.*

**L**UCANIA extended her ample Bounds much farther of old than at present; beginning at the River *Silaris*, it did not only include what is now call'd the *Basilicata*, but on the other hand stretch'd it self as far as *Salernum*, so that this very City was within its Limits; since the *Correctores* of *Lucania* likewise were wont to reside there. To it the *Brutii* were join'd, in what concern'd the Administration, who reach'd beyond *Rbegium* to the *Sicilian Streights* at the furthest Point of *Italy*.

THE *Lucanians* and the *Brutii* were under the same Government. The Corrector that was sent by the Emperors for the Government of these Provinces, had an equal Command over both. His Dignity, altho' not so great as that of the *Consulares*, was much greater than that of the *Præsides*, and was only dependent upon, and subordinate to the *Præfectus P. of Italy*, and the *Vicarius* of *Rome*, to whom they could have recourse.

THEIR Residence was in the City of *Rbegium*, Head and Metropolis of that Province, although sometimes the *Correctores* us'd to remove it to *Salernum* in *Lucania*, as the Necessity of the Publick Affairs requir'd: whence it is, that in these two Cities, to this Day, are seen some Remains of Marble Stones, which had been inscrib'd to the *Correctores*: In *Rbegium*, in the Church of the *Catholica*, is to be read, altho' something worn out by Time, this Inscription:

CORRETTORI LUCANIÆ  
ET. BRITTIORUM INTE-  
GRITATIS. CONSTANTIÆ  
MODERATIONIS. ANTI-  
STI. ORDO. POPULUSQUE  
R HEGINUS.

AND in the City of *Salernum*, on an Arch which was formerly, where the Seat of the *Portaretose* is now, there were to be seen some Statues of Marble upon their Bases, on one of which were these Words <sup>1</sup>:

ANNIO. VITTORINO. V. C.  
CORRECTORI. LUCAIÆ  
ET. BRUTIORUM. OB  
INSIGNEM. BENEVOLEN-  
TIAM. EJUS. ORDO. POPU-  
LUSQUE. SALERNITANUS.

THE Emperors were likewise wont to direct their Constitutions to these *Correctores*, which, for the Good of the Provinces, and quieting of any Disorders that might happen in them, they were oblig'd to publish; and this Province can boast, That the first Laws which were publish'd in *Italy* after the Defeat of *Maxentius* by *Constantine the Great*, were those which were sent to the *Correctores* of *Lucania* and the *Brutii*; so that there is an earlier Account of *Correctores* in this Province, than of the *Consulares* of *Campania*.

THE first who govern'd this Province, in the Beginning of the Reign of *Constantine*, was *Claudius Plotianus*, to whom, in the Year 313, a little after the Defeat of *Maxentius*, *Constantine* being in *Triers*, directed these two Constitutions, which we read in the *Theodosian Code* <sup>2</sup>, by which he put into a new Method, the Reports which the Judges, when they were doubtful, made to the Emperor in the Cases of private Men.

*CLAUDIUS* was succeeded by *Mecilius Ilarianus* in the Year 316, to whom *Constantine*, the same Year, sent that Law which we see in the *Theodosian Code* <sup>3</sup>, under the *Tit. de Decur.* and which, by our *Justinian*, bearing the same Inscription of *Ilarianus* Corrector of *Lucania*, was inserted in his Code under the same Title <sup>4</sup>. And to the same Corrector was directed the other Constitution of *Constantine*, which we read under the Title *Ad L. Corn. de Falso* in the *Theodosian Code* <sup>5</sup>.

*OCTAVIANUS* succeeded *Ilarianus* in the Year 319, in the Dignity of Corrector of *Lucania*, to whom, while he was residing in *Rhegium*, *Constantine the Great* directed the *L. 1. de Filiis Milit. Apparit.* which was read and accepted in *Rhegium* as the Seat of the *Correctores* <sup>6</sup>.

BUT there is no Record so clear and remarkable, that lets us see in how great Esteem and eminent Degree the *Correctores* of *Lucania* were, as that famous and noted Constitution of *Constantine*, which we read in the *Theodosian Code*, under the Title *de Episcopis*, which he directed to this *Octavianus* Corrector of *Lucania* in the same Year 319; by which he exempted the Clergy from Civil Functions, that they might not be diverted from the dutiful Attendance on sacred Things. *Constantine* had indited such another Law in the same Words, and had directed it to *Anulinus* Proconsul of *Africa* seven Years before; and as *Gotifredus* accurately observeth, this Constitution was like that, but however not the same, which he afterwards sent to *Octavianus*: This famous Constitution was omitted by *Justinian* in his Code, because many such Laws are inserted in it; but Cardinal *Baronius* <sup>7</sup> relateth it punctually in the same Year 319.

THERE is not the least mention of those who were *Correctores* of *Lucania* under the Empires of *Constans*, *Constantius*, and *Julianus*; we not being able to shew any Constitution directed to them by these Princes: But there are not wanting Edicts sent to the *Præsenti P. of Italy*, which demonstrate what Care they had of the Affairs of *Italy*, and of these Provinces in particular.

BUT we can give a particular Account of the Names of those who were *Correctores* of *Lucania* under *Valentinianus*. *Artemius* was the first, who is often mention'd in the History of *Ammianus Marcellinus* <sup>8</sup>: To him, when *Valentinianus* was in *Aquileja* in the Year 364, he directed that Constitution which we read under

<sup>1</sup> They are reported by Mazza, de Rebus Salernis.

<sup>2</sup> L. 1. C. Th. de Relat. 1. 1. C. Th. de Appel.

<sup>3</sup> L. 3. C. Th. de Decur.

<sup>4</sup> L. 15. de Decur. lib. 10.

<sup>5</sup> L. 1. C. Th. ad L. Corn. de Falso.

<sup>6</sup> L. 1. C. Th. de Filiis milit. apparit.

<sup>7</sup> Baron. ad A. 319. num. 10.

<sup>8</sup> Ammian. Marcel. lib. 27. pag. 360.

the Title *Privil. Apparit. Magistr.* And from the Inscription of that Law we learn, that this *Artemius* frequently had his Residence in *Salernum*, since it was there read and accepted. To this same *Artemius*, while *Valentinian* was yet in *Aquileja*, were directed the Edicts, *L. 6. de Privileg. eor. qui in Sacr. Palat.* and *L. 21. de Cursu Publico.*

BUT the Dignity of the *Correctores* of *Lucania*, and of this *Artemius*, and the Value the Emperors had for them, appear in nothing more than in this Constitution<sup>1</sup>, never enough to be extoll'd, which we read under the Title *de Officio Rectoris Provinciae*, which was directed by *Valentinian I.* from *Aquileja* in the Year 364. to *Artemius*. The most respectful and remarkable Titles that could be expected from any Prince, were profusely bestow'd on this Corrector of *Lucania*; *Carissime nobis : Gravitas tua : Sublimitas tua*, and such like, were the most frequent. To him was directed that Constitution, in which he urgeth the Integrity of Judges, and their Diligence in dispatching of Law-Suits: That they should hear and determine Causes, whether they concern'd Mens Lives or Estates, publickly, and in the View of all the World, not privately and in a Corner, where there was Opportunity for Sollicitations and Venality; and the Sentence being once pronounc'd, ought to be publish'd and read in the Hearing of all present, that every Body might know what the Judges did, whether they judg'd conformable to Law and Justice, or perversly for gratifying one of the Parties; whence it is, that in the Tribunals of this Kingdom, it always was, and continues to be a Custom to this Day, to read and publish the Sentences, altho', at present, 'tis become a meer Ceremony and Formality. Publick Shews and merry Entertainments were forbidden to Judges, that they might not be diverted from, or turn careless of the Publick and Private Benefit, and withdrawn from serious and grave Actions.

*SYMMACHUS* govern'd *Lucania* and the *Brutii*, likewise under *Valentinian I.* who succeeded *Artemius* the Year following 365. That Constitution which we read<sup>2</sup> under the Title *de Cursu Publico* in the *Theodosian Code*, while that Prince was in *Milan*, was sent to *Symmachus* then Corrector of this Province. There is no Memory of any other *Correctores* of *Lucania* in that Code before this Time, neither under this nor any other of the Emperors his Successors; altho' there is a Constitution<sup>3</sup> of *Theodosius the Great*, which goes likewise under the Name of *Valentinian II.* under the Title *de contr. Erupt.* accepted and publish'd in *Rbegium* in the Year 384. and another<sup>4</sup> also accepted in *Rbegium* under the Title *de Operibus Publicis*; yet it ought not to be understood of *Rbegium*, which is situated among the *Brutii*; but as the most exact *Gotifredus* remarketh, of another *Rbegium* in the East, twelve Miles from *Constantinople*; which is evident, not only because *Italy* was not within the Empire of *Theodosius the Great*, but was comprehended in the Western, govern'd by *Valentinian II.*; but besides, these Laws were directed by *Theodosius*, the first to *Cinegius*, the other to *Casarius*, both of them *Præfetti P.* of the Eastern Empire, of which *Theodosius* was Emperor. And we must not omit, in this Place, to take Notice of the Custom of the Emperors of those Times, who, altho' the *Roman Empire* was divided amongst them, and that each of them govern'd his own Share, and did not concern himself with that of the other, yet nevertheless the Laws, which were publish'd in their Dominions, bore the Names of all the Emperors who then reign'd in the Empire, altho' they were made by one only<sup>5</sup>. In like manner 'tis to be observ'd in publick Monuments, that albeit the Work had been erected for one only, nevertheless it bore the Names of all the reigning Emperors. The Ignorance of which Custom hath been the Occasion of many gross Mistakes in abundance of Writers, and the Laws of one Prince have been ascribed to another; of which, as Occasion offers, we shall give Examples.

WE find in the same *Theodosian Code*, many other Constitutions of Princes, which, (altho' not directed to the *Correctores* of this Province, but either to the *Præfetti* of *Italy*, or to other Magistrates) shew what Care and Concern they had for the *Lucanians* and the *Brutii*. These People, as all the other of these Provinces, were oblig'd to carry Wine to *Rome* for the Provision of that City, but

<sup>1</sup> L. 2. C. Th. de Officio Rector. Prov.

<sup>2</sup> L. 25. C. Th. de Cursu Publico.

<sup>3</sup> L. 5. C. Th. de Contr. Erupt.

<sup>4</sup> L. 35. de Operib. Publ.

<sup>5</sup> Got. in Prolog. C. Th. cap. 8.

they

they being at such a Distance from it, were allow'd to pay Money in Place of the Wine <sup>1</sup>.

*HONORIUS* exempted them from Tribute and Customs, as may be seen in that his Constitution, which we read in the *Theodosian Code* <sup>2</sup> under the Title *de Indulg. Debit.* So much for *Lucania* and the *Brutii*, and their *Correitores*.

<sup>1</sup> C. Th. tit. de Usuris.

<sup>2</sup> L. 27. C. Th. de Indul. Debit.

## S E C T. IV.

### Of SAMNIUM, and its *Præsides*.

**S**AMNIUM is ranked last; altho' a Province noted and famous enough with the ancient *Romans*, for the Boldness and Valour of its Inhabitants, and the Success of their Arms, that they boasted to have frequently beat the *Romans* themselves; nevertheless, it was not honour'd, in the latter Times, with any other Magistrates but *Præsides*, who were inferior in Dignity to all the other Governors of Provinces. Therefore it being only a Presidial Province, and because the Emperors seldom directed their Constitutions to *Præsides*, we have no Memory left us of them or their Names. Its Bounds are uncertain, and varied with the Times. *Paulus Diaconus* places it betwixt *Campania*, the *Adriatick Sea*, and *Puglia*, and once it comprehended much more than the *Abbruzzi*, the County of *Molise*, and the Valley of *Beneventum*, do at present. Its most renown'd Cities were *Isernia*, *Sepino*, *Theate* now *Chieti*, *Venafrum*, *Telesia*, *Bosanum*, *Afidena*, and *Samnium*, which gives the Name to the whole Province.

THIS Province, besides the *Præsides*, was under the Direction and Government of the *Præfektus P. of Italy*, and the *Vicarius of Rome*. Neither was it neglected by *Valentinian the Elder*, who hearing that it was infested with Robbers, in order to free it of them, sent for that Purpose to the said *Præfektus of Italy* that Constitution <sup>1</sup>, which we read yet in the *Theodosian Code*.

NEITHER was it neglected by *Honorius*, who in the Year 413, granted to this Province, being sadly oppress'd, a Release from Taxes, as by the Constitution of this Emperor <sup>2</sup>, directed to the said *Præfektus of Italy*, we read in the *Theodosian Code*. There are other Laws, by which the other Emperors took Care of the Affairs of this Province, directed to the *Præfetti of Italy*, under whose Charge it was.

<sup>1</sup> L. 1. C. Th. Quibus equ. usus.

<sup>2</sup> L. 7. C. Th. de Indulg. Debit.



## CHAP.



## C H A P. IV.

*Of the first Invasion of the Westrogoths, in the Reign of Honorius.*

**T**H ESE Provinces, during the Reigns of *Constantine* and his Successors, until that of *Honorius*, did not feel those Mischiefs and Calamities, which the other Provinces of the Empire had already groan'd under by the Invasion of the *Goths*. This People having come out of *Scandinavia* in the Reign of *Constantine the Great*, and even sooner, lived in common, altho' they fought under one Head, till such Time as they chose *Hermanaricus* for their King; but he dying, they divided amongst themselves, and in the Reign of the Emperor *Valens*, those who call'd themselves *Westrogoths*, elected *Fridigernus* for their Captain, and afterwards *Athanasius* for their King. *Theodosius the Great*, being a Lover of Peace, knew so well how to keep them within their Limits, that altho' he had not always a settled Peace with them, yet he reduc'd them to that Condition, that their King *Athanasius* being dead, and they not mindful of chusing another, all subjected themselves to the *Roman Empire*, and became one Body of Troops, and fought under *Theodosius's* Banner, and were his Confederates and Auxiliaries. But this Prince dying in the Year 395, and being succeeded in the Empire of the East by *Arcadius* his eldest Son, his other Son *Honorius* reigning in the West, these Princes, by their luxurious Way of Living, began to disturb the Commonwealth, and to deprive the *Westrogoths*, their Auxiliaries, of those Gifts and Pensions, which *Theodosius* their Father, for securing them to the *Roman Empire* and to his Banner, had largely bestow'd upon them: Which displeas'd the *Westrogoths*, who fearing, that by so long Peace their Valour and Strength might be weaken'd, determin'd to do now, what they had neglected in the Reign of *Theodosius*: they chose *Alaricus* for their King; a Man, who for his choleric Temper had acquir'd, amongst his own People, the Surname of *Bold*; and being descended from the illustrious Stock of the *Balti*, was esteem'd the most sufficient to support the Royal Dignity, with Decency and Magnificence. They considering, that it had been more to their own Honour, and the Glory of their Nation, to have conquer'd Kingdoms by their own Arms, than to have lived idle and lazy in those of others, resolv'd to go in quest of new Countries in order to conquer them: For which end, having made up a sufficient Army the best way they could, and having conquer'd *Pannonia*, *Noricum*, and *Rhetia*, they enter'd *Italy*, which being destitute of Troops, and having enjoy'd long Quiet, they began with great speed to subdue, and halted at *Ravenna*, then the Seat of the Western Empire.

*HONORIUS* having already left *Milan*, in the Year 402, made *Ravenna* the Place of his Residence, which he design'd to make the Seat of the Empire, that he might the more easily be able to oppose the Incursions which Foreign Nations used to make on that side. But this Insult of the *Westrogoths* was so sudden and unexpected, that finding himself surpriz'd, and not able to draw his Armies together so quickly as was necessary for suppressing them, he was oblig'd immediately to hearken to a Treaty of Peace which *Alaricus* offer'd him; and altho' it was

<sup>1</sup> Prudent. lib. 2. adv. Simmac. Claud. de Bello Getico.



granted, that he and his Men might remain in *Italy*, nevertheless it was at last agreed upon, that the *Goths* should leave it, and in exchange take *Aquitania* and *Spain*, Provinces in a manner lost to *Honorius*, as being for the most part possess'd by *Gisericus* King of the *Vandals*. The *Goths* consented, and having left *Italy*, were wholly Intent on the Conquest of those Provinces. *Italy* suffer'd nothing by this first Invasion; but they were provok'd afterwards by the deceitful Blow they receiv'd from *Stilico*, who, near *Polentia*, a City of *Liguria*, while they thought of nothing less, attack'd them unexpectedly; and altho' they were dispers'd and overcome<sup>1</sup>, nevertheless soon after taking Courage, and being again got together, and spurr'd on by the Treachery and Injury, return'd with Fury, and laying aside the design'd Undertaking, they put *Stilico* and his Army to flight, and return'd into *Liguria*: They went on destroying with it *Æmia*, *Flaminia*, and *Tuscany*, and every Thing that came in their Way, till they got to *Rome*, all the Neighbourhood of which they ransack'd and ravag'd: At last, having enter'd *Rome*, they only pillag'd it, *Alaricus* not allowing it to be burnt, or any Injury done to the Temples.

IT was not only *Rome*, and the abovesaid Provinces that suffer'd these Devastations and Mischiefs more than once, but soon after the same Calamity happen'd to the Provinces, which now make the Kingdom of *Naples*. *Campania*, *Puglia*, and *Calabria*, *Lucania*, the *Brutii*, and *Samnium*, had the same Fate. The *Goths* over-run every where, carrying Ruin and Destruction along with them, never halting till they came to the utmost Point of *Italy*, where being stopp'd by the *Sicilian Straits*, they fix'd their Residence amongst the *Brutii*; and while *Alaricus* was there preparing for new Expeditions against *Sicily* and *Africa*, the Fleet which he had design'd for that Purpose was Shipwreck'd in these Straits, which dismal Disappointment struck him so to the Heart, that he ended his Days, by an untimely Death, near to *Cosenza*, and, much lamented by his Followers, was buried in the Bottom of the River *Busentum*, with many rich Spoils brought from *Rome*<sup>2</sup>.

THE Death of *Alarick* gave Occasion to the Affairs of *Italy*, and these our Provinces, under the Reign of the same *Honorius*, to become more settled and quiet; altho' *Ataulfus*<sup>3</sup>, who succeeded *Alarick* his Kinsman, return'd to *Rome*; and, after the manner of Locusts, destroy'd every thing in that City, that after so much Pillaging and Sacking had been left, and had so miserably ruin'd *Italy*, when *Honorius* was unable to resist him: Nevertheless, *Ataulfus* afterwards having married *Galla Placidia*, Sister to *Honorius*, such was the Power of the Love he had for that Princess, and the Tye of this new Alliance, that he made Peace with *Honorius*; and leaving *Italy* to its Liberty, he and his People return'd into *Gallia*, and made War upon the *Franks* and *Burgundians* who were infesting it; and this was the first Foundation of their Kingdom in those Countries: Forasmuch as after the Death of *Ataulfus* and *Rigericus*, *Vallia* succeeded, to whom *Honorius* assign'd *Aquitain*, with many Cities of the Province of *Narbonne*, and fixed his Residence in *Thoulouse*, and took the Title of the King of the *Westrogoths*, that is to say, of the Western *Goths*, to distinguish themselves from the *Ostrogoths*, or the Eastern *Goths*, and afterwards Lorded it over *Italy*, as we shall shew anon.

ALARICK being dead, and *Italy* freed of the *Goths*, and Peace made with *Ataulfus*, *Honorius*, willing to repair the past Damages of these Provinces, in the Year 413, publish'd that Constitution<sup>4</sup> which we read in the *Theodosian Code*. *Campania*, *Tuscany*, *Picenum*, *Samnium*, *Puglia* and *Calabria*, *Lucania* and the *Brutii*, were reduc'd to such a lamentable Condition, that *Honorius*, from *Ravenna*, then the Seat of the Western Empire, directed to *John Præfectus P. of Italy*, that Law, by which he exempted their Inhabitants entirely from paying any Tribute, but the fifth part of what they were used to pay, remitting all the rest.

NEITHER did *Honorius* take less Care of these Provinces in the succeeding Years, seeing, while he was still at *Ravenna*, he publish'd many Laws for the good Government of them. That was likewise his which was dated in *Ravenna*<sup>5</sup>, by which no Testament was of any Force after ten Years were expir'd, which we

<sup>1</sup> Claud. lib. de Vict. Scilicon.

<sup>2</sup> Jornand. cap. 30.

<sup>3</sup> Paul. Æmil. de Reb. Franc. lib. 1.

<sup>4</sup> L. 7. C. Th. de Indul. Debit.

<sup>5</sup> L. 6. C. Th. de Testam.

have yet in the *Justinian* Code. And in the Year 418. he anew exempted *Campania*, *Picenum* and *Tuscany* from Tribute ; so much was he intent on the Repairing the Affairs of *Italy* quickly.

BUT in the Year 423. he ended his Days in *Ravenna* ; upon which *Theodosius the Younger*, who had succeeded to his Father *Arcadius* ' in the Eastern Empire, when he had reign'd but a short Time alone, proclaim'd *Valentinian III. Augustus* and Emperor of the West, who was Son of *Constantius* and *Placidia* ; which Lady, after the Death of *Ataulfus* had been sent back to *Honorius*, and married to *Constantius*. *Valentinian* having gone to *Ravenna*, and from thence soon after to *Rome*, settled the Affairs of that City, and restored the Jurisprudence, which in his Time had lost much of its ancient Splendor ; while at the same Time *Theodosius* applied himself to the Re-establishing it in the Academy of *Constantinople*, and was intent on framing the new Code, which from him hath the Name of *Theodosian*.

SUCH then was the State of the Provinces which now form our Kingdom, from the Time of *Constantine* to *Valentinian III.* during which Time they were govern'd by those Emperors, to whom by the various Divisions of the Empire *Italy* did belong ; and these were *Constantine the Great*, *Constans* and *Constantius* his Sons, *Julianus*, *Jovianus*, *Valentinian I.* *Valentinian II.* *Honorius* and *Valentinian III.* They were likewise under the Direction and Government of the *Præfetti* of *Italy*, and the *Vicarii* of *Rome*. And besides had other more immediate Rulers : One *Consularis*, two *Correctores*, and one *Præses*, who residing in the Provinces committed to their Charge, more immediately govern'd them.

THEY were govern'd by the *Roman* Laws, and the Constitutions of these Princes, neither were there any other Laws heard of. Excepting some Cities in which there remain'd some Vestige of the ancient Laws of municipal and confederated Cities, who liv'd conformable to their own particular Institutions ; no other Laws but the *Roman* were acknowledged in any of the Provinces, to which these Cities had recourse as to the Fountain of all human and divine Laws, when their own Municipal failed them. Neither did that first Irruption, which the *Westrogoths* under *Alarick*, made into these our Provinces, disturb the Polity or the *Roman* Laws ; seeing that Prince, in the midst of Arms, not minding the Laws, did nothing but over-run the Countries ; and altho' he settled for some time amongst the *Bruttii*, yet he did not introduce new Laws. As a little after him did his Successor *Ataulfus*, who at last made Peace with *Honorius*, and left *Italy* free to him, which he and *Valentinian III.* afterwards govern'd as the other Emperors of the West their Predecessors had done.

\* Pagi Dissert. de Consulib. pag. 282.

## S E C T. I.

*These Provinces were never yielded or given away to any Person.*

IF the Writers of this Kingdom, and especially the Civilian's, had but given the least Attention in treating of this Matter, surely they would not have fallen into such gross and manifest Mistakes, as they have stuffed their Works with : Neither would they have allow'd themselves so easily to believe that fabulous Donation of all *Italy*, which they suppose was made by *Constantine* in the Year 324, to *Sylvesfier* Pope of *Rome*, four Days after he had been baptiz'd by him. An Error so warmly espous'd by the *Italian* Authors, and especially our Professors, excepting *Bartolus* alone, that it hath been the Occasion of an infinite Number of Blunders, even in Matters of most pernicious Consequence : Some of them have gone so far as to put in Print, That after this Donation, the Emperors who succeeded *Constantine*, had no Title nor Right to these Provinces, as belonging to the Pope, and making *S. Peter's* Patrimony : From whence comes the Right of Investiture given since by the Popes to the several Princes ; adding, that ever since that Time our Kingdom has been disjoin'd from the Empire, and therefore never after subject to the Emperors of the West, and

and much less to those of the East. Our Counsellor *Mat. de Afflict.* <sup>1</sup> arriv'd to such a Pitch, that he did not scruple to say, That after that Donation, all the Constitutions publish'd by the Emperors who succeeded *Constantine*, for want of Power, had not the Force or Vigour of written Laws. The Regents <sup>2</sup> of our Collateral C. themselves were not asham'd to write, that after that Donation, the Successors of *Constantine* had no Power of giving Laws to these Provinces; and that therefore we were to have recourse to the Canon and not the Civil Law. Therefore we ought not in this Place to rob *Marinus Freccia* <sup>3</sup> our Civilian, of his deserv'd Praise; he, among ours, was the first, by his Knowledge of History, that reproach'd our Writers with such a gross Error, as little did he excuse the Counsellor *Afflictus*, who was his Kinsman; neither did he pretend to vindicate him any other way, than by saying, *Affinis meus Historicus non est.*

BUT altho' these Writers may deserve some Excuse, and that we ought to impute their Mistakes and Errors to the Ignorance of the Age they liv'd in; nevertheless our Modern Writers deserve no Compassion, who after so many Reproofs, take Pleasure, as if they were hired, to keep their Eyes shut, for fear they should receive a little Light, that would disperse the Darkeness in which they delight to live. And now a-days it hath been sufficiently demonstrated by so many famous and able <sup>4</sup> Men, That that forged Instrument of Donation was contriv'd in the eighth or ninth Century only, and soisted into the Decrees of *Gratianus* <sup>5</sup>; whereas it was not mentioned in the Ancient, as *S. Antoninus* <sup>6</sup> and Cardinal *Cusanus* testify: So that before that Time it was never heard of: The only Dispute now amongst Writers is, who should be the Author, who first gave Body and Motion to this Chimera. Some contend that it hath been the Brat of some *Greek* Schismatick, who, in order to expose the Grandeur of the Church of *Rome* to the Emperors of the East, or to have occasion to rail at and vilify the *Latin* Church and the Popes, according to the Custom of that Nation, which is their bitter Enemy, thought that when such a Piece of Forgery came to be discover'd, it would discredit them, and render them odious to the World; in like manner also many strange and monstrous Facts were imputed to them, which exceeded their Power. And in Conformity to this, we shall see in the Progress of this History, the *Greeks* accusing Pope *Gregory II.* of having excommunicated the Emperor *Leo*, and deposed him from the Empire, and order'd his Subjects not to pay him Tribute; and for that end absolv'd them from their Oaths, and a thousand other extravagant Stories, for no other Purpose but to render them insupportable, and Usurpers of the Rights of other People; altho' that afterwards those who were most addicted to the Court of *Rome*, took Advantage of what the *Greeks* had wrote for their own Ends, and applied it to other Purposes.

OTHERS, among whom is *Peter de Marca* <sup>7</sup>, have written, That this Instrument was forg'd, not by any *Greek* or Schismatick, but by a *Latin*, and one who was faithful to the Pope: However, all agree that it was Fabulous, and are the more persuaded of it, by the many Copies which are found that differ so much from one another. One way we read this Donation in the Decree of *Gratian* <sup>8</sup>; another way in the Translation from the *Greek* into the *Latin*, reported by *Theodore Balsamo* <sup>9</sup>, and which is to be found in the *Vatican* Library: In different manners do the Popes *Melchias*, *Nicolas II.* and *Leo IX.* <sup>10</sup> themselves relate it. 'Tis express'd in other Terms by *Peter Damian* <sup>11</sup>, *Mathew Balsar*, *Ivo de Chartres* and *Francis Bursattus* <sup>12</sup>; and differently reported by *Albericus* <sup>13</sup>: In a Word, there are more than twelve Copies, each of them differing from one another.

BUT if such Writers were ignorant of the Acts of *Constantine*, and did not heed *Eusebius*, or the other Contemporary Writers, who have not so much as mention'd such a memorable Fact, but kept a profound Silence; at least the *Theodosian* Code

<sup>1</sup> Afflic. in Constit. in prælud. q. 2. num. 2. & qu. 20. num. 1.

<sup>2</sup> Tappia de Jur. Regni lib. 1. de legib. lib. 1. num. 6. Ponte de potest. Proreg. tit. 11. num. 25.

<sup>3</sup> Frec. de Subfeud. lib. 1. pag. 53.

<sup>4</sup> Marca lib. 3. cap. 12. & lib. 6. cap. 6. §. 5. Schellstrat. Antiq. illust. Part. 2. Diss. 3. cap. 8.

<sup>5</sup> Grat. Distinct. 96. cap. Constantinus 14.

<sup>6</sup> D. Anton. Archiep. Florent. Par. 1. Hist. §. cap. 1.

<sup>7</sup> Marca lib. 3. cap. 12. num. 3. de Concor. Sacer. & Imp.

<sup>8</sup> Gratian. Dist. 96. cap. Constantinus 14.

<sup>9</sup> Balsam. in Photii Nomocan. tit. 9. cap. 1.

<sup>10</sup> Cap. futuram 12. qu. 1. Cap. Fundamenta de Elect. in 6. Leo IX. Epist. 1. ad Michael.

<sup>11</sup> P. Damian. Discep. Synod. Balsar. Synop. Jur. Can. C. de Bulgar. Cypr. & Iber.

<sup>12</sup> Bursar. in fin. 1. Volum. conf.

<sup>13</sup> Alberic. in l. 1. C. de Off. Præf. urb.

alone, and the Constitutions of the same *Constantine* which we read in it, are enough to undeceive them. They would have it, that while *Constantine* was in *Rome* in the Spring of the Year 324. he was guilty of this extraordinary Prodigality in Favour of *Silvester*, four Days after his Baptism: But most certain it is, that *Constantine* was not in *Rome* during these supposed Months of the Year 324. but was busied in the East in the War against *Licinius*; which being ended by his Defeat, and a compleat Victory obtain'd, it is likewise known, that he having gone to *Thessalonica*, he remain'd there, and in the same Months exactly of the same Year 324. he did not remove from that City<sup>1</sup>; which is clearly prov'd by two of his Constitutions which we read yet in the same *Theodosian Code*, which are in L. 4. under the Title *de Naviculariis*, which was publish'd by *Constantine* at the same Time while he was in *Thessalonica*, and directed to *Elpidias*, under the Consulship of *Constantine III.* and *Crispus III.* which bears this Date, *Dat. VIII. Id. Mart. Thessalonica, Crispo III. & Constantino III. Cofs.* And by his other famous Constitution<sup>2</sup> whereby he prescribes a Rule concerning the Dispensing with the Age, as well of Males as of Females, which altho' a little defac'd and mangled, was inserted by *Tribonianus* in the *Justinian Code*<sup>3</sup>. *Constantine* made this Law following the same Year 324. being still in *Thessalonica*, as *Zosimus* relates<sup>4</sup>, dated thus: *Dat. VI. Id. Aprilis Thessalonica, Crispo III. & Constantine III. Cofs.* as *Gotofredus* corrects it; and was directed to *Lucer. Verinus*, who was Præfect of the City of *Rome* that Year, which is clear from the Words of the *Notitia* of the Præfects of *Rome*, where we read *Crispo III. & Constantine III. Cofs. Lucer. Verinus Præfectus Urbi*: Whence it is that we read it but incorrectly in the *Justinian Code*: *Ad Verinum P. Prætorio.*

THESE Laws convince us not only of the Forgery of this Donation, but likewise of the Mistake of *Constantine's* having been baptiz'd by the Hands of Pope *Silvester*<sup>5</sup>. Neither ought others to make a Bustle about the Actions of this Pope, which are not receiv'd by *Baronius* himself, but reputed Fabulous: And that is certainly a Mistake, which is told among them, that in the same Year 324, *Calpurnius* was Præfect of *Rome*, when 'tis evident from the Dates of the foresaid Laws, that *Lucer. Verinus* was Præfect of that City. They ought rather to be convinc'd by the History of *Eusebius* of *Cæsarea*<sup>6</sup>, a grave and ingenuous Man, who flourish'd at the same Time, and describ'd the Actions of that Prince minutely; and if such great and remarkable Facts had truly been, 'tis not credible, that they could have been omitted and pass'd over by such a Man, in a History which was publish'd in a few Years after the Death of *Constantine*, and was in the Hands of every body; who, to the great Shame and Reproach of *Eusebius*, would have thrown so great Ignorance in his Teeth, and given him the Lye, for telling that *Constantine* was baptiz'd in *Nicodemia* about the latter End of his Life, and not in *Rome*.

BUT what is now doubtful amongst some, was not surely so amongst the ancient Writers both *Greek* and *Latin*. *Theodoret*, *Sozomenus*, *Socrates*, *Photius*, and other *Greek* Authors wrote<sup>7</sup>, that *Constantine* receiv'd Baptism not from the Hands of Pope *Silvester* in *Rome*, but in *Nicodemia*, when he was dying: And among the *Latins*, *S. Ambrosius*, *S. Hieronymus*, and the Council of *Rimini* had likewise the same Belief<sup>8</sup>. Whence it is that our most grave and learned Divines, and the most careful Ecclesiastick Writers, such as Cardinal *de Perron*, *Spondanus*, *Petavius*, *Morinus*, and the incomparable *Arnaldus*<sup>9</sup>, contrary to the Opinion of *Baronius*, thought what is commonly believ'd concerning the pretended Baptism of *Constantine* in *Rome*, by the Hands of Pope *Silvester* in the Year 324. four Days before the forg'd Donation, to be fabulous. Which ought to satisfy *Emanuel Schelstrat*<sup>10</sup>, instead of having recourse to that strange and unhappy Defence, that *Constantine* being already baptized in *Rome*, was by *Eusebius* re-baptiz'd in *Nicomedia*; seeing if it were even granted that *Constantine* in his latter Days did incline to the Doctrine of *Arius* and his Followers; yet the *Arians* were not wont in the Beginning of their Error to re-baptize the Catholics, who went over to their Belief, as *Christianus*

<sup>1</sup> V. Zosimum lib. 2. & Anonymum Sirmondii.

<sup>2</sup> L. un. C. Th. de his qui Væniam ætat.

<sup>3</sup> L. 2. C. eod. tit.

<sup>4</sup> Zosim. lib. 2.

<sup>5</sup> Got. in chronol. C. Th. A. 324.

<sup>6</sup> Euseb. lib. 4. de vita Constant. cap. 61 &

62.

<sup>7</sup> Theodoret. lib. 1. hist. cap. 32. Sozom.

lib. 2. cap. 34. Socrat. lib. 1. cap. 35. Photius Cod. 127.

<sup>8</sup> Ambros. Serm. de obitu Theodos. Hieron. in Cron. Conc. Arimin. apud Sozom. lib. 4. cap. 18.

<sup>9</sup> Arnald. Ars cogitand. Par. cap.

<sup>10</sup> Eman. Schelstrat. Antiq. illustrat. Par. 2. Dissert. 3. cap. 6.

*Lupus* sufficiently proves: And it was long after that St. *Augustine* <sup>1</sup> charg'd some *Arians* with such a Novelty, and wonder'd at it as a Thing new and extravagant, and upbraided them with it.

NEITHER ought it to seem strange (altho' it may be going a little out of our Way) that *Constantine* being so zealous a Christian as he was, in the following Year 325. would be present at the great Council of *Nice*, where he gave the last Proofs of his Piety, and perform'd so many pious and generous Actions in favour of his new Religion, being yet but a *Catechumen*. This will not appear strange if we distinguish the Time of his having embrac'd this Religion, from that of his Baptism; and do but consider the Custom that was then common amongst the Great Men, of delaying their Baptism till the Time of their Death.

CONSTANTINE not long after the Defeat of *Maxentius*, long enough before the Year 324. in which 'tis said he was baptiz'd in *Rome*, had embrac'd our Religion, giving manifest Signs of his Sincerity, and of his Love and Beneficence towards it. Before the Year 324. he had publish'd many Constitutions concerning the Immunity of the Clergy from Civil Offices, and for building of Churches, and the Destruction and throwing down of the Heathen Temples; and likewise, that his so famous Constitution <sup>2</sup>, by which he allow'd the Churches to purchase immoveable Goods, and gave Liberty to all Persons to leave to them by their Testaments whatever they pleas'd, whence sprung the Fountain of their Riches, and especially of the Church of *Rome* above all others, was not promulgated after, but three Years before his pretended Baptism in *Rome*. It ought not then to seem strange, if in the following Years, being yet a *Catechumen*, he should stedfastly continue to favour the Church, and to adorn her with so many Prerogatives and Honours.

THERE was likewise at that Time a Custom, as we have said, that the great and most illustrious Personages of the Empire, altho' they embraced this Religion; nevertheless, by a very bad Custom, were wont to delay Baptism until they were in great Danger of their Lives, and expos'd to some doubtful and dangerous Enterprize. Neither was this Custom left off during the Reigns of *Constantine* and his Sons, but lasted long after, even in the Reigns of his other Successors, altho' otherwise they were most religious Princes. So we read of *Theodosius the Great*, who tho' he embrac'd the Christian Religion, and gave evident Proofs of his Piety, yet he continu'd still a *Catechumen*, and would not be baptiz'd, until he fell grievously sick in *Thessalonica* in the Year 380. When he saw himself in Danger, he sent for the holy Bishop *Acolius*, by whom he was baptiz'd, whereby he not only got Health to his Soul, but to his Body likewise <sup>3</sup>.

VALENTINIAN II. was a Prince, of whom it was always said, that as all the Mischief of his Reign was owing to *Justina* his Mother, so all that was Good was his, as was very evident after her Death; being yet a *Catechumen*, he would not be baptiz'd; but just as he was ready to enter into Battle with the Barbarians, he intreated St. *Ambrose* to come quickly and baptize him. But while this holy Bishop was crossing the *Alps* on his Way to *Vienna*, where this Prince then was, he heard of his dismal Death; for *Arbogastus* being discontented at his having taken the Command of the Army from him, corrupted some of his Officers, and the Eunuchs of the Palace, and caus'd him to be strangled in his Bed while he was asleep, in the Night of *Saturday* the 15th of *May* 392. being the Vigil of *Pentecost*. Which doleful Accident was bewail'd in a very learn'd and elegant Funeral Oration by the said Bishop <sup>4</sup>, which he rehearsed at his magnificent and pompous Obsequies; in which he maintain'd, That Baptism having been desir'd, and with so much Fervency demanded by that Prince, had purified him from all the Stains of his Sins, and had carried him to the Enjoyment of the Pleasures of Eternal Life.

THE History of St. *Ambrose* himself is likewise very remarkable, who did not receive Baptism, until he was promoted to the Bishoprick of *Milan*. It is also said of the famous and renown'd *Benevolus* first Chancellor to the Empress *Justina*, that he might not have a Hand in that Edict, by which Liberty was given to the *Arians*, freely to profess their Error; he gave a generous and noble Denial, and retired from Court; and besides, demanded Baptism presently, which, according to the Custom of the great Men, he had delayed to the last. We could here give a great many such Examples, both from sacred and profane History. And 'tis

<sup>1</sup> August. lib. de Hæres. b. cap. 48.

<sup>2</sup> L. 4. C. Th. de Epif.

<sup>3</sup> Socrates lib. 5. cap. 6. Sozomon l. 7. c. 4.

<sup>4</sup> Ambr. in Orat. fun. Valent.

probable,

probable, that our *Torquatus*<sup>1</sup> meant this Custom, which it seems was likewise in *Ethiopia* in the Reign of *Senapus*, when, speaking of *Clarinda*, he mentions that her Baptism had been deferr'd.

IT was thought, that delaying Baptism to the last Moments of Life, was in order to shun the very rigorous publick Penance, which the Church in those Days imposed on penitent Christians ; and that by putting it off to the last, they were made more sure of eternal Salvation ; seeing any Person was thought fit to administer that Sacrament, even an Infidel, a *Neophyte*, or any silly Woman, and the Matter of it being always at hand, which is Water, and the Form of it soon perform'd and easy, consisting of few and simple Words, it seldom or never happen'd to the most unfortunate of Men to be so suddenly struck dead, as that they could not have Time to be sprinkled with so healthful a Water, which, in an Instant, by the infinite Merits of Jesus Christ, wash'd away all the Filthiness contracted in this mortal Life, and carried them certainly to the Felicities of another Immortal and Eternal.

BUT it was afterwards observ'd, that such a bad Custom gave occasion to Men to lead a licentious Life, and to be prone to all Irregularities and Wickedness ; and Experience making it evident, that many dy'd as they had liv'd ; and that Death might seize on them so suddenly, that they might want these Helps, of which the dismal Accident that befel *Valentinian* was a terrible Example ; therefore the Fathers of the Church began to declaim against such a pernicious Custom : Whence *Basilus* and his Brother *Gregory* of *Nissa*<sup>2</sup> in the same Century, did all that in them lay, to abolish such a dangerous Custom ; and St. *Ambrose*, who succeeded them, after having bewail'd the Misfortune of it, apply'd himself strenuously, and did all he could to eradicate it, by often inveighing most vigorously against such an Abuse<sup>3</sup> ; so that at last it was banish'd out of the Church, and never more suffer'd ; whence the contrary is commendably practis'd to this Day.

BUT to return to our Subject, these our Provinces were not subjected, nor given to any Person by *Constantine* ; but were rul'd and govern'd by the same Prince, after the Year 324, in the same Manner as before, and to the Day of his Death he took Care of them, by committing the Government of them to the *Præfecti P. of Italy*, to the *Consulares*, *Correctores*, and the *Præsides*, and he establish'd many Laws, which he directed to them for their right Administration. As soon as *Constantine* had dispatch'd the Council of *Nice*, and the Affairs of the East, he return'd the Year following 326, by *Pannonia* into *Italy*, and settled in *Aquileja*, where, in the Month of *April* of that Year, he publish'd some Constitutions<sup>4</sup> ; from thence he went to *Milan*, where he publish'd others<sup>5</sup> in the Month of *July* ; and finally, in the same Month, came for the last Time to *Rome*, where he remain'd a long Time with his Mother *Helena*, who, in the same Year 326, in the Month of *August*, dy'd in the Arms of her Son and Grand Children, and was bury'd there<sup>6</sup>. This very same Year, many Laws were publish'd by *Constantine*<sup>7</sup> in *Rome* concerning the *Annona* of the said City ; and many Things were establish'd for the Necessities of these Provinces by this Prince, until he return'd to the East, where he gave himself up entirely to the Re-establishing of the new Empire and *Constantinople*.

BUT in the mean time, the Affairs of the West, and these our Provinces, were not neglected, being committed to the Charge of the *Præfecti P. of Italy*, and more immediately to the *Consulares*, *Correctores*, and *Præsides*, so that they were govern'd by *Constantine* and his Successors down to *Valentinian III.* as we have shewn ; so far was it from any other Person's having any Right or Superiority whatsoever over them.

THEREFORE the Story of *Naples* ought to be look'd on as a Romance, which is thus related, That it being at that Time within the Limits of *Campania*, and subject to the *Consulares* of that Province, was excepted out of that Donation only, it having pleas'd *Constantine* to keep it to himself, upon this gracious Account, That he having occasion to make many and frequent Voyages to the Eastern

<sup>1</sup> Torq. Taffo Canto 12. Ott. 75. G. L.

<sup>2</sup> Gregor. in Orat. in Baptis.

<sup>3</sup> Ambros. in Sermon. de Sanct. & alibi.

<sup>4</sup> L. unic. C. Th. si quis eam cujus tut.

<sup>5</sup> C. Th. de falsa moneta.

<sup>6</sup> Auct. Vitæ Constant. lib. 3. cap. 46. c. 27.

<sup>7</sup> L. 5. C. Th. de Navicul. L. 1. de Præd. Navicul. L. 4. de Infirmit. his, quæ sub Tyrann.



Transmarine Countries, he was willing to reserve one City, in which, as he pass'd, he might stop a little to refresh himself after the Fatigue and Hurry of a Journey. The Accounts of the Journies of this Prince, in Company with Pope *Silvester*, to *Naples*, are more ridiculous; and that which deserves yet more to be laugh'd at is, that they two having embark'd in the Port of this City, went together to *Nice*, the Metropolis of *Bythmia*, where they were present at that great Council: and *Constantine* returning to *Italy* in the Year 326, staid some time in *Naples*, where he was receiv'd a-new by the *Neapolitan* Republick, with the greatest Marks of Esteem and Gladness; and that he built so many Churches, with a hundred other trifling Stories with which they have swell'd their Volumes: So that those who consider such fabulous Stories, and that this Prince, in his returning to *Italy*, pass'd no other way but thro' *Pannonia*, and that if he intended to go from *Rome* to the Eastern Parts by Sea Voyages, he had the *Via Appia* ready and free, which was continu'd to *Brundusium*, where he could embark with the greatest Ease: In like manner, *P. Caracciolo* <sup>1</sup> would make us believe, that *Brundusium* was the Place where *St. Peter* landed, being moved by no other Reason to believe it, but because it was the most ready Road for those who by Sea went from *Rome* to the East, or from thence to *Rome*; for which Reasons, 'tis to be doubted whether *Constantine* ever saw *Naples*, so far from his having staid there and built so many Churches, as if he had had no other Business to do there but to build Churches <sup>2</sup>; whereas 'tis evident, that any Vestige of *Grecian* Structure that is now remaining in any Church of this City, hath no Marks of having been built in the Time of *Constantine the Great*, but of later Times, during the Reigns of the other *Constantines*, Emperors of the East, towards the very last Times of the *Grecians*, when the *Neapolitan* Dukedom was subject to the *Grecian* Emperors; of which we shall have a more proper Occasion to speak: And *P. Caracciolo* himself <sup>3</sup> cannot deny, that many Churches which are attributed to *Constantine the Great*, were erected in *Naples* in much later Times; altho' he be perswaded, that this Emperor was in *Naples* with his Mother *Helena*, and believ'd, that that of *St. Restituta*, and the other of the Holy Apostles, were built by him; which he can't prove by any contemporary Authors, but has recourse to Tradition, *Anastasi*, and other later Writers <sup>4</sup>.

<sup>1</sup> P. Caracc. de Sacr. Neap. Eccl. Mon. cap. 3. sect. 4.

<sup>2</sup> Tutin. dell' origin. de Seggi, cap. 2.

<sup>3</sup> P. Caracc. de Sacr. Neap. Mon. cap. 21. sect. 5 & 6.

<sup>4</sup> Idem Aut. loc. cit. sect. 2 & 3.



## C H A P. V.

*Of New Laws, and New Jurisprudence, under CONSTANTINE, and his Successors.*



THE new Disposition of the Empire under *Constantine*, as it produc'd many Changes in the Civil State of its Provinces, so likewise was it the Occasion of various Alterations in the *Roman* Jurisprudence. It began to take a new Form and Appearance, after he began to make new Laws, endeavouring all he could to cancel the old, and to introduce new Customs into the Empire; whence it was, that *Julianus* used to call him *Novator*, and a Disturber of the ancient Laws and Customs <sup>1</sup>. He alter'd the Manner of Judging,

<sup>1</sup> Ammian. Marcel. lib. 16. cap. 21. p. 205.

and

and abolish'd the ancient Forms, and introduc'd a new Way of Proceeding. The Magistrates took other Titles: and if at any time they retain'd the Old, yet their Jurisdiction was different, and their Business not the same: New Dignities were introduc'd, and those not only of the Officers of the Palace, but likewise of the Military were chang'd, and the Precedency among them alter'd; whence came the new Names and Titles belonging to their Offices and Authority, which we read in the *Theodosian Code* <sup>1</sup>.

BUT the most powerful Occasion which wrought so great a Change in the ancient *Roman* Jurisprudence, was the venerable Christian Religion, which *Constantine* embracing with so great Ardency, it inclined him, and made him so desirous of establishing new Laws, which, according to the Maxims of this new Religion, were to be somewhat contrary and different from those of the *Gentiles*. First of all, he was Intent on changing the *Roman* Customs, and their ancient Religion; for which End, he publish'd many Edicts directed to the *Roman* People, and to the *Præfects* of that City; and he apply'd himself to nothing else all those four Years that he staid in *Rome*, which was from the Year 319, to the Year 322: He prohibited in *Rome*, which was the City most addicted to the Superstitions of the ancient Religion, the Soothsayers from privately foretelling future Events, altho' he allow'd of it in publick. He forbid Masters to take Advantage of the Power they had over their Servants, but that they should treat them moderately, and with the utmost Discretion <sup>2</sup>, according to the Principles of the New Religion; for which the Fathers of the Church extoll'd him, amongst whom was *Lactantius*, who taught, that Servants ought to be treated like Brothers by their Masters. He introduc'd into the Church new Methods of Enfranchising, in order to make the Acquisition of their Liberty more easy <sup>3</sup>. He made a new System concerning Divorces, Contracts of Marriage, and Matrimony <sup>4</sup>: he suppress'd the Levity of Divorces, and confirm'd, with a more firm Knot, the Sanctity of Contracts and Marriage. He abolish'd the Penalty of Celibacy <sup>5</sup>, and took off other heavy Yokes which the ancient *Roman* Laws had impos'd upon the Necks of Men <sup>6</sup>.

ACCORDING to the Dictates of this new Religion, he was severe against the Ravishers of Virgins, and those, who, despising the Sanctity of Marriage, were delighted in roaming after Lust <sup>7</sup>. He restrain'd Concubinage, against which *Lactantius* had already so much written and declaim'd <sup>8</sup>. He forbid all manner of Work on the Lord's Day, and, according to the new Rites of the Church, he made other Days holy which were not so formerly <sup>9</sup>. By whatsoever Forms or Words the Enfranchisings should be made in the Churches, he would have those that were manumitted to enjoy full Liberty <sup>10</sup>. He gave Permission to all Persons, freely to leave by their Testaments whatsoever they pleas'd to the Churches <sup>11</sup>: and besides, that he might take a commendable Care and Protection of the Church and her Canons, he concern'd himself in the Controversies which arose among the Fathers, which was more than perhaps suited with his Imperial Dignity; by which their Contentions became to be more taken notice of, and added Fuel to their Discords and Strifes, which would not have been, had their Disputes been left entirely to themselves, who were the most proper Persons for deciding them: Neither would the Church have been so set on Fire as it was soon after, by the Firebrands of the *Arians*, who so much abus'd her; but, perhaps, it would have continued in the same Purity and Simplicity, in which it had been maintain'd for the first three Centuries, and in which Christ our Redeemer left it.

HE thought, that the Government and outward Polity of the Church belong'd to him: Therefore he made many Laws concerning the same; forbidding those that were rich, and those that were fit for the Administration of publick Offices, to take Orders, allowing none but Men of small Fortunes and of mean Condition to take them <sup>12</sup>; and, furthermore, he made other Provisions concerning the Ministers and Goods of the Churches: Whence it came, that the Emperors, his

<sup>1</sup> Got. in Prolegom. C. Th. cap. 12.

<sup>2</sup> L. 1. C. Th. de Emendat. Serv.

<sup>3</sup> L. ult. C. Th. de his, qui a non domino.

<sup>4</sup> L. 2. C. Th. de Sponsalib.

<sup>5</sup> L. un. C. Th. de Infr. Pœn. Cœlib.

<sup>6</sup> L. 3. ad S. C. Claudian. L. un. de Commis. Refcin.

<sup>7</sup> L. 1. C. Th. de Rapt. Virg.

<sup>8</sup> Nazar. in Paneg. Porphy. Carm. 6.

<sup>9</sup> L. 1. C. Th. de Feriis.

<sup>10</sup> L. un. C. Th. de Manum. in Eccles.

<sup>11</sup> L. 4. C. Th. de Episc.

<sup>12</sup> L. 3. C. de Episc. & Cler.

Successors in the Empire, and of the same Religion, following his Footsteps, added divers other Constitutions concerning the outward Polity of the Church, and the Persons of Bishops and Clerks, and the Administration and Government of their Goods. And however *Sozomenus*<sup>1</sup> hath written of *Valentinian I.* that he meddled little in these Matters, imposing nothing upon the Priests, neither changing what was either Good or Bad in Church Affairs, nevertheless we read in the *Theodosian Code*, some of his Constitutions relating to the Polity, and particularly to the Election of Clerks, and other Ministers of the Church. But all his Successors have since added very many Constitutions, such as *Valentinian II.* *Theodosius*, *Gratianus*, *Arcadius*, *Honorius*, and the rest; so that in the Reign of *Theodosius the Younger*, an entire Book of these Laws was compos'd, which is the last of his Code: Wherefore we see the *Roman Jurisprudence*, in that Part which relates to the Divine and Pontifical Law, quite different from that of the first, and altogether new. Which Institution being continu'd afterwards by the other Emperors, and particularly by our *Justinian*, it came at last to the Emperors of the East, who abusing their Power, in the last Ages of the Empire, reduc'd the Matter to such a State, that Religion was entirely subjected to the Will of the Prince; for which Reason it was wisely adverted to by worthy Men<sup>2</sup>, That it was a great Mistake in those, who, to set just Bounds betwixt the Priesthood and the Empire, and the Power of the one and the other, were guided by the new Constitutions of these last Emperors, as by a sure Rule; but we shall have Occasion to handle that Matter largely, when we come to treat of the Ecclesiastical Polity.

THIS Zeal then for our Religion, which was directly opposite to that ancient one of the *Gentiles*, being imprinted in the Heart of a Prince, whom both the Empires obey'd, was able to change the Customs, Laws, and Institutions of Men. This not only made him think of Building new Temples, and throwing down the old, but also of changing and abolishing whatever of their Laws seem'd to him either too superstitious, or exceeding subtle: of which, his many Constitutions publish'd for that purpose, and which we read in the *Theodosian Code*<sup>3</sup>, are clear Testimonies. And *Constantius* his Son, who succeeded him in the Empire, follow'd his Footsteps, and in many Things departed from the ancient Institutions, and especially in religious Matters, as is manifest by his many Constitutions which we read in the same Code<sup>4</sup>.

WHENCE it was, that the Character *Constantine* left behind him, was so different among the Christians, from what it was among the *Gentiles*. The Christians extoll'd him for those Facts; from which *Nazarius*<sup>5</sup> took occasion to sound his Praise, in the Panegyric Oration which he made in the Year 321. thus: *Nova leges, regendis moribus, Et frangendis vitiis Constituta, veterum calumniosae ambages recisae, captandae Simpliitatis laqueos perdidierunt.* *Isidore*<sup>6</sup> in his Book *de Originibus*, says likewise, that the new Laws were begun by *Constantine*: And *Prosper Aquitanicus*<sup>7</sup> calls the Authors of such Laws, lawful Princes, because they were publish'd by Christian Princes.

BUT the *Gentiles*, who very unwillingly suffered these Changes, reproach'd bitterly both him and his Son *Constantius*. Wherefore *Gregorius* and *Hermogenianus*, both Heathen Civilians, who flourish'd under *Constantine* and his Sons, fearing, lest by these new Constitutions of the Christian Princes, the Heathen Jurisprudence should be lost, applied themselves to the Compiling of their Codes, in which they united together the Laws of the Heathen Emperors, beginning from *Adrian* down to *Dioclesian*, in order, as much as possible, to preserve the Ancient. From whence it came to pass, that *Julian* the Nephew of *Constantine the Great*, having assum'd the Empire, and publickly renounc'd the Christian Religion, and embrac'd the Heathen, apply'd all his Might (although he did not make use of the Weapons of Cruelty as the Heathen Emperors his Predecessors had done) to restore the Worship of the ancient Religion, and the old Laws, and to overthrow Christianity; for which End he was altogether bent on abolishing whatever *Constantine* had done,

<sup>1</sup> Sozomen. lib. 6. cap. 7 & 21.

<sup>2</sup> Tomasin. Dissert. in Cong. Praef. 1. num. 5. Jos. Pileas. Tract. de Sacr. Epif. Auth. cap. 7.

<sup>3</sup> 7. & tract. de Idolatr. Politic. cap. 9.

<sup>4</sup> L. un. C. Th. de Domin. Rel. quae possit. L. 3. C. Th. de contr. Empt. Toto tit. C. Th. ad S. C. Caudian. & de Longa Consuetud.

<sup>4</sup> L. 10. C. Th. de Operib. Publ. L. 5. C. Th. de Sepulchr. Viol.

<sup>5</sup> Nazar. in Orat. Paneg.

<sup>6</sup> Isidor. lib. Origin. 5. cap. 1.

<sup>7</sup> Prosper. Aquit. lib. prior. Chronic.

calling

calling him, as *Ammianus Marcellinus* reports <sup>1</sup>, *Novator*, and Disturber of the ancient Laws and Customs: *Julianum, memoriam Constantini ut Novatoris, turbatorisque Priscarum legum, & moris Antiquitus recepti, Vexasse*: therefore we read many of his Laws to this Day in the *Theodosian Code*; by which it is clear, that he had his Mind bent on nothing else but the abolishing *Constantine's* Laws, and restoring the Ancient. For thus he writes, *Amputata Constitutione Constantini patrum mei, &c. Antiquum jus, cum omni firmitate Servetur* <sup>2</sup>, and elsewhere <sup>3</sup>: *Patrum mei Constantini Constitutionem jubemus aboleri, &c. Vetus igitur jus revocamus*. And this Prince having added many Constitutions to the Civil Law according to the ancient Discipline; and above all, having provided for the Dispatch of Law-Suits, and likewise in a great measure taken off the Taxes which his Predecessors had laid on, and given clear Proofs of his Vigilancy, his military Valour, and many other Virtues, did not only acquire the Character of a wise and prudent Prince among the *Gentiles*, as *Libanius* <sup>4</sup> for that same, extols and magnifies him in a Funeral Oration which he made on him; but likewise these Encomiums are reported by *Zonora*, and, which will seem more strange, by Writers also of these our latter Times; among whom *Michael de Montaigne* is the Chief <sup>5</sup>, who besides his defending his Apostacy and his other Misdeeds, which are commonly imputed to him, loads him with excessive Praises, and extols him to the Heavens.

BUT the Reign of this Prince having lasted only two Years, for he was kill'd by the *Parthians*, in the 31st Year of his Age, and succeeded in the West by *Valentinian the Elder*, and by *Valens* his Brother in the East, Princes who had the Christian Religion as much at Heart, as *Constantine* ever had; therefore all that *Julian* had done against it, became of no Force, since it was likewise maintain'd by the Princes their Successors, altho' it was abused and corrupted by the Pestiferous Heresy of *Arrius*, which having seiz'd on the Heads of the Empire, spread itself over all the Christian World, and likewise got footing in barbarous Nations; and these Princes having trod in the same Footsteps with *Constantine*, and added their own to his Laws, gave that Aspect and Frame to the Jurisprudence which we now see in the *Theodosian Code*.

<sup>1</sup> Amm. Marcel. lib. 16. cap. 21. pag. 205.

<sup>2</sup> L. unic. C. Th. de Dominio rei quæ.

<sup>3</sup> L. 3. C. Th. de contr. empt.

<sup>4</sup> Liban. orat. 10. p. 297. in fun. Julian.

<sup>5</sup> Mich. de Montaigne in his Essays, l. 2. c. 18.



## CHAP. VI.

### *Of the Civilians, and their Books, and of the Academy of ROME.*



**A**LTHO' the Roman Jurisprudence, by the new Division of the Empire, by the new Disposition of the Officers, and by the new Polity and Religion introduc'd into it, had a quite different Aspect, and new Forms: Nevertheless it is not to be doubted, but that the Cause of its Change and Decay was owing in a great measure to the Loss of the ancient Discipline, and the want of good Education in the Youth: No sooner was the Discipline and Education lost, than the Youth were seen wallowing in Luxury, feasting and living delicately, gaming and whoring, exactly

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as *Ammianus Marcellinus* <sup>1</sup> laments that Age; therefore it was not to be expected that it could produce those uncorrupted and grave Magistrates, those wise and prudent Civilians, the *Africani*, the *Marcelli*, the *Papiniani*, the *Pauli*, and many others so excellent and renown'd, as flourish'd in the preceding Age. The Business of the Civilians, who in the Reigns of *Constantine* and his Sons, succeeded to these bright Men (amongst whom there was a certain *Innocentius* so much celebrated by *Eunapius* and one *Anatolius*, and some others of obscure Names) was nothing else but teaching and explaining in the Academies, what these shining Ornaments had written, and in Collecting, Commenting upon, and rendering their Books in a better Reading. The Use of Interpreting and Expounding being laid aside, and the Employment of the Civilians reduc'd to two Things only, to wit, teaching in the Academies, and haranguing in the Courts for their Clients, which by degrees they did for Money, contrary to the ancient Law *Cincia*, the Employment in those Times became so contemptible, that at last it was the Business of the emancipated Slaves. Wherefore *Mamertinus* <sup>2</sup> used to lament the lost Dignity of the Jurisprudence, even before *Julian*, and to grieve bitterly, by saying, *Juriscivilis Scientia, quæ Manlios, Scævolas Servios in amplissimum gradum dignitatis extulerat, libertorum artificium dicebatur*. We read in *Photius* <sup>3</sup>, that *Asterius* Bishop of *Amasce*, who liv'd about the Year 400. related, that he had been a Disciple of a certain *Scita*, a Servant bought from a Citizen of *Antioch*, who publicly profess'd the Jurisprudence; whereas the Practice of Orators, or those who had the Charge of Law-Suits, who were the Pleading Advocates, was so honourable among the ancient Romans, that the Roman Senators, and other great Men put their Sons to it: It was the first Step in the popular State to raise them to great Employments; because by pleading Gratis, as they did, they obliged a great many People, and consequently gain'd a number of Clients, by which means they acquir'd great Respect and Authority among the People, which was the sure way to get in to great Offices. Besides that those who were good at making Speeches had a great Advantage in the Assemblies of the People, who are willingly led by the Ears; whence it is that in popular States, the Advocates are those who generally have the greatest Power and Authority: But under the Emperors the Authority of the Advocates was much diminish'd, as the Author of the Dialogue *de Oratoribus*, which is attributed to *Tacitus*, says. For which Cause the Popular Favour was of no use in attaining great Employments; for since they could not be rewarded but by Money, it was then they became so Mercenary; but the Emperors being unwilling to debase them altogether, put them on a Level with the Military, allowing them all those fine Privileges which the Soldiery enjoy'd, and others besides, especially, that after they had follow'd their Employment for twenty Years, they became Counts <sup>4</sup>. If such debasing had only reach'd the Lawyers, it would have been more tolerable, but it likewise penetrated into the Academies and the Tribunals.

THE Academy of Rome by Ignorance, the Baseness of the Professors, and the Riotousness of the Scholars, was reduc'd to such a lamentable Condition, that *Valentinian the Elder*, to hinder it from being quite extinguish'd, was oblig'd in the Year 370. while he was at *Triers*, to publish a very long Constitution, which he directed to *Olibrius* Prefect of the City of Rome, in which he establish'd XI. Academical Laws, and remedied a great many Abuses which had crept into it.

FIRST of all, he oblig'd the Scholars who came from the different Provinces of the Empire to study at Rome, to bring with them Certificates from the *Rectores*, or the *Consulares*, *Correctores*, or *Præsides* of the Province from whence they came; in which Certificates they were to declare their Country, their Birth and their Merit, the Quality of their Forefathers, and their Pedigree.

SECONDLY, he order'd, That as soon as they arriv'd in Rome they should present these Certificates to the Censors.

THIRDLY, That these Officers should immediately inquire of the Scholars what Professions they were to apply themselves to, whether to the Roman or Grecian Eloquence; or if they would follow more profound Studies, such as Philosophy or the Jurisprudence.

<sup>1</sup> Ammian. Marcel. lib. 3.

<sup>2</sup> Mamertin. in grat. act. pro Consulatu.

<sup>3</sup> Phot. homil. 7. in Servum Centurionis, quem dominus Sonavit.

<sup>4</sup> L. 1. C. de Advocat. diver. Judic.

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*FOURTHLY*, That the said Officers should take Care to provide Lodgings for the Students remote from Places of evil Fame.

*FIFTHLY*, That they should take Notice of their Conduct, and prevent their keeping bad Company, which is very dangerous for Youth.

*SIXTHLY*, *Valentinian* inhibited the Scholars from too often frequenting public Shews, by which he put a Stop to that Abuse, which *Ammianus Marcellinus* complain'd of being introduc'd by the Youth, who spent their Time in continual Luxury, Amours, and publick Shews, which corrupted their Manners, and made them neglect their Studies.

*SEVENTHLY*, He likewise forbid their unseasonable and frequent Feasting, at which they used to spend a great Part of the Day and Night in gormandizing and luxurious Discourses.

*EIGHTHLY*, That those Students, who contrary to these Laws led a licentious Life, and carry'd themselves unworthily, should be severely punish'd, by being publicly beaten, and afterwards chaced out of the City, and sent to their Countries.

*NINTHLY*, He fix'd a Time for their Studies, making the twentieth Year of their Age the Term of them, which in the Reign of *Dioclesian* was the Twenty-fifth; and that they were to employ five Years in more serious Studies: Such as the Jurisprudence in particular, which likewise our *Justinian* appointed.

*TENTHLY*, He ordain'd, That the Names of the Students should be written in a Book every Month, what they were, and from whence they came, that it might be known how long they had been in *Rome*, as also what Time they had studied, which we now call *Matriculation* or Enrolling.

*ELEVENTHLY*, He ordered, That the said College Book should be sent to him every Year, that he might know what Students were enroll'd in it; to the End, that according to the Merit and Qualifications of every one, he might reward them, and make Use of them in the Government of the Commonwealth.

SO much had that provident Prince at Heart the Education of Youth, and the Reformation of that Academy, that having restor'd it by these Laws, in the succeeding Years he order'd a great Number of Youth both from *Africa* and *France*, and other Western Provinces, to come to *Rome* to learn good Literature, and the Civil Laws of that City, which on that account was call'd the Dwelling-House of the Laws.

THUS was the Ruin of the Jurisprudence in the Academy repair'd by *Valentinian* in the best manner he could; but the Havock made in the Courts and Tribunals by the Judges and Advocates was most lamentable. The Insufficiency of the Magistrates, and their rapacious Greediness and Ambition; the Ignorance likewise of the Advocates, and, most of all, their Knavery and Tricks, had put all the Constitutions of the Princes, and the Books of the Civilians in the utmost Confusion.

WHEN there was any Imperial Constitution cited for deciding any Law-Plea, the only Recourse was to the *Gregorian* and *Hermogenian* Codes, on which they solely depended; for the rest there was nothing but Disorder and Confusion. Because *Constantine* and his Successors had publish'd many Constitutions of various Kinds, belonging to different Provinces of the two Empires, and very often contrary to one another, directed as Necessity requir'd, to various Magistrates; of which there was no distinct Knowledge, and many of them had been bury'd, until they were collected into one certain Volume by *Theodosius the Younger*, who likewise divided them; whence every-body cited that Constitution which seem'd to them most favourable for the gaining their Cause.

NO less was the Confusion and Disorder of the Books of the so famous and renown'd Civilians. The Knowledge of them was very confus'd and uncertain: Such Sentences as by the Pleadings in the Courts had acquir'd the Force of a Law, and which the Judges were oblig'd to follow, had escap'd their Memories, they cited indifferently, and often recited opposite *Responsa*; the Contrariety of which was then so great, that *Justinian* with all his Might could not get rid of it in his Collection. To this Confusion, we may add another considerable Disadvantage, which was, that these Codes which were then made use of, (Printing not having been found out as yet in *Europe*) by the Carelessness of the Booksellers and Antiquaries, were very Incorrect, and full of Errors.

<sup>1</sup> Am. Marcel. lib. 30. page 451.



FOR remedying so many Disadvantages, which for a long Time had reduc'd the Jurisprudence to that lamentable Condition, *Valentinian III.* appear'd in the West, and *Theodosius the Younger* in the East. It was these Princes, who aiming at the same End, united in their Labours and Endeavours, each of them undertaking to cure for his own Part such grievous Mischiefs: *Valentinian* employ'd all his Thoughts in remedying the Disorders which had ensu'd from the doubtful Authority of the Constitutions of the Princes, and the Variety of the Books of the Civilians; *Theodosius* employ'd his on a more noble Undertaking, in setting about the framing of a new Code, and the re-establishing of the Academy of *Constantinople*.

*VALENTINIAN* therefore in the Year 426. while he was in *Ravenna*, whither he had transferr'd the Seat of the Empire, sent to the Senate of *Rome* a long and prolix Oration; in which, among many other Things, he particularly recommended the rectifying of these Disorders: Part of which Oration we read in the *Theodosian Code*, under the Title *de Responsis Prudentum*, and a Part of it in the *Justinian*<sup>1</sup>, altho' it is not to be seen there now, under the Title *de Legibus*. In that Part which was in the *Justinian Code* there was a Rule laid down, how to know what Imperial Constitutions and Rescripts should be read in Judgment, and quoted in deciding of Law-Suits, and which of them ought to have Force and Vigour with the Judges: What Laws ought equally to be observ'd by all, as general ones, excepting those Rescripts which were issu'd at the Request of private Persons on particular Occasions: That all the Rescripts of Princes, which were produc'd in Judgment, were not to have the Force of Laws; nor those, which, contrary to the Intent of the Law, had been extorted by the Pleaders; nor those others in which Subreption and Obreption were contain'd, all which he order'd the Judges to reject<sup>2</sup>.

IN the other Part of his Oration which was approved of by *Theodosius*, and inserted in his Code, he takes particular Care of the Books of the ancient Civilians, which in that Age, wanting all Method and Order, occasion'd great Confusion

FIRST of all he would have intire Credit given to the Writings of these five Civilians, to wit, *Papinianus*, *Paulus*, *Cajus*, *Ulpianus*, and *Modestinus*; and that they were to be quoted and read in Judgment, and to have Force and Authority with the Judges in deciding of Causes. II. That the Opinions and Treatises of *Scævola*, *Sabinus*, *Julianus*, *Marcellus*, and of the other Civilians, who had been inserted or extoll'd in the Works of these Five, should have the same Force. The Writings of these ancient Civilians were still in being in the East, and also in the Kingdom of *Toulouse*: In latter Times they were dispers'd amongst the *Goths*, as the Interpreter testifies in that Constitution of *Valentinian*. They were preserv'd in the East to the Reign of *Justinian*, who made use of them in the Composing his Pandects. III. He gave Caution and a Rule after what manner the Judges were securely to make Use of the Writings of these Civilians in deciding of Causes, and how the Barristers were to cite them, that is to say, that those which had not been mended, and were incorrect, would be found corrected in the Codes; for which Corrections, not only of the Books of the Jurisprudence, but of all other Professions, it was the Custom of that Age, to choose the most learned Men, and the most exact Grammarians of the Times; whose Care and Study was nothing else, but to reduce to a perfect Reading, by comparing with the exactest and most correct Texts, the Writings which were in the Hands of the Professors. As in like manner for correcting the Copies of *Livy*, and more especially the Holy Scriptures, where Errors were most pernicious, the most knowing Men were employ'd. As *Suidas* witnesseth of *Lucian*; and *Irenæus* conjures his Bookfeller, *per Dominum nostrum Jesum Christum, & gloriosum ejus adventum, quo judicaturus est vivos & mortuos, ut conferat postquam transcripserit, & emendet ad exemplar unde descripsit*. *Aponius*, *Hieronimus*, and *Augustine* had the same Anxiety who did not mind rich and costly Books, but all their Care was to have them exact and correct<sup>3</sup>. So that in those Days, they were most careful of that Work, as reckoning it of the greatest Importance; since the Decision of many Controversies in the Church, and an infinite Number of Causes in the Courts, depended upon it.

<sup>1</sup> L. 2 & 3. C. de Legibus.

<sup>2</sup> L. 7. C. de Præcib. Imp. Offerend. L. pen. C. si contra jus.

<sup>3</sup> Euseb. hist. Eccl. l. 5. Hieron. init. Chron.

BESIDES *Valentinian* determin'd, as we have already said, that when different and opposite Opinions, to those of these ancient and famous Civilians, were quoted in the Courts, the greatest Number of the Authors was to carry it; that is to say, their Opinions were to be number'd, and not weigh'd, by which the Judges were to be determin'd, from which *Justinian* differ'd afterwards; but if it happen'd that the Number on both Sides was equal, he ordain'd, that the Side on which *Papinian* was, should prevail: Which Pre-eminence in *Papinian* ought not to seem strange, he being reputed in all Ages the most renowned of all others; since in the Time of our Grandfathers, 'tis said, that the same Prerogative was granted by Royal Decree in *Spain* and *Portugal* to *Bartolus*, if we may trust *Jo. Baptista de Gazalupis*, who reports it <sup>1</sup>. That of *St. Jo. Chrysostom* in his Interpretation of the Holy Scriptures, was greater, since by an ancient Custom introduc'd into the Eastern Church, his Interpretation was to be preferr'd to that of all the other Fathers of the Church, how different soever they should be: And in the West his Interpretations were likewise of great Weight, of which *Hieronymus* and *Augustine* are famous Witnesses. Moreover *Valentinian* ordain'd, That in case, both as to Authority and Number, the Opinions quoted should be equal, then all was to be referr'd to the prudent Award of the Judge, who was to weigh the Opinions in a just Ballance by himself, and to stick to that which he should think most just and conform to Equity.

LASTLY, he refuted the Notes made by *Paulus* and *Ulpianus* on the Works of *Papinian* their Master, and they were to be of no Authority in the Courts: And in this likewise *Justinian* afterwards differ'd, who did not altogether refute them, but intermix'd many of them, and particularly those of *Paulus*, in his Digests: Nevertheless *Valentinian* ordain'd that the Opinions of *Paulus* should always be regarded, and be of Authority and Force. And it was this Constitution of *Valentinian*, and such others as were publish'd at that Time, that *Justinian* meant, when he said, that it had been ordain'd, that the Opinions of the Civilians should have such Authority, as that it should not be lawful for the Judges to depart from them, as we have already observ'd in the First Book of this History.

SO provident was *Valentinian* III. that these continual Disorders and Confusions might be remov'd from the Courts of Justice, which the little Knowledge of the Constitutions of the Princes, and the Books of the Civilians, had occasion'd in them; whence the Jurisprudence in the West was restor'd, as much as was possible, to some Dignity and Renown.

<sup>1</sup> Jo. Batt. de Gazalup. de S. Severino in tract. de Modo Stud. in utroque jure, qui subjectus est Vocabulario Juris, pag. 254.

## S E C T. I.

### Of the ACADEMY of CONSTANTINOPLE.

BUT greater were the Endeavours of *Theodosius the Younger*, for restoring the Jurisprudence in the East: He began to repair it in the Academies twelve Years before he compiled his new Code. *Constantine the Great*, from the Year 332, in order to provide the City of *Constantinople* with whatsoever was rare and excellent, and to make it rival *Rome* in every Thing, had apply'd himself with Might and Main, to invite to it many Professors of Literature. *Constantius*, his Son, about the Year 354, adorn'd it with a famous Library, for which *Themistius* runs so far out in his Praise. *Valens*, in the Year 372, increas'd it greatly, so that for keeping of it he had seven Antiquaries, four *Grecian* and three *Latin*, who were to take Care to set the Books in order, and repair those that had been worn with Age, and he appointed other Servants besides for looking after it. Nevertheless, till the Reign of *Theodosius the Younger*, none thought of establishing an Academy in that City, that could be compared to that of *Rome*. It was *Theodosius* then, who, in the Year 425, first settled an Academy there; and he appointed the Place for it, to be the Capitol in the eighth Region, at a Distance from the Sea,  
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an inland Place, adorn'd with many Portico's built on Purpose, for which it was call'd *Capitolii Auditorium*. And that it might abound in Professors and Scholars, and maintain the same Dignity and Grandeur which he intended to endow it with, he order'd the Professors not to teach in their Cells, but in the *Auditorium*, as was formerly practis'd in *Rome*. He appointed many Professors for this Academy, according to the Sciences that were to be learn'd; and they all amounted to the Number of Thirty One. For the *Roman* Eloquence, three Orators and ten Grammarians: For the *Grecian* Eloquence, five *Sophistæ* and also ten Grammarians; so that there were Twenty Eight partly Grammarians and partly Orators and *Sophistæ*, for instructing the Youth in these Sciences. Besides he establish'd three, for those who would imploy themselves in more profound Studies, one for Philosophy, and two for the Jurisprudence, who were to teach the Civil Law<sup>1</sup>. In the Reign of the same *Theodosius*, *Leontius*, a famous Civilian, explain'd the Laws there, who was the first among the Lawyers who had the Honour and Rank of Count *Palatine*; there were not wanting afterwards, other noted Professors who made it famous and renown'd. In the Time of *Justinian*, *Theophilus* and *Cratinus* profess'd the Jurisprudence there, who, being call'd by him, assisted him in the Framing the Digests<sup>2</sup>. Neither was the Concourse of Youth less in this Academy for learning the Civil Law, than in that of *Rome* in the West, or *Berytis* in the East. And it was even greater, when *Justinian* forbid the Explaining of the Laws to all other Academies, such as that of *Alexandria* and *Cæsarea*, allowing it to none other, except, in the East, to those of *Berytis* and *Constantinople*, and in the West to that of *Rome*.

<sup>1</sup> L. un. C. Th. de Profess. qui in Urbe Constant.

<sup>2</sup> L. 2. §. quæ omnia, C. de Vet. Jur. Enucl. & in Proæmio.



## C H A P. VII.

*Of the Constitutions of the Princes, out of which the Theodosian Code was Formed.*



**I**T did not satisfy *Theodosius* his having restor'd the decaying Jurisprudence in such a manner, and having set it to rights again, after such a Method in the Academies; There were besides very few, as *Theodosius* himself says<sup>1</sup>, *Qui juris civilis Scientia ditarentur, & soliditatem veræ Doctrinæ receperint*. The immense Quantity of Books<sup>2</sup>, and the great Bulk of so many Imperial Constitutions, disagreeing among themselves, kept them likewise in profound Obscurity and Darkness. *Theodosius* at last was wholly intent on removing those Obscurities; for which end, he set about the Composing of a new Code, rejecting the so many time-serving Constitutions of the Princes, issu'd out according to the Occasion of the Times, the so many useless ones clashing one with another; he collected into one Volume those only, which he believ'd were sufficient for whatever could occur in the Tribunals for the deciding of Causes.

**I**N the Year 438, as the most prudent *Gotifredus* sufficiently proves, and not in the Year 435, as *Cironius* suppos'd, and others believ'd, being deceiv'd by the

<sup>1</sup> Novel. 1. Theod.]

| <sup>2</sup> Eunap. in Vita *Ædissi*, pag. 72.

erroneous Subscription of the *Novella* of *Theodosius* <sup>1</sup>, this Code was compil'd and publish'd by this Prince: For the framing of which he chose eight notable and noble Civilians, and, as he declares, of known Fidelity and famous for Learning, and such, in fine, as were able to vie with the Ancients. The first who had the greatest Hand in it, was *Antiochus*, formerly *Præfektus P.* and *Exconsul*, of whom we often find honourable mention in *Marcellinus*, *Snidas*, and *Theodoretus*. There was *Maximinus*, *Vir illustris*, as *Theodosius* himself calls him <sup>2</sup>, *Exquestor nostri palatii*, *eminens omni genere Literarum*. There was *Martirius*, *Vir Illustris*, *Comes*, & *Quæstor nostræ Clementiæ fide interpres*. There were *Sperantius*, *Apollodorus*, and *Theodorus*, *Viri Spectabiles*, *Comites Sacri Nostri Consistorii*. There was *Ephigenius*, *Vir Spectabilis*, *Comes*, & *Magister memoriæ*; and lastly *Procopius*, *Vir Spectabilis*, *Comes ac Magistro Libellorum*, *jure omnibus veteribus comparandi*: All of them adorn'd with the highest Dignities, and most expert in the Law Learning.

Their Employment in this Work was to collect the Constitutions of many Princes which were hidden and buried in Obscurity, and to unite them into one Body; and being collected, to correct and purge them of their Dross and Errors: and, lastly, with the greatest Brevity, to abridge them.

Without all doubt, the Number of the Constitutions of Christian Princes, which from *Constantine the Great* down to these Times, had been diffus'd and spread abroad through both the Empires, was very great; whence it was, that these Compilers, even after they had curtail'd them, could not collect and join them together in less than Sixteen Books. Forasmuch as if we consider the Number of Years, there are no less than One Hundred and Twenty Six, from the Reign of *Constantine* in 312, to the Year 438. If we consider the Number of Emperors whose Constitutions are collected in this Code, their Number is no less than Sixteen; to wit, *Constantine the Great*, his three Sons *Constantine*, *Constantius*, and *Constans*; *Julian*, *Jovian*, *Valentinian*, *Valens*, *Gratian*, *Valentinian the Younger*, *Theodosius the Great*, *Arcadius*, *Honorius*, *Theodosius the Younger*, *Constantius*, and *Valentinian III.* If we consider the various Sorts of Constitutions, we find there not only the Edicts, but likewise the various Rescripts, the many Epistles directed to Magistrates, the Orations to the Senate, the Pragmaticks, the Acts and Decrees made in the Princes Councils, and lastly the many Mandates directed to the *Reitores* of Provinces, and other Officers.

CERTAINLY there was no Part either of Publick or Private Right but what was transferred into this Code, as is manifest from the Argument of its Books, and the Number of the Titles. Of the Constitutions of the Princes concerning private Right, such as Contracts, Testaments, Stipulations, Pactions, Heritage, and all other Things belonging thereto, five Books were compos'd. As for what concern'd publick Right, nothing is wanting; here are set down the Functions of all Magistrates, the *Notitia* of Dignities, and a Rule for Military Affairs: The Employments of the Officers are appointed; Criminal Accusations are settled; the Laws of the Exchequer are declar'd; the *Annona* and Tributes are put in Order; Care is taken of the Common Good of the Cities, Professors, Publick Shews, Publick Works, Ornaments, and, in a word, nothing is omitted that could in the least contribute to the Publick Peace and Tranquillity. Neither were the Laws concerning the Church neglected, but a whole Book of the various Constitutions belonging to it was compos'd, in which divers Ecclesiastical Affairs concerning Religion are determin'd; so that there is no Part of Private, Publick, or Divine Right, but what is comprehended in this Code.

THE Names of the Princes who pronounc'd them, the Place, the Time, the Persons to whom they were directed, are carefully set down, that the Authors might not be depriv'd of the Honour, and to shun all Confusion and Disorder.

NEVERTHELESS the Work did not prove so exact and compleat, but that there are many Defects and Errors in it; of which the careful *Gotifredus* hath made a long Catalogue <sup>3</sup>, which we need not here recount; but we ought not to pass over in Silence that grievous one, not to be pardon'd in *Theodosius* a Christian Prince, his having inserted in it many wicked Laws, quite contrary to his Religion; whose Purpose was to have collected only the Constitutions of the Christian

<sup>1</sup> Cit. *Novella* 1.

<sup>2</sup> Ibid.

<sup>3</sup> Gotifr. in *Prolegom.* cap. 2.

Princes, beginning with those of *Constantine the Great*: For which Cause *Prosperus Aquitanus* calls this Code, a Book in which the Laws of lawful Princes are collected, calling the Christian Princes only lawful, of whose Constitutions it was solely compos'd. Besides, his Design and End in composing it was, That it might serve in the Courts of Justice, and be quoted in daily Conversation, and, according to its Laws, Matters might be determined, in a Time when the Christian Religion was already fix'd in its Throne. How then can he be pardon'd, for having foisted into it so many Constitutions of *Julian the Apostate*, quite contrary to many of those of the Christian Princes, and more than that, to give him the Title of *Divus*? How could he insert in it these Constitutions, which in his Time had been branded with an evident Mark of Impiety and Superstition, as the *L. 1. de Paganis* of *Constantine the Great*, in which the publick consulting the *Aruspices*, is allow'd; and another of *Valentinian the Elder*, in which, besides the Use of the *Aruspicina*, the Profession of any Religion is allow'd? Laws altho' tolerable, when by cruel Necessity they were pronounc'd by those Princes, yet he ought not to have put them in a Code, which was to be made use of in after Ages, and when the Christian Religion had taken so deep Root in the Hearts of Men. Who can endure, that the *L. 4. & 6. of Julian de Sepulchris Violatis*, should be in it, which are full of Superstition and Heathenism? Who can bear the *L. ult. of Valentinian the Younger*, plac'd under the Title *de Fide Catholica*, by which he confirms the Conventicle of the *Arminians*; he gave more Vigour and Force to the pestilent Heresy of *Arius*, than the Authors themselves and their greatest Abettors and Sticklers could have given? Surely that Offence ought to have affected his Mind, by that generous, and at the same time holy Refusal of *Benevolus*, who being first Chancellor of the Empress *Justina*, who was the only Promoter of this Law, would by no means sign it; and was contented rather to live privately at Home on his Paternal Estate, than to remain at Court in high Esteem, a Complice of so unworthy a Deed. In the last Place, who can bear his having inserted the Laws publish'd by *Arcadius*, manifestly against the Catholics, and against *Chrysostom* and his *Johannisti*?

THE Compilers of the *Justinian Code*, did not demean themselves after that manner, who rejected all these Constitutions, as we shall shew, when we come to speak of the Composing of it, which was in the Sixth Century of Man's Redemption.

<sup>1</sup> L. 2, 3, & 9. C. Th. de Malefic. & Math. [ <sup>2</sup> L. 1, 4, 5, 6. C. Th. de his, qui Sup. Relig.

## S E C T. I.

*Of the Use and Authority of this Code in the West, and in these our Provinces.*

THE *Theodosian Code* being then compil'd in the Year 438, and publish'd by Authority, was quickly receiv'd, as well in the East as the West. In the East it immediately had Force, because no sooner was it publish'd by *Theodosius*, its Author, than he set forth his *Novellæ* directed to *Florentius, Præfectus P.* of the East, which bears the Title *de Theodosiani Codicis Auctoritate*, by which he declared, from that Time forth, That it should not be Lawful for any Person to make use of the Constitutions of other Princes in the Courts of Justice, but those which were contain'd in this Code; charging them moreover, that by the Means of publick Edicts, they should make known to all the People, and all the Provinces, such his Prohibition, and to inform them of the Publication and the Authority which he gave to that Volume.

IT had the same good Luck in the West, altho' *Theodosius*, who only govern'd in the East, could not give it the same Authority in these Western Parts, as he gave it in his own Empire; nevertheless, having before communicated his Design

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to *Valentinian* his Collegue, they, by Concert, directed all their Actions to the same End; therefore it was no sooner receiv'd in the East, than *Valentinian* gave it all Authority and Force in the West. Besides, this Prince had before sent to *Theodosius*, and those who had been chosen for the framing of this Code, a Register of all the Constitutions publish'd in the West, by the Princes his Predecessors, who had reign'd there; and, together with it, a Collection also of his own Constitutions, which he had publish'd through all the Year 425, whilst he sometimes resided in *Aquileja*, sometimes in *Rome*, and lastly in *Ravenna*, whither he had remov'd his Seat; and among these, likewise his famous Oration, which contributed much to the Design of *Theodosius*, by which he had repair'd the Confusion occasion'd by so many Constitutions and Books of the Civilians, which Oration was inserted in this Code by *Theodosius*, that is to say, that part of it only which treats of the Books of the Civilians, thinking that the other part of it, which treats of the Constitutions of Princes, would be superfluous; forasmuch as he had been more exact and minute in this his own Code on that Subject.

FOR which Reason, *Valentinian* gave to this Code, the same Sanction in the West, as *Theodosius* had given it in the East; altho' he made no special Constitution for that Purpose, yet it is not to be doubted: Since that ten Years after, in which Time *Theodosius* had publish'd many others of his *Novellæ*, and which were publish'd in another Volume apart, *Valentinian*, by his express *Novella*<sup>2</sup>, which is amongst the *Theodosian*, confirm'd likewise these, adding this Reason, *Ut sicut uterque Orbis individuus Ordinationibus regitur, iisdem quoque legibus temperetur*. Besides the Respect and Obligations which *Valentinian* ow'd to *Theodosius*, were always too great, having given him the Title of *Augustus*, and afterwards became his Son-in-law; whence it was, that *Valentinian* us'd to call him Father, and *Theodosius* him, Son: Thus, in the same *Novellæ*, making mention of this Code, as already receiv'd in his Empire, with these Marks of Esteem he speaks of him; *Gloriosissimus Principum Dominus Theodosius Clementiæ meæ Pater, Leges a se post Codicem Numinis sui Latas, nuper ad nos, sicut repetitis Constitutionibus caverat, prosequente Sacra Præceptione direxit*. Such was the Veneration which *Valentinian* had for this Code, that in his *Novellæ*, which from time to time, down to the Year 452, a little before his Death, he publish'd, he often, in Confirmation of his Edicts, and to give them more Authority, made use of the Laws that were inserted in the *Theodosian* Code: So in the *Novella*<sup>3</sup> 10. of the Year 451, and in the *Novella* 12. *de Episcopali Judicio* of the Year 452, and in the other, under the *Tit. de Honoratis*, &c. 45, we see, that he made use of the Laws of *Honorius*, *Arcadius*, and *Gratianus*, which were inserted in this Code by *Theodosius*.

BUT what will seem strange, is, that this Code had much much more Success in the West than in the East; since in the East it lasted only Ninety Years, that is to say, to the Time of *Justinian*, who making himself Author of a new Code, abolish'd and cancell'd this; but in the West it had much better Fortune with those Nations, which were call'd *Barbarians*: since with the *Ostrogoths* in *Italy*, the *Westrogoths* in the *Gallia* and *Spain*, and with the *Burgundians*, *French*, and *Longobards*, it was had in such Esteem and Honour, that conformable to the Laws contain'd in it, they were pleas'd not only to govern the People whom they subdu'd, but likewise their own, as in the Progress of this History in the following Books, we shall treat more particularly. And lastly in our Days, and those of our Grandfathers, for the Exposition and Clearing up of this Code, it was thought, that it deserv'd to have the most worthy and sublime Genius's who flourish'd in these two last Ages, to employ their Labours, when it rose up again from under the long Darknesh in which it had lain, by the Industry of *Jo. Sicardus*, who, in *Doviat's* Opinion<sup>4</sup>, was the first who brought it to the Light of the World in *Basil*, altho' very much mangled and maimed: Afterwards being put into a better Form by *Johannes Tillius*<sup>5</sup> at *Paris* in the Year 1540, (who from being Proto-Notary of the Parliament of *Paris*, and who had a Hand in forming the Process of the famous Case of the Prince of *Conde*, was afterwards made Bishop of *Meaux*) the

<sup>1</sup> Rittershut. in Jure Justinian. in Proœm. cap. 3. num. 12. Got. in Prolegom. Novel. 13.

<sup>2</sup> Nov. 10. de Confirmand. his quæ Admin.

<sup>4</sup> Doviat. Hist. Jur. Civ.

<sup>5</sup> Gherard. Van Mastrich. Hist. Juris Pontif. num. 46.



Learning and Care likewise of the incomparable *Cujacius* was thought well bestow'd on so great a Work; and last of all, the most laborious *Jacobus Gotifredus* applied his whole self, and all his Knowledge and Exactness, in making Commentaries on it, which can never be sufficiently prais'd, as being the highest Pitch of the most sublime Erudition, who dying soon after his long and obstinate Toil, had not the Pleasure to survive that incomparable Work, worthy of immortal and eternal Remembrance.

SUCH were the Vicissitudes of the Roman Jurisprudence from the Time of *Constantine the Great* to the Reign of *Theodosius the Younger*, and *Valentinian III.* his Collegue. These were the Laws by which both the Empires were govern'd. These were the Books which were made use of, from which the Laws were taken and cited for determining Law-Suits in the Courts of Justice, and teaching in the Academies; to wit, the Books of the Civilians *Papinianus*, *Paulus*, *Cajus*, *Ulpianus*, and *Modestinus*, which were the chief: The Treatises of *Scævola*, *Sabinus*, *Julianus*, *Marcellus*, with those of other famous Civilians taken from the Writings of the above-mention'd Five, had all Authority and Force. The Notes *Paulus* and *Ulpianus* made on the Book of *Papinianus*, were at that time rejected by *Valentinian*, altho' afterwards receiv'd and admitted by *Justinian*; but the Sense of *Paulus* of all the others, was most esteem'd, and of chief Authority and Force.

OF the Constitutions of the Princes, the two Codes, the *Gregorian* and the *Hermogenian*, in which were contain'd the Laws of the Heathen Princes from *Adrian* down to *Dioclesian*, were in full Force, altho' they had been compiled for private Study, by these two Civilians, without publick Commission: The Constitutions of the Princes collected there, were avowedly quoted in the Courts of Justice and Consultations: They were made use of, as we have shewn in the first Book, by *St. Augustine* <sup>1</sup>, he having cited a Constitution of *Antoninus* register'd in the *Gregorian* Code: The Author of the Collation of the *Mosaical* Laws with the *Roman*, made use of them, who, according to *Gotifredus*, flourish'd towards the End of the Sixth Century, in the Time of *Cassiodorus*; likewise the Author of that ancient Consultation, which we now read amongst those of *Cujacius*, made use of them: And afterwards also *Tribonianus* and *Papinianus*, and other Writers of lower Times, took the Advantage of the Compend of them: And lastly, the *Theodosian* Code, with the *Novellæ* newly publish'd by that Prince, and *Valentinian* his Collegue, were of more Force and Authority.

THESE then were the Books, in which in that Age was contain'd all the Civil Law of the Romans, by which the Tribunals, the Academies, the Professors, the Baristers, the Magistrates, and the Judges, were directed in Judging, Writing, and Teaching. Hitherto these Provinces, which now make our Kingdom, had never known any foreign Laws. Only the venerable Name of the *Roman* Laws was understood and reverenc'd, and according to the Dictates thereof, they were govern'd and manag'd, until they were a-new infested by those same Nations, which in those very Times had begun to disturb them; and altho' they durst not abuse the *Roman* Laws, but on the contrary honour'd them, yet nevertheless, amongst so many Revolutions of Affairs, they could not remain intire and firm, but were polluted, and seem'd to be on the Brink of Ruin, as shall be shewn in the following Books of this History.

<sup>1</sup> Aug. lib. 2. ad Pollent.



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## C H A P. VIII.

*Of the exterior Ecclesiastical Polity, from the Reign of the Emperor Constantine the Great, to that of Valentinian III.*



**A**FTER *Constantine the Great* had embrac'd the Christian Religion, and settled the Church at her ease, she was seen in greater outward Splendor, and in a more ample and noble Hierarchy. The Bishops, who in those first Three Ages, in the midst of Persecutions, govern'd the Churches in the Cities of the Empire; now when that Religion might be profess'd publicly by every Body, and that they began to erect Temples and Altars for keeping up the Worship of it, were seen, according to the Bigness of the Cities in which they govern'd the Churches, dispos'd in various and different Degrees, and plac'd in greater Eminency. Whereupon the Titles of Metropolitans, Primates, Exarchs or Patriarchs, answerable to those of the Secular Magistrates, and according to the Extent of the Provinces which they govern'd; came in Fashion.

*PETER de Marca* Archbishop of *Paris* <sup>1</sup>, *Cbristian Lupus* Doctor of *Louvain*, *Emanuel Schelstrat* a Divine of *Antwerp*, *Leo Allacius*, and others, with a great deal of Flourish, endeavour to maintain that the Dignity of Metropolitan, as also the Patriarchal, owe their Beginnings to the Apostles, and were instituted by them. But *Lewis Ellies Du Pin* <sup>2</sup> an eminent Divine of *Paris*, disproves their Errors at large, by confuting the Arguments taken from the Archbishop of *Paris*: He demonstrates very strongly, and proves very clearly, that such Dignities were neither instituted by Christ nor his Apostles; but in those Times when *Constantine* gave Peace to the Church, they began to be instituted: According to the Disposition of the Provinces of the Empire, and the State of the Metropolitan Cities of each of them, this new Polity, and this new Hierarchy was introduc'd into the Church.

**T**HE manner after which it was done, was so natural and peculiar, that it would have been strange if it had been done otherwise. We have already observed from the Description of the Provinces of the Empire made under *Constantine*, that the Dioceses being made up of several Provinces, had some chief City or Metropolis, on which the rest of the same Province depended; to which, for Civil Matters and other Affairs, as is usual, all the People of the Province resorted. The Church being founded in the Empire, as *Optatus Milevitanus* says, and not the Empire in the Church, so soon therefore as she was in Peace, she took the same Polity in Ecclesiastical Matters; she adapted herself to the same Disposition of the Provinces, and to the same Conditions of the Cities which she found: So when any Bishop was to be Ordain'd or Depos'd, or any Division or Disorder happen'd in the Church; when any Business was to be advis'd which concern'd the other Churches of the Province, the Apostles not being at Hand, to whom formerly they had recourse in such Cases, there was a Necessity of having recourse to the Bishop of the Metropolis, or chief City of the Province. Thus by Custom and piece-meal did this Polity begin to be introduc'd; whence the Disposition of the Churches was made after the Model of the Empire, and the Metropolitan Cities of the Empire became the Metropolitans of the Church, and the Bishops who presided in them, acquir'd a Power over the

<sup>1</sup> *Marca. lib. 6. de Com. cap. 1. Lup. can. 4. Nic. Par. 1. Schelstrat. Antiq. illustr. Par. 1. Differ. 1. cap. 3. art. 1. Leo. Allat.*

*de Eccl. Occid. & Orient. confes. lib. 1. cap. 2. Du Pin. de Antiq. Eccl. Discipl. Differ. 1. §. 6.*

whole Provinces, as well of Ordaining or Deposing of the Bishops of the lesser Cities, and of making up of their Dissentions, as of calling of Synods, and over their other necessary Affairs; but this Power was not absolute, since without the Advice of the Bishops of the same Province they could do nothing: This Custom was confirm'd in the Fourth, and likewise in the following Centuries, by many Canons which were made in some Councils; whence all the Church was disposed and divided after the Model of the Civil Polity.

THIS Division and Hierarchy of the Church, conformable to the Polity of the Empire will appear more clear and distinct, if we consider the Division of the Dioceses and the Provinces, which we have describ'd in this Book under the Empire of *Constantine*: There we shall see the Empire divided into four Parts, to wit, the *East*, *Illyricum*, the *Gallia*, and *Italy*, to the Government of which as many Moderators were appointed.

### The EAST.

THE East was divided into five Dioceses, each of which comprehended several Provinces, the *East*, *Egypt*, *Asia*, *Pontus*, and *Thracia*.

THE Diocese of the *East* had for its chief City, Head of all the rest, *Antioch* in *Syria*; whence it was very fit, that this City in the Ecclesiastical Polity should be the Head of all the rest; and that the Bishop who govern'd this See, should be advanc'd likewise above all the other Bishops of the Churches of all those Provinces of which that Diocese was compos'd. There was yet another Prerogative to be added, which was, that *St. Peter*, the Chief of the Apostles, founded the Church in *Antioch*, and there first preach'd the Gospel, altho' he was pleas'd afterwards to remove his Chair to *Rome*.

THE Provinces which made up the Diocese of the East, were at first no more than Ten, to wit, *Palestine*, *Syria*, *Phœnicia*, *Arabia*, *Cilicia*, *Isauria*, *Mesopotamia*, *Osdroena*, *Euphrates*, and *Cyprus*; but afterwards their Number increas'd to Fifteen; because *Palestine* was divided into three Provinces, *Syria* into two, *Cilicia* into two, and *Phœnicia* likewise into two. Now we shall see in each of these Provinces their Metropolitans according to the Polity of the Empire.

*PALESTINE*, as it was at first divided, own'd no other City for its Metropolis, but *Cæsarea*; whence its Bishop acquir'd the Rights of Metropolitan over the other Bishops of the lesser Cities: And being afterwards divided into more Provinces, it had in the one for Metropolis the City of *Scythopolis*, and in the other that of *Jerusalem*; but altho' there were three Provinces made out of one, yet by this new Division, and the Addition of two other Metropolitans, it did not derogate from the Rights of Metropolitan of the Bishop of *Cæsarea*. But the Bishops of *Scythopolis* and *Jerusalem* continu'd, as they were formerly, Suffragans to the Metropolitan of *Cæsarea*: And when the great Council was held in *Nice*, altho' there were many Honours and Prerogatives allow'd to the holy City of *Jerusalem*, yet these Fathers would by no means, on that account, lessen the Prerogatives of the Metropolitan of *Cæsarea*, *Metropoli propria dignitate servata*, says the seventh Canon of that Council; and for no other Reason, but that the Province of *Palestine* being but one, and *Cæsarea* its ancient Metropolis; and that Bishop being already possessed of all the Rights of Metropolitan, it was not just, that by that new Division he should lose them, or that they should be diminish'd: Neither was it till long after that the Church of *Jerusalem* was adorn'd with the Patriarchal Dignity, as we shall see anon.

THE other Province of this Diocese was *Syria*, which had *Antioch* for its Metropolis, and likewise Head of all the Diocese; but afterwards it was divided into two, and besides *Antioch*, it acknowledg'd the other, which was *Apamea*.

*CILICIA* was also divided into two Provinces; it own'd likewise two Metropolis's *Tarsus* and *Anazarbus*.

*PHOENICIA*, as it was divided into two Provinces acknowledg'd likewise two Metropolis's, *Tyrus* and *Damascus*. There was also in *Phœnicia* the City *Berytis*, famous all the World over, as we have shewn in the First Book, on account of the famous Academy erected there. In the Reign of *Theodosius the Younger*, *Eustatius* Bishop of that City, obtain'd a Rescript from that Prince, by which *Berytis* was advanc'd to be a Metropolis; for which Cause *Eustatius*, in a Council which was then held at *Constantinople*, asked, That his City being made a Metropolis, if in consequence

consequence of that, he ought to make a new Division of the Churches of that Province, and if some of those, which before belong'd to the Metropolitan of *Tyre*, were to be subject to his new Metropolis? *Photius*, who was at that time Bishop of *Tyre*, discovering the Inclinations of *Theodosius*, out of cruel Necessity was oblig'd to approve of the Division. But the Emperor *Theodosius* being dead, and succeeded in the Empire of the East by *Martianus*, the Bishop *Photius* complain'd of the Wrong done him to the new Emperor, desiring, that those Churches which had been taken from his City, their ancient Metropolis, might be restor'd to it again. *Martianus* caused the Case to be re-examin'd in the Council of *Chalcedonia*; and it appear'd to these Fathers, that such an Affair ought not to be decided according to the new Disposition of *Theodosius*, and the new Constitutions of Princes, but according to the Tenor of the ancient Canons: And having read in the Assembly the Canon of the Council of *Nice*, by which it was ordain'd, That there should be only one Metropolitan in each Province, it was decided in favour of the Bishop of *Tyre*, and all the Churches of that Province were restor'd to his See; since according to the ancient Disposition of the Provinces of the Diocesis of the East, *Phanicia* was one Province, and acknowledg'd but one Metropolitan.

THUS when Bishops intended to inroach upon the Rights of their Metropolitan, they were wont to apply to the Emperors, and to obtain a Division of the Province, that their City might be rais'd to be a Metropolis, in order to their appropriating to themselves the Rights of Metropolitan over those Churches which were taken from the more ancient. Indeed the Emperor *Valens*, out of Hatred to *Basil*, divided *Cappadocia* into two Parts, and by so doing with the other Provinces, the Division likewise of the Church follow'd, as *Nazarius* testifies; because that in the succeeding Times the Rigour of the Council of *Nice* was not observ'd, which, we may say, was only observ'd in the Case of *Photius* Bishop of *Tyre*, since afterwards as the Cities were advanc'd by the Emperors to be Metropolis's, and the Provinces divided, generally the Ecclesiastical Polity was likewise alter'd; as by the same Council of *Chalcedonia* it was allow'd in these Words of *Can. 17. Sin autem etiam aliqua Civitas ab Imperatoria auctoritate innovata fuerit Civiles, et Publicas formas, Ecclesiasticarum quoque Parochiarum ordo consequatur.* Whence it came to pass afterwards, that as the Disposition and Polity of the Empire were chang'd, in like manner so many Changes were seen in the Ecclesiastical State, as shall be clearly shewn in the Course of this History.

AFTER the same manner the other Provinces likewise of this Diocesis of the East, such as *Arabia*, *Isauria*, *Mesopotamia*, *Ostroena*, *Euphrates* and *Cyprus*, according to the Disposition and Polity of the Empire, acknowledg'd their Metropolitans, who were so call'd, because they presided in the Churches of the principal Cities of the Provinces, and consequently they enjoy'd some Rights and Prerogatives, which the other Bishops that were over the other Churches of the lesser Cities of the Province had not. They ordain'd the Bishops elected by the Churches of the Province; they conven'd the Provincial Councils, and had the Superintendency and Care, that the Faith and Discipline should be observ'd in the Province, which were the Rights and Privileges of the Metropolitans by which they were distinguish'd from the other Bishops: And thus, after the Council of *Nice*, the Title of Metropolitan was understood by all the other Councils that succeeded, and all the Ecclesiastical Writers of the fourth and fifth Centuries.

IT is likewise true, that there were some Bishops who had only the Title of Metropolitan, and were so call'd for Honour's sake, not because they had any of those Rights or Prerogatives: So the Bishop of *Nice* obtain'd the Title of Metropolitan out of Honour only, and took the Place of all the other Bishops of that Province, but was still under the Metropolitan of *Nicomedia*, whose Suffragan he was; so likewise were the Bishops of *Chalcedon* and *Berytis*. And according to that Institution in our Time and in our Kingdom we see many Bishops, as that of *Nazaret*, of *Lauciano* and *Rossano*, and in *Sardinia*, the Bishop of *Arborensis* or *Oristagni*, who out of Honour enjoy the Title of Metropolitan, altho' they have no Province or Suffragan Bishop.

THE Title of Archbishop is not of Power, as the Metropolitan, but only of Dignity; and at first it was only given to the most remarkable Bishops, and but very seldom. Neither was it known in the three first Ages, nor do we read of such a Title: We begin to hear of it in the fourth Century, first in *Athanasius*, and after-

ward;

wards in other Writers, and but seldom. In the fifth Century it was more used, and it began to be given to the Bishops of *Rome*, to those of *Antioch*, *Alexandria*, *Constantinople*, *Jerusalem*, *Ephesus*, and *Thessalonica*. In the Sixth it was given likewise to the Bishops of *Tyre* and *Apamea*, and some others: *S. Gregory the Great* afterwards gave that Title to the Bishops of *Corinth*, *Cagliari*, and *Ravenna*; and in the eighth Century it was given to these and other renown'd Metropolitans, such as *Nicopolis*, *Solona*, *Aquileja*, *Carthage* and other Cities. But in latter Times, and the Ages less distant from us, all the Metropolitans assum'd that Title promiscuously; thus it was given to simple Bishops, who were not Metropolitans: Whence it was, that among the *Greeks* in the latter Times, there were more Archbishops than Metropolitans, because it was easy for simple Bishops to assume to themselves that specious Title, but not so easy to subject other Churches to them. And for the same Reason it is that we see many Archbishops in our Kingdom without Suffragans: Of which we shall treat more fully, when we come to discourse of the Ecclesiastical Polity of these latter Times.

THUS we see the Metropolitans of the Provinces of the Diocesis of the East, according to the Disposition of the Metropolitan Cities of the Empire. Thus likewise we shall see in that Diocesis its *Exarch*, or rather *Patriarch*, who was the Bishop of *Antioch*, because presiding in that City which was Head of the whole Diocesis, he presided likewise over all the Metropolitans of those Provinces, of which that Diocesis was compos'd; and had the Patriarchal Rights and Privileges, which were, to ordain the Metropolitans, to call Diocesan Synods, and to have the Superintendency and Care that the Faith and Discipline should be kept up in the whole Diocesis. At first they were properly call'd *Exarchs*, because they were set over the principal Cities of the Diocesis, and had several Provinces under them: Whence, in the Canons of the Council of *Chalcedon*, on account of that Division of the Provinces and the Dioceses, the *Exarchs* are distinguish'd from the Metropolitans: Thus *Philathes* Bishop of *Cæsarea*, and *Theodorus* Bishop of *Ephesus*, were call'd *Exarchs*, because the First had under him the Diocesis of *Pontus*, and the Second that of *Asia*. 'Tis true, that this Title was sometimes given likewise to simple Metropolitans; and the *Greeks* in latter Times gave it profusely to many Metropolitans, such as to that of *Amira*, *Sardica*, *Nicomedia*, *Nicea*, *Chalcedon*, *Larissa*, and others. Nevertheless the proper Signification of the Word *Exarcha*, imports nothing else but a Bishop who presided over the whole Diocesis, as the Metropolitan did over the Province. Some of these *Exarchs* were likewise call'd *Patriarchs*, which Title, in process of Time, was restricted to five only in the East, amongst which that of *Antioch* was one.

THE Bounds of the Exarchate of *Antioch* did not extend further than the Confines of the Diocesis of the East; since the other neighbouring Provinces were within the Limits of the other Diocesses, and belong'd to other *Exarchs*. So the Diocesis of *Egypt*, as we shall see anon, was under the *Exarch* of *Alexandria*, and the other Diocesses of the East, such as the *Asian*, the *Pontick*, and the *Thracian*; were not in that Exarchate; so that in the Council of *Constantinople*, the Care of these three Dioceses was committed to their proper Bishops. Neither do we read, that when the Bishop of *Constantinople* invaded these three Dioceses, and subjected them to his Patriarchate, as we shall shortly see, that the Bishop of *Antioch* contended for them as belonging to him.

THE second Diocesis was *Egypt*, which was under the Care of the *Præfæctus Prætorio* of the East; the principal City of this Diocesis was the famous and renown'd *Alexandria*: Whence its Bishop so rais'd himself and his Church, that next to that of *Rome*, it had the first Place; besides another Prerogative it had, which was, that *St. Mark the Evangelist* was the first Bishop of that See.

THIS Diocesis at first was divided only into three Provinces, *Egypt* strictly taken, *Lybia*, and *Pentapolis*: Whence in the sixth Canon of the Council of *Nice* we read, *Antiqua consuetudo servetur per Ægyptum, Lybiam, & Pentapolim, ita ut Alexandrinus Episcopus horum omnium habeat potestatem*. *Lybia* was afterwards divided into two Provinces, the Upper and the Lower; the *Arcadian*, the *Theban*, and the *Augustamian* were added: And lastly, the Diocesis of *Egypt* was divided into ten Provinces, by which as many Metropolitan Cities sprung up; whence came ten Metropolitans, equal to the Number of Provinces. These were put under the Bishop of *Alexandria* as their *Exarch*, and Head of the Diocesis, over which he exercised all the

Exarchal

Exarchal Rights and Privileges. The Bounds of his Exarchate did not reach further than the Diocess of *Egypt*, which comprehended these ten Provinces. Neither did he ever concern himself with Western *Africa*, as the most accurate *Du Pin* proves<sup>1</sup>: Whence they were in a prodigious Error, who reckon'd that all *Africa*, as a Third Part of the World, had been subjected to the Patriarchate of *Alexandria*. This Exarchate, as also that of *Alexandria*, acquir'd afterwards the Title of Patriarchate, and was one of the Five most renown'd in the fifth and sixth Centuries, as we shall shew anon.

THE third Diocess subjected to the *Præfectus P.* of the East, was *Asia*, in which one Province, strictly call'd *Asia*, was Proconsular; and *Ephesus* was the Metropolis of this Province, as also Head of the whole Diocess. The other Provinces, such as *Pamphilia*, *Hellespontus*, *Lydia*, *Pisidia*, *Lycaonia*, *Lycia*, *Caria*, and *Phrygia*, which was divided into two, the *Pacatiata*, and the *Salutaris*, were subject to the *Vicarius* of *Asia*, each of which had its Metropolitan; besides there was a Metropolitan in the Island of *Rhodes*, and another in that of *Lesbos*.

THE *Asian* Diocess became one of the *Autocephalæ*, as never having been subject either to the Patriarch of *Alexandria*, or that of *Antioch*. It acknowledg'd only the Bishop of *Ephesus* as Primate, because of his being plac'd<sup>d</sup> in the principal City over all the Diocess; on which account *Theodore* Bishop of *Ephesus*, was call'd *Exarch*, as all the rest were who govern'd that Church; since their Power reach'd not only over one Province, but over all the Diocess of *Asia*. But these Exarchs could never attain to the Title of Patriarch, because by Degrees the Patriarch of *Constantinople*, not only restricted their Power, but altogether subjected this intire Diocess to his Patriarchate.

THE fourth was the Diocess of *Pontus*, the principal City of which was *Cæsarea* in *Cappadocia*. At first this Diocess was only compos'd of six Provinces, which were *Cappadocia*, *Galatia*, *Armenia*, *Pontus*, *Paphlagonia*, and *Bythinia*; each of which afterwards, except *Bythinia*, was divided into Two; and thus from Six, their Number increas'd to Eleven, which had as many Metropolitans. In this Diocess was the City of *Nice*, which both in a Civil and Ecclesiastical Sense, was by the Emperors *Valentinian* and *Valens* rais'd to the Dignity of a Metropolis. The Bishop of *Nicomedia* oppos'd this Advancement, his being the Metropolitan City of that Province, pretending, That it ought not to prejudice him in the Rights and Privileges of his Metropolitan Church; because these Princes had granted that Prerogative to *Nice*, not with a Design to take away another Man's Rights; by which the Metropolitan of *Nicomedia* preserv'd the Privileges of his Church, and *Nice* enjoy'd only the Honour and Title, but not the Rights and Privileges of a Metropolitan. Over all which Metropolitans the Bishop of *Cæsarea*, which was the chief City of that Diocess, presided. On which account he was likewise call'd *Exarch*, as were those of *Antioch*, *Alexandria*, and *Ephesus*; but he could not attain to the Honour of Patriarchate as the two First did, because his Diocess, with that of *Asia*, were afterwards subjected to the Patriarchate of *Constantinople*.

THE fifth and last Diocess, which was commanded by the *Præfectus P.* of the East, was *Thracia*, the Head of which was *Heraclea*. It was made up of six Provinces, *Europa*, *Thracia*, *Rhodope*, *Eminontus*, *Mesia*, and *Scythia*; each of which had its own Metropolitan; But many and strange were the Alterations in this Diocess afterwards, as well in the Civil as Ecclesiastical State. At first it acknowledg'd the Bishop of *Heraclea* for Exarch, as Head of the Diocess, and who had the Bishop of *Byzantium* for Suffragan; but after it pleased *Constantine* to aggrandize this City so much, having made it the Head of another Empire, he call'd it likewise after his own Name, no more *Byzantium*, but *Constantinople*; the Bishop of this City was exalted above all the rest, keeping pace with the Polity of the Empire, and not only was not content with the Privileges of Metropolitan or Exarch, in suppressing that of *Heraclea*; but being adorn'd with the Honour of Patriarch also, he pretended afterwards to extend his Authority beyond the Bounds of his Patriarchate, and likewise to incroach upon the Provinces of the Patriarchate of *Rome*, as shall be shewn afterwards.

SUCH in short, in the Times succeeding *Constantine*, was the Polity of the Ecclesiastical State in the Præfecture of the East, altogether conformable and adapted to that of the Empire.

<sup>1</sup> Du Pin, de Antiq. Eccl. discipl. Differ. 1.



## I L L Y R I C U M.

LET us take a View of the Ecclesiastical Polity in those Diocesses which were under the Government of the *Præfectus P. of Illyricum*, that is to say, in *Macedonia* and *Dacia*. The Diocess of *Macedonia*, which consisted of six Provinces, to wit, *Achaia*, *Macedonia*, *Creta*, *Thessalia*, *Old Epirus*, and *New Epirus*, had for its chief City *Thessaly*, whose Bishop, as Head of the Diocess, govern'd the other Provinces, and exercis'd his Exarchal Authority over their Metropolitans. The Diocess of *Dacia* was made up of five Provinces, to wit, *Dacia Mediterranea* and *Ripensis*, *Mesia Prima*, *Dardania*, and Part of *Macedonia Salutaris*. We shall have a more proper Opportunity to treat of the Polity of these Diocesses, when we come to the Patriarchate of *Rome*; for what hath been related of the Polity of the Ecclesiastical State of the East, as to the Conformity it had with that of the Empire, may suffice: Let us return to the West, where we shall stop in *Italy*, and examine it more narrowly in these our Provinces, that we may know what Innovations have been, and what Changes it hath occasion'd to their Political and Temporal State.

## The G A L L I Æ.

BUT first we must observe, what hath been taken Notice of by the most nice Searchers into Ecclesiastical Matters, which is, that the Polity of the Church is more exactly conformable to that of the Empire in the East, and *Illyricum*, than in the West, and in these our Provinces. There is scarcely the smallest Difference of any Moment to be observ'd in the East; but in the West there are many. In the *Gallia* there are considerable, and likewise in *Italy* there are some perceiv'd, but many more in *Western Africa*, where the Ecclesiastical Metropolis's agree in nothing with the Civil.

THE *Gallia*, according to the above mention'd Description, which were under the Command of this *Præfectus*, were divided into three Diocesses: *Gallia*, which was made up of seventeen Provinces; *Spain* of Seven, and *Britain* of Five.

THERE's no doubt but that at first *Gallia* had its Churches dispos'd according to the Disposition of the Provinces of which the Diocess was compos'd, so that every Ecclesiastical Metropolis was conformable to the Civil; and that in these early Times *Gallia* acknowledg'd no Primate or *Exarch*, as the Diocesses of the East did, but the Bishops with their Metropolitans govern'd the *Gallican* Church. And the Reason was, because in *Gallia* there was not one City so noted and eminent above all the rest, on which they were to have a Dependence, as there were in other Parts of the World: But afterwards many of those Cities contended for the Right of Primacy. In the Province of *Narbonne* there was a great Dispute between the Bishops of *Vienne* and *Arles*, of which *Du Pin*<sup>1</sup> treats at large. In *Aquitaine*, long after, another Dispute arose between the Bishops of *Burges* and *Bordeaux*, which may be seen in *Alteferra*<sup>2</sup>. In latter Times in the West, these Bishops who were Metropolitans of any of the most noted Cities, claim'd many Prerogatives over the other Metropolitans, and call'd themselves Primates, altho' at first that Title was indifferently bestow'd on all Metropolitans: So in *France*, the Metropolitan of *Lyons* is call'd Primate, and possesses a great many more Prerogatives than the other Metropolitans.

IN those early Times *Spain* had some Ecclesiastical Polity according to that of the Empire; but afterwards the Political Government changing, all was chang'd with it; and as one City, either on account of the Residence of the Prince, or any other Cause, was rais'd above the rest of several Provinces, so the Bishop of that Church, not content with the Rights of Metropolitan, claim'd many Prerogatives over the rest, and call'd himself Primate: Thus *Spain* has now for Primate the Archbishop of *Toledo*; and *France* the Archbishop of *Lyons*.

ALTHO' *Britain* at first had some Ecclesiastical Polity conformable to the Civil of the Empire, yet being afterwards possess'd by the *Saxons*, it lost it altogether; so that there remain'd no Vestige of the ancient Polity, neither in the Civil nor Ecclesiastick State.

<sup>1</sup> Du Pin. loc. cit.

<sup>2</sup> Akeſer. rer. Aquitan. lib. 4. cap. 4.

## I T A L Y.

WE have reserv'd to this last Place the Præfecture of *Italy*, since we are to stop in it according to our Intention, in order to know more minutely the Ecclesiastical Polity of these our Provinces in those Times.

UNDER the Præfect of *Italy*, as we have seen, there were three Diocesses, *Illyricum*, *Africa*, and *Italy*: It doth not belong to this Place to speak of the first Two; but of *Italy*, where we may see the most famous Patriarchate in the World instituted, it will be necessary, that we discourse at large: What ought to be esteem'd one of the greatest Honours of this Diocess, is, that when all the other Patriarchates, and that of *Constantinople* itself, which also attempted to usurp its Rights, are now demolish'd, the Patriarchate of *Rome* only stands its Ground; and has annex'd to it the Prerogatives of the Chief and Head of all the Churches of the Catholick World, and of all the Patriarchs that ever were: And our *Italy* and *Rome* can justly boast, of being the principal Seat of Religion, as it was of Empire.

UNDER the Præfect of *Italy*, as we have said, there were two *Vicariates*, the *Vicariate* of *Rome*, and that of *Italy*. In the *Vicariate* of *Rome*, there were ten Provinces. All the Four of which our Kingdom is compos'd, to wit, *Campania*, *Puglia* and *Calabria*, *Lucania*, and the *Brutii*: and *Samnium* belong'd to the *Vicariate* of that City: *Hetruria* and *Umbria* were likewise comprehended in it; as also *Picenum Suburbicarium*, *Sicilia*, *Sardinia*, *Corfica* and *Valeria*.

UNDER the *Vicariate* of *Italy*, whose Head was the City of *Milan*, there were seven Provinces, to wit, *Liguria*, *Emilia*, *Flaminia*, or *Picenum Annonarium*, *Venetia*, to which afterwards *Istria* was added, the *Alpes Cottiae*, and both the *Rhetiae*.

THE Division of *Italy* into two *Vicariates* imports, That the Ecclesiastical Polity of *Italy* did not answer to that of the East; since it was not every Province of *Italy* which had a Metropolis, that likewise had a Metropolitan, as in the East, but the Cities, as at first had their simple Bishops; and those were not Suffragans to any Metropolitan, but either to the Bishop of *Rome* or *Milan*: Those of the *Vicariate* of *Rome* to the Bishop of that City, and those of the *Vicariate* of *Italy* to the Bishop of *Milan*<sup>1</sup>.

THE Provinces which belong'd to the *Vicariate* of the City of *Rome*, as *Sirmundus* very well proves<sup>2</sup>, for that very Reason were call'd *Suburbicarian*: Whence the *Suburbicarian* Churches were those which were comprehended in the *Vicariate* of *Rome*. *Gotifredus* and *Salmasius* are of another Opinion; they confine the *Suburbicarian* Provinces and Churches to too narrow Bounds, and pretend that they extended a hundred Miles round *Rome*, and no further, and were under the Direction of the Præfect of the City of *Rome*. Others have run into another Extremes, and under the Name of *Suburbicarian* Provinces, understood the universal Empire of *Rome*, or at least all the West, as *Emanuel Schelstrat* and *Leo Allatius*, with great Flourishes, have endeavour'd to prove<sup>3</sup>.

BUT *Lewis Du Pin*<sup>4</sup> could not approve of the Opinion of *Sirmundus* as right, and rejecting the contrary Opinions of the other two; upon strong and solid Grounds he affirms, the *Suburbicarian* Provinces and Churches, to have been those which were under the Command of the *Vicarius* of *Rome*, and were comprehended in that *Vicariate*.

FOR this Reason it was, that since the Polity of the Church kept pace with that of the Empire, the Bishop of *Rome* exercis'd the Prerogatives of Metropolitan over all those Provinces. He could not properly be call'd *Exarch*, because the intire Diocess of *Italy* was not under his Direction; those being call'd *Exarchs* in the East, who had the Charge of intire Diocesses: But the Diocesses of *Italy* being divided into *Vicariates*, he could not extend his Authority further than his own *Vicariate*, neither in *Italy*, nor out of it. For out of these *Suburbicarian* Provinces, the Metropolitans of each Province ordain'd all the Bishops, and they themselves were ordain'd by the Bishop of the Province<sup>5</sup>: And if it at any Time we read, that the *Roman Pontiff* in those Days conven'd numerous Synods from all the Provinces

<sup>1</sup> P. de Marca, de Conc. lib. 1. c. 3. num. 12.

<sup>2</sup> Sirmond. de Suburb. Region. lib. 1. cap. 7.

<sup>3</sup> Schelstr. Ant. illustr. Par. 1. Diff. 2. cap. 3.

Leo Allat. de Occid. & Orient. conf. l. 1. c. 5.

<sup>4</sup> Du Pin loc. cit.

<sup>5</sup> Gotofr. Topogr. 420. Cod. Th. tom. 6.

of the West, it was not only by his Authority of Metropolitan, but by reason of the Primacy which he had over all the Churches of the Catholick World; which in process of Time (these two Authorities being jumbled together) extended the *Roman Patriarchate* to what we have seen it since, when not content with the *Suburbicarian* Provinces, he subjected *Illyricum*, whither he sent his *Vicarii*: And soon after he not only extended his Authority over all the Provinces of *Italy*, but likewise over the *Galliæ* and *Spain*; so that he acquir'd the Title of Patriarch of all the West, as we shall see anon.

BUT in the Reign of *Constantine*, and down to that of *Valentinian III.* the Power which he exercis'd by usual Right, extended no further than over the *Suburbicarian* Provinces<sup>1</sup>: And therefore it likewise fell out, that the *Roman Pontiff* exercised his Authority over these Provinces, with greater and more full Power, than the *Exarchs* of the East did over the Provinces of their Diocess; forasmuch as the Ordination of Bishops not only of the Metropolitan Cities, but likewise of all the other Bishops of these Provinces belong'd to him: Whereas in the East, the *Exarchs* left the Ordination of these Bishops to their Metropolitans.

THE Title of Patriarch was given to the *Exarchs* of the East long before it was given to the *Roman Pontiff*. If we regard the Antiquity of the Church, that Title of Patriarch was at first given in the East as an Encomium, even to simple Bishops<sup>2</sup>: Afterwards it was confin'd to the *Exarchs* who had the Charge of intire Diocesses; for which Cause, among the *Greeks* all the *Exarchs* got the Title of Patriarch. But in the West among the *Latins*, the first who was so call'd, was the *Roman Pontiff*; and it was the *Greeks* themselves who first gave him that Encomium, but not before the Reign of *Valentinian III.* At this Time *Leo R. P.* was by the *Greeks* and by *Martianus* himself Emperor of the East, call'd Patriarch; and neither the *Latins* themselves nor the *Greeks* gave him such a Title before, as the most exact *Du Pin* remarks: And *Sirmundus*<sup>3</sup> cannot bring Authorities against *Claudius Salmasius* on that Subject, more ancient than the Emperors *Anastasius* and *Justinus*, who had call'd *Ormisda* Bishop of *Rome* Patriarch.

FOR which Reason we read not of any Metropolitan in our Provinces: And altho' after *Constantine*, the Ecclesiastical Hierarchy was in greater Splendor, yet the Cities of our Provinces had only Bishops, as at first, acknowledging none other but the Bishop of *Rome* for their Metropolitan. Which did not happen to the Provinces of the East; in which, as we have shewn, each Province had its Metropolitan, who exercis'd the Rights of Metropolitan over the Bishops of that Province: With us the Polity was different; for altho' the Province of *Campania* had its Metropolitan City, which was *Capua*, its Bishop did not on that Account pretend to any Superiority over the other Bishops of the same Province, by making them his Suffragans: And it is of much later Date, and properly in the Year 968, that the Church of *Capua* was made a Metropolis, and that its Bishop acquir'd the Rights of Metropolitan over many Bishops of that Province his Suffragans. *Puglia* likewise and *Calabria* did not acknowledge their Metropolitans for a long Time after. And if it be not valid what the Patriarch of *Constantinople* did with respect to these Churches of that Province, to wit, *Bari*, *Brundisium*, *Otranto*, *Canosa*, *Tarentum*, *S. Severina*, and other Cities of the same, their Claim will not be allow'd them until the following Centuries; and *Sipontum* was made a Metropolis later, by *Benedict IX.* in the Year 1034. The same is to be observ'd in the Provinces of *Lucania* and the *Bruttii*, where *Rhegium* and *Salernum*, according to the Polity of the Empire, were the Metropolitan Cities of the said Provinces in those Times, and had only Bishops; and *Rhegium* had its Metropolitan afterwards, by the Favour of the Patriarch of *Constantinople*, as *Salernum* had by that of *Benedict* the Vth in the Year 984; and so of the rest, which we see now in that Province. *Sannium* was much later made a Metropolis: *Beneventum* was advanc'd to that Honour in the Year 969, a Year after *Capua*; and all the Metropolitans which we see now in such great Numbers in all these our Provinces, have a later Origin, which we shall clearly make appear in the Course of this History.

IN the Reign of *Constantine*, down to that of *Valentinian III.* of which we are now treating, the Churches of these our Provinces, as *Suburbicariae*, had for Metropolitan only the Pontiff of *Rome*; to him only belong'd the Ordination of Bishops<sup>4</sup>: And when any City wanted a Bishop, the Clergy and People elected a

<sup>1</sup> Du Pin. loc. cit. pag. 39.

<sup>2</sup> Du Pin, de Antiq. Eccl. disc. Diff. I. p. 10. |

<sup>3</sup> Sirmond. de Eccl. Suburb. lib. 2. cap. 7.

<sup>4</sup> Du Pin. loc. cit.

Successor, then they sent to acquaint the *Roman Pontiff*, that he might be ordain'd<sup>1</sup>; who frequently, either made the Elect come to *Rome*, or sent his Delagation to others for ordaining him; and it was afterwards introduc'd, that when there was any Contest about the Election, he decided it, or it was ended by Compromise: Which Custom we see continu'd in the Time of *Gregory the Great*, concerning which, there are yet remaining many Provisions in the Register of his Letters, which he sent for the Election of the Bishops of *Capua*, *Naples*, *Cuma*, and *Misenus* in *Campania*<sup>2</sup>; and in *Samnium*, of the Bishops of the *Aprutii*. And in *Sicily*, as a *Suburbicarian* Province, we likewise see the same Authority exercis'd by the *Roman Pontiffs* in the Election of Bishops, as is manifest from the Letters of *Leo* and *Gregory the Great*<sup>3</sup>.

SUCH in short, was the Ecclesiastical Polity of these our Provinces in the fourth and fifth Centuries: They had as at first, only Bishops, neither did they acknowledge any Metropolitan over their Cities; only the *Roman Pontiffs* exercis'd the Rights of Metropolitan over them, and had special Regard and Concern for them. For which Reason, neither the *Arian* nor *Pelegian* Heresies had ever any footing in them<sup>4</sup>. Neither had the Patriarchs of *Constantinople* commenc'd their Pretension of subjecting these Provinces to their Patriarchate, as they attempted afterwards in the Time of *Leo Isauricus*, and of Pope *Gregory II.* and which they effected some time after; of which we shall have occasion to discourse in another Place. Neither was there any other Hierarchy known in these our Provinces to that Time, but that of Deacons, Priests, Bishops, and Metropolitan, which was the Bishop of *Rome*, both Head and Chief of all the Churches of the Catholick World. Some have likewise mention'd at this Time, the Institution of Subdeacons, Acolyts, Exorcists, Readers, and Doorkeepers; as also other Ministers, which have no manner of relation to the Hierarchical Order, but only were intrusted with the Keeping and Care of the Temporalities of the Church: Of whom we shall have occasion to speak elsewhere.

<sup>1</sup> P. Caracc. de Sacr. Neap. Eccl. Mon. de Severo Ep.

<sup>2</sup> De Capua Epist. 13. lib. 4. & Ep. 26. lib. 8. de Neap. Epist. 40. lib. 8. & Epist. 15. lib. 2. de Cuma Epist. 9. lib. 2. de Misen. Ep. 25. lib.

7. de Aprut. Ep. 12. lib. 10.

<sup>3</sup> Leo Ep. 16. ad Episc. Siccl. Greg. Ep. 13. lib. 5.

<sup>4</sup> Caracc. de Sacr. Eccl. Neap. monum. cap. 1. Sect. 4.

## SECT. I.

### Of MONKS.

ALTHO' the *Solitarii* had already been taken Notice of in the East, in their Language call'd *Monachi*; yet these were only Secular Men, without Character or Degree, who for the most part led their Lives in the Solitudes and Desarts of *Egypt*: As soon as Peace was given to the Church by the Emperor *Constantine*, that Virtue, which in the three first preceding Ages was practis'd in the Christian Societies in the Midst of Persecutions, began to slacken; and seeing there was no more Danger in being a Christian, many made Profession of being such, without being well converted, or persuaded of the Contempt of Pleasures, of Riches, or of the Hope of Heaven. So they who were inclin'd to practise a Christian Life in a greater Purity, found it most secure in separating themselves from the World, and living in Solitude<sup>1</sup>.

THE first Monks that we read of, were divided and distinguish'd into two Orders, to wit, the *Solitarii*, and the *Canobitæ*: The First were also call'd *Eremitæ*, *Monachi*, *Monazontæ*, and *Anachoretæ*. Some derive the Origin of *Monachism* from the *Therapeutæ*, who believ'd that there was a particular Society of Christians establish'd by St. Mark, in the Neighbourhood of *Alexandria*; whose Lives *Philo* describes.

<sup>1</sup> Fleury Costum de Crist. cap. 41.

But altho' *Eusebius* believ'd that the *Therapeutæ* were Christians, and had ascrib'd unto them the Name of *Ascetæ*, nevertheless 'tis very unlikely that they were reputed Christians, and Disciples of St. *Mark*, since altho' their Lives, as *Philo* describes them, approach'd very near to those of Christians, yet the many Things which he adds concerning their Rites and Customs, such as the Observation of the Sabbath, the Table on which they offer'd Bread, Salt, and Hyssop, in Honour of the Holy Table, which was within the Porch of the Temple, and a Thousand other Customs, which were no ways agreeable to those of the ancient Christians, convince us, and demonstrate, that they were *Jews* and not Christians. The Name of *Ascetæ*, which *Eusebius* ascribes to them, ought not to make them pass for Monks, since the Word *Ascetæ* is a general Term, which signifies those who lead a Life more Austere and Religious than others; therefore we cannot conclude, that he believ'd the *Ascetæ* were Monks.

HOWEVER that may be, 'tis certain, that in the fourth Century those Monks multiply'd in such a manner, that there was not a Province in the East that was not full of them. The Diocess of the East, of which *Antioch* was the Head, abounded with them. In *Egypt* their Number was infinite. In *Africa* and in *Syria* they had them in Plenty. And in the West they had likewise penetrated within the Limits of the Bishoprick of *Rome*, our *Campania*, and the neighbouring Provinces, as is clear from a Constitution of *Valentinian the Elder* in the Year 370. directed to *Damasus* Bishop of *Rome*: *Palladius* likewise reports, that in these our Provinces, as well in *Campania* as the neighbouring Places, towards the End of the fourth Century, many led Hermitical and Solitary Lives; and *P. Caracciolus* <sup>3</sup> says, that many were seen not only in *Campania*, but also in *Samium* and *Lucania*.

THESE liv'd solitarily and in the Desarts, and there led Lives altogether devout, free from all worldly Care, and the Conversation of Men. They built poor little Cells for their Habitations, and spent the Day in Labour, in making of Matts, Baskets, and other easy Work; and their Labour serv'd not only for their Sustenance, but likewise for Alms. The Heathens reckon'd their Life idle and lazy; for which they were bitterly calumniated by their Writers <sup>4</sup>, accusing them of defiling themselves with filthy Lust, and abominable Vices. They had no certain Rules, neither were they tied by any Vows: Their quiet Life drew many to the Woods, so that Abuses began soon to creep in; because many, for avoiding the Expences of the Court, and other Charges of the Commonwealth, and in order to lead a Life altogether idle, and to shun all other Obligation, under the feign'd Pretence of Religion, left the Cities, and went to associate themselves with the *Solitarii*; so that it behov'd *Valens* to forbid these Retreats, and order them to return to the Cities, to bear the Charges according to their Duty <sup>5</sup>.

BUT the *Solitarii*, not long after, degenerating from their Institution, too often frequented the Cities, and meddled in Secular Affairs: There was neither Process before the Tribunals, nor Dealings, or any Business whatsoever on the Publick Market-Place, into which they did not thrust themselves; and their Boldness increasing more and more, they were the Cause of many Disorders and Tumults which often happen'd in the Cities; of which we read many Instances in *Eunapius* <sup>6</sup>, *Chrysostome*, *Theodorete*, *Zosimus*, *Libanius*, *Ambrosius*, *Basilus*, *Isidorus*, *Pelusiota*, *Hieronymus*, and others: So that the Judges, and the other Magistrates, were oblig'd to have recourse to the Emperor *Theodosius the Great*, that he would be pleas'd to remedy so great Disorders which were so pernicious to the Commonwealth: Upon which that Prince put forth a Law, by which he ordain'd, That they should not leave their Solitudes, nor ever come to the Cities; but before twenty Months were ended, the same *Theodosius*, out of Favour to the same *Solitarii*, revok'd that Law <sup>7</sup>.

THEY had for their chief Standard-Bearer in *Thebais*, *Paul*, on which account he was call'd chief Hermite: In *Palestine*, *Hilarion*; and in the Desarts of *Egypt*, *Hieronymus*, who by so living, design'd to imitate *Elias*, and *John* the Fore-runner of *Christ*, they render'd themselves very famous and remarkable by their Austerity.

<sup>1</sup> L. 20. C. Th. de Episc. & Cler. Got. in parat. in C. Th. l. 1. de Monach.

<sup>2</sup> Pall. ad Laudum. & Romæ & in Campania, & in iis, quæ sunt circa eis partibus.

<sup>3</sup> P. Caracciol. de Sacr. Eccl. Neap. Monum. cap. 2. §. 5.

<sup>4</sup> Eunap. and others, which may be seen, besides others in Amasa, l. 26. C. de Decur. l. 10.

<sup>5</sup> L. 6. C. de Decurion. lib. 10. tit. 31.

<sup>6</sup> Eunap. Edef. p. 78. Chrysost. or. 17. ad Pop. Theodor. lib. 5. cap. 19. Zosim. lib. 5. p. 800. Liban. orat. Ambr. Epist. 29.

<sup>7</sup> L. 12. C. Th. de Monach. Got.

THE others were call'd *Canobitæ*, or Religious, because they had prescrib'd to themselves certain Rules of Life, and liv'd in Common. These have their Origin from the *Esseni*, who were a Sect of the *Jews* distinct from the *Therapeutæ*, and their Manner of Living differ'd much from that of the others; so that these led a Life altogether Contemplative and very Devout, of which *Philo*<sup>1</sup>, in *Eusebius*, gives a long Account, describing it in every Thing like unto that of our Religious.

THEIR chief Leader in *Thebais* was *Anthony*. In *Greece*, *Basil*, who oblig'd them to take three Vows, which we now call essential to Religion; to wit, Obedience for subduing the Pride of the Mind; Chastity with regard to the Motions of our Bodies; and Poverty, by a total Abhorrence of the Goods of Fortune.

S. *BENEDICT* introduc'd it into *Italy*, and, properly speaking, into our *Campania*; but that fell out in the sixth Century under the Reign of *Totila*, of which in the following Books we shall have an Opportunity to discourse more at large, as of a Plant that throve too much in this our Soil, and extended its Branches, and spread its Buds into many remote Countries.

S. *PACOMIUS* compleated the Monastick Order, by gathering together many Monasteries into one; giving a Rule, and founding Monasteries for Virgins, who made a Vow of Virginity, and after a certain Time receiv'd the Veil with Solemnity. Thus a Monastick Life in both the Sexes being grown more common, Monasteries were establish'd, not only near to the great Cities, but likewise within them; in which Monasteries the Monks liv'd in Solitude, in the midst of a Multitude, according to their Rule, under the Direction of an Abbot, or *Archimandrite*: And *Monachism* made its way from the East to the West, about the End of the fourth Century.

FROM these *Canobitæ* in the following Ages there sprouted an infinite Number of other Orders under different Rules, which may be seen in *Polydore Virgil*<sup>2</sup>, of which we shall give an Account in the Progress of this History.

S. *AUGUSTINE*, besides, introduc'd another Order into *Africa*: He was Author of the Canons Regular, having put his Priests of the Church of *Hippon* into a religious Life. He neither call'd them Monks nor Religious, but *Canons*, that is to say, restricted to certain Rules, which made up partly a Clerical, and partly a Monastick Life; and it was call'd an Apostolick Life, with intent to renew the common Life of the Apostles: They were tied by the foresaid three Vows, and were in a Cloister<sup>3</sup>.

AFTERWARDS the *Mendicants* started up, who, to the other three Vows, added a fourth of Begging, that is to say, of living on Alms. Then follow'd the Brother Knights, such as were those of St. *John of Jerusalem*, the *Teutonicks*, the *Templars*, who were extirpated by *Clement* the Vth; the Commendators of S. *Anthony*, the Knights Sword-Bearers of *Christ*, of S. *Lazarus*, and others, all mention'd by *Polydore Virgil*; who were call'd Brethren Knights, or Religious Knights, to distinguish them from the Knights Laicks, who were Noble, of whom we shall treat in the following Books of this History.

WE shall give a short Relation of the Times when these new Orders of Religious appear'd: Whence we shall see not without Astonishment, how in these our Provinces, in the Course of Time, they have been able to produce so many and so various Orders, and to found so many and magnificent Monasteries, that now they possess the greatest Part of the Commonwealth, and our Substance, making such a considerable Body, that it has been able to change the Civil and Temporal State of our Kingdom.

IN these Ages, from *Constantine* down to *Valentinian III.* of which we are treating, they occasion'd no Alteration in the Politick State; for altho' many *Solitarii* had already fix'd themselves in the Bishoprick of *Rome*, by the Favour of the foresaid Constitution of *Valentinian the Elder*; and had likewise penetrated into these our Provinces, where, being confin'd to solitary Places, they led their Lives; yet they created no Mischief or Trouble to the State, neither were they minded, nor had in any Esteem, nor did the Ecclesiastical Hierarchy suffer any thing by them.

<sup>1</sup> Philo. in Euseb. de prepar. Evan. Loyseau |  
des Ordres.

<sup>2</sup> Pol. Virg. lib. 6.  
<sup>3</sup> Loyseau des Ordres.



BEFORE St. *Benedict*, 'tis certain, that the *Canobitæ* were very rare, and their Monasteries as scarce, and of no account; for what is told of the Monastery erected in *Naples* by *Severus* Bishop of that City, who flourish'd in the Year 375. under the Name of S. *Martin*, the said Saint being still alive<sup>1</sup>; and of the other of S. *Gaudiosus*, which they pretend was founded by S. *Gaudiosus* himself, Bishop of *Bitbynia*, in the Year 438; who, to shun the Persecution of *Gizericus* King of *Africa*, fled to *Naples*<sup>2</sup>: Tho' it was built about the Year 770. by *Stephen II.* Bishop of that City<sup>3</sup>; and of some others founded in other Cities of these our Provinces carried back to these Times, is altogether fabulous and ill contriv'd, and not worth confuting<sup>4</sup>.

<sup>1</sup> Chiocar. de Epif. Neap. in Sancto Severo.

<sup>2</sup> Ugel. de Episc. Neap. tom. 6. pag. 49.

<sup>3</sup> P. Carac. de Sacr. Eccl. Neap. Monum. de S. Gaudiofo.

<sup>4</sup> Ugh. loc. cit. pag. 61 & 93.

## S E C T. II.

### *The first Collection of C A N O N S.*

THE Regulations, which, by degrees, after *Constantine* had given Peace to the Church, begun to be establish'd by the Ecclesiastical State; altho' they were always multiplying during the Space of an Age and a half, to the Reigns of *Theodosius the Younger* and *Valentinian III.* nevertheless gave no Jealousy in those Days to the Emperors; forasmuch as at that Time it was never call'd in question, and was a Thing a thousand Times confess'd, and never deny'd by the Ecclesiasticks themselves, that the Princes, by their Authority, and the Protection they vouchsafed the Church, could laudably inspect, and take care of the very Canonical Discipline, and correct what might be of Detriment, or bring Disorder to the State; of which the whole Sixteenth Book of the *Theodosian Code*, compil'd on purpose for the Benefit of the Persons and Goods of the Ecclesiasticks, gives an ample and clear Testimony.

ON the other hand, as we have said in the first Book, the Power of making Canons concerning Church Discipline, belong'd to the Church, she having, by the Piety of *Constantine*, already acquir'd greater Splendor, and a more ample and numerous Hierarchy, and consequently had the more need of new Regulations for her good Government, and preventing Disorders, which Multitude always occasions: Therefore, besides the Books of the Old and New Testaments, and some Canons establish'd in divers Synods held in the first three Centuries, there were more afterwards formed in the more general Councils, which were held for that End; for the Church being in Peace, by the Favour of *Constantine*, it was more easy, for many Churches united together, to communicate and treat on what regarded the Discipline; since, in all other external Affairs, the Ecclesiasticks obey'd the Magistrates, and observ'd the Civil Laws.

FROM this Time, and no sooner, did Canons take their rise, of which afterwards there were many Collections made; for tho' some have believ'd, that from the very Infancy of Christianity there had been some Regulations made by the Apostles, which even to this Day we see collected to the Number of Eighty-Five, under the Title of *Canones Apostolorum*: Nevertheless, neither the Opinion of *Turrianus*<sup>1</sup>, who reckon'd them all to be the Work of the Apostles; nor that of *Baronius* and *Bellarmino*, who believ'd that only Fifty of these Canons were Apostolick, have been embrac'd by learned Criticks, who generally take them to be a Collection of ancient Canons, and properly of the Canons made in the Councils that met before that of *Nice*, and which, without entering into a Dispute, may be seen in *William Beverige*<sup>2</sup>, *Gabriel d' Aubespine*, *Lewis Du Pin*, and others;

<sup>1</sup> Franc. Turrian. lib. singulari adver. Mag-debur. Centur.

<sup>2</sup> Gulielm. Bevereg. Cod. Can. Eccl. Primit. vindicatus.

and, which is more remarkable, Pope *Gelasius* declares them Apocryphal in *Can. Sancta Romana, Dist. 15.*

THE same is said of the Book of the Apostolical Constitutions, falsely attributed to St. *Clement*, on Account of the great Authority of this holy Pope; whether it was at first forged under the Name of *Clement*, or afterwards may have been corrupted by Hereticks, 'tis certain it carries no Authority with it in Matters of Religion, there having been divers Things added to it at different Times; for altho' the intire Discipline be laid down in it, at least of the Eastern Church, yet Men of the best Judgment conclude, that it cannot be more ancient than the third Century: And tho' we ought to believe, that before this Time there had been divers Councils assembled by the Ecclesiasticks, according to the various Occurrences in the Purity of the Christian Doctrine, and the Soundness of Discipline, as far as the Persecution of the Heathens, which was in a manner continual, and the Unhappiness of the Times, permitted them; nevertheless, the true Canons of those are lost, and all the others so much boasted of, are Apocryphal, and especially the Acts of the Council of *Sinuessa*, by the Apostacy of Pope *Marcellinus*, and the Decree, that the chief See cannot be judged by any Person, are certainly Things altogether Apocryphal, which *Baronius*<sup>2</sup>, by the Authority of St. *Augustine*, demonstrates to be a Forgery of the *Donatists*; and *Cironius*<sup>3</sup> proves, That the Accusation against *Marcellinus* was never true, whatever P. *Caracciolus*<sup>4</sup> may say on the Subject.

FINALLY, as to the Epistles of the chief Pontiffs, altho' some of them be as old as the first and second Centuries; nevertheless, excepting two Letters of St. *Clement* to the *Corinthians*, which are rather Ascetick than Decretal, 'tis now the constant Opinion of the most diligent and accurate Criticks, I don't say among the Protestants, such as *Blondel* and *Salmasius*, but among the most godly Catholics, such as *Thomassin*, *Pagi*, and others, that all the Decretals, which we read as written by the Roman Pontiffs before Pope *Siriacius*, who died in the Year 398, and which we find collected by *Isidore Mercator*, who appear'd in the World towards the End of the Reign of *Charles the Great*, are truly spurious and forg'd; and contriv'd by that Impostor to please himself; *De hac Isidori Impostura, says Thomassinus*<sup>5</sup>, *inter doctos jam convenit.*

THE first Canons then, whence so many Collections began, are those which we find of the Councils of the fourth Century. The first Councils among the Oecumenical, were that of *Nice* in *Bythinia*, assembled by the Order of *Constantine* in the Year 325, and that of *Constantinople* by the Command of *Theodosius the Great*, in the Year 381. The most ancient of the Provincial Councils (altho' the Chronologers fix the Epocha of them variously, not being able to point out the Year with any Certainty) were that of *Gangra* in *Paphlagonia*, of *Neocæsarea* in *Pontus*, of *Ancyra* in *Galatia*, of *Antioch* in *Syria*, and of *Laodicea* in *Phrygia*, besides a great many others held in *Africa*, in *Spain*, and elsewhere, less famous.

AFTER this Time, to wit, towards the End of the fourth Century, about the Year 385, the first Collection of Canons was publish'd by the Labour of a certain Bishop of *Ephesus* nam'd *Stephen*, as *Peter de Marca*<sup>6</sup>, on the Faith of *Christophanus Jusellus*, attests. In it are contain'd a Hundred and Sixty Five Canons taken from these Seven Councils, two General and five Provincial of the Eastern Church lately mention'd, to wit, twenty from the Council of *Nice*, twenty-four from that of *Ancyra*, fourteen from that of *Neocæsarea*, twenty from that of *Gangra*, twenty-five from that of *Antioch*, fifty-nine from that of *Laodicea*, and three from that of *Constantinople*<sup>7</sup>. And 'tis to be observ'd, that the first Canons concerning the Ecclesiastick Polity and Discipline, were establish'd in the Council of *Ancyra*, which was celebrated in the Year 314; since in the other more ancient Councils, there was nothing treated of but Matters concerning the Tenets and Doctrine of the Church. Whether that Collection had been made by *Stephen*

<sup>1</sup> Baron. ad A. 32. §. 17. Bellarm. de Script. Eccl. in Clemen. Perron. in Replic. ad Reg. Britan. cap. 24.

<sup>2</sup> Baron. ad An. 302. Pag. ad An. 304. Num. 12. S. August. contra Petilian. cap. 16.

<sup>3</sup> Ciron. 4. obs. 5.

<sup>4</sup> P. Carac. de Sacr. Eccl. Neap. Mon. cap. 2. sect. 3.

<sup>5</sup> Thomass. de Ver. Eccl. Disc. par. 2. lib. 1. cap. 9. num. 10.

<sup>6</sup> Marca, lib. 3. de Concor. cap. 3.

<sup>7</sup> Doviati. Hist. du droit. Canon. par. 1. c. 6.

for his own Diverſion, or by the Authority of any Council of the Eaſt, cannot be certainly determin'd: However 'tis certain, that it was ſo much applauded, and ſo univerſally receiv'd, that the Council of *Chalcedon* referr'd to it, and order'd, that the Canons ſhould be read from it, approving of it in theſe Words; *Regulas a Sanctis Patribus in unaquaque Synodo uſque nunc prolatas teneri Statuimus* <sup>1</sup>. And becauſe theſe Canons were all written in *Greek*, there was a *Latin* Tranſlation of it made for the Uſe of the *Western Churches*, the Author of which is uncertain. Neither did the *Roman Church*, nor the Churches of theſe our Provinces make uſe of any other Collection, but of this ſo tranſlated, till the ſixth Century, that the Collection of *Dionyſius Exiguus* appear'd; and the *Gallican* and *German Churches* continu'd to make uſe of it to the ninth Century: it had for Title, according to *Juſtellus*; *Codex Canonum Eccleſiæ Univerſæ*; and, according to *Florens*, this other, *Collectio Canonum Orientalium*.

NEVERTHELESS, in Proceſs of Time, in a ſecond Collection or Addition, the Author of which *Doviat* <sup>2</sup> believes to be the ſame Biſhop *Stephen*, made after the Year 451, there were added all the Seven Canons of the firſt Council of *Conſtantinople*, of which there were only three in the firſt eight Canons of the Council of *Epheſus*, and twenty-nine of that of *Chalcedon*, all of them general; ſo that all this Collection was compos'd of two hundred and fix Canons. Some time after, the Canons of the Council of *Sardica* were added, and fifty of the eighty-nine Canons which are called Apoſtolic, and ſixty-eight Canons of *St. Baſil*; and the Author of this new Addition or Collection, *Doviat* <sup>3</sup> believes to have been *Theodoret* Biſhop of *Cyrrus*. It is then manifeſt, that to the Reign of *Valentinian III.* neither the Eaſtern nor *Western Church* knew any other Regulations, but thoſe which were collected into this Code.

AND 'tis worthy of Obſervation, that the Church, to this time, had no judicial Power and Jurisdiction, thoſe Regulations being only obligatory by the meer Dint of Religion, not by coercive Power; neither were Tranſgreſſors puniſh'd with Temporal Punishments, but with Cenſures and other Spiritual Chaſtiſements, which the Church could impoſe: Whence it was, that the Fathers of the Church, when they had finiſh'd a Council, wherein many Canons had been eſtabliſh'd, in order to their being obſerv'd by every body, being doubtful, that by the Circumſtances of theſe troubleſome and ſeditious Times, which were full of Factions, and particularly amongſt the Eccleſiaſticks themſelves, who often, notwithstanding the Decisions of the Council, would continue obſtinate in their Errors, were uſed to have recourſe to the Emperors, by whoſe Authority the general Council had been call'd, That they would be pleas'd to Ratify what had been eſtabliſh'd in the Council, and to command that it ſhould be obſerv'd by all. Thus, ſays *Eusebius* <sup>4</sup>, did the Fathers of the Council of *Nice*, who obtain'd the Confirmation of their Decrees from *Conſtantine the Great*. And the Fathers of the firſt Council of *Conſtantinople*, had recourſe to the Emperor *Theodoſius the Great*, for confirming the Canons of it <sup>5</sup>. And the Emperor *Martianus* publiſh'd an Ediſt, by which he confirm'd all that had been done in the Council of *Chalcedon*, with its Canons <sup>6</sup>: and, generally, all the other Emperors, when they would have them to be effectually obſerv'd, uſed, by Means of their Conſtitutions, to command that they ſhould be obſerv'd, and gave them the Force of Laws, by inserting them in their Conſtitutions, and publiſhing them with their Laws, which is clear from the *Theodoſian Code*, from the Collection of *Joannes Scholaſticus*, from the *Nomocanons* of *Photius*, and from what the other Princes of the Eaſt, and *Juſtinian* the Emperor order'd concerning them, which will be better known when we come to treat of the Actions of this Prince.

<sup>1</sup> Conc. Chalced. Can. 1.

<sup>2</sup> Doviat. loc. cit. cap. 7.

<sup>3</sup> Ibid. cap. 8.

<sup>4</sup> Euseb. in Vita Constant. lib. 3. cap. 18.

<sup>5</sup> Epist. Synodica. Socrat. Hist. Eccl. 8.

<sup>6</sup> Justel. in Præfat. ad Cod. Can. Eccl. Afric.

## S E C T. III.

*Of the Cognizance of CAUSES.*

**T**HE Ecclesiastical State then, altho' it had been settled in such Splendor by *Constantine*, and had acquir'd a most excellent external Polity, and had increas'd its Regulations, yet, nevertheless, in those Days, and down to the Reign of *Justinian* the Emperor, it had not gone beyond the Bounds of its Spiritual Power, in what concern'd the Cognizance of Causes: It was yet confin'd to the Cognizance of the Affairs of Religion and Faith, wherein it judg'd by way of Polity; of the Reformation of Manners, wherein it determin'd by way of Censure; and of the Differences amongst Christians, wherein it decided in form of Arbitration and charitable Reconciliation.

THE Church had not yet acquir'd *Justitia Contentiosa*, nor Jurisdiction, neither had she a Court of Justice, nor Territories in the Manner and with the Power she possesses them at this Time over all *Christendom*; since these depend not upon the Keys, neither are they properly of Divine Right, but rather of Human and Positive, proceeding chiefly from the Concessions or Permissions of Temporal Princes, as we shall shew clearly in the Progress of this History.

THERE is a great Difference betwixt the Keys and the Sword, as also betwixt the Keys of Heaven, and Law Pleas which belong to Magistrates: And Divines are agreed, that the Delivery of the Keys, and the Power of Binding and Loosing given by Christ Jesus our Lord to his Apostles, import only the Conferring of the Sacraments, and the most important Effect of Excommunication, which is the only Penalty the Ecclesiasticks can as yet impose on themselves and the Laicks, besides injoining of Penance; but all that depends on penitential Justice, if we may so term it, and not purely on litigious<sup>1</sup>; or rather on Censure and Correction, than on absolute Jurisdiction. The Sword implies a precise and formal Constraint, which depends properly on the Temporal Power of the Princes of the Earth, who, as *St. Paul* says, carry the Sword for Punishing the Wicked, and the Security of the Good. And really our Souls, over which the Ecclesiastical Power properly extends, are not capable of a precise Constraint, but only of being stirred up, which is properly *Persuasion*: Whence it is, that all the Fathers of the Church, *Chrysostom*<sup>2</sup>, *Lactantius*, *Cassiodorus*, *Bernardus*, and others, loudly protested, That the Power had not been given to them of hindering Men from committing Faults by the Authority of Decrees; *Non est nobis data talis potestas, ut auctoritate Sententiæ cohibeamus homines a delictis*, says *St. Chrysostom*<sup>3</sup>; all their Power consisted only in exhorting, persuading, and praying, but not in commanding. For which Cause it was thought necessary, that likewise the Princes of the World should exercise their Power in the Church, that what the Priests could not perform by their Sermons and Exhortations, the Secular Power might do by Terror and Force<sup>4</sup>.

THIS in the Hands of the Princes of the Earth then that God has intrusted Justice; *Deus judicium suum Regi dedit*, says the Psalmist: and the People of *Israel* asking a King from God, said, *Constitue nobis Regem, qui judicet nos, sicut ceteræ Nationes habent*. And when God gave to King *Solomon* the Choice of what he would have, he ask'd, *Cor intelligens, ut Populum suum judicare posset*; a Demand which was acceptable to God: Whence *St. Hieronymus* says, that *Regum proprium Officium est facere judicium & justitiam*<sup>5</sup>. In short, in all the Sacred History, Justice is always attributed to Kings, and never to Priests, at least as

<sup>1</sup> Cap. cum non ab homine, Extr. de Judic.

<sup>2</sup> Chrysost. 1. Timot. 33. tit. 17. Lactant. lib. 5. cap. 12. Cassiod. lib. 2. Epist. 27. Bernar. Ser. 66. in Cantic.

<sup>3</sup> Chrysost. de Confid. lib. 1.

<sup>4</sup> Can. Principes 23. qu. 5. Can. inter. 33. qu. 2.

<sup>5</sup> Can. Regum 23. qu. 5.

Priests: Our Saviour himself being intreated by a certain Man to make a Division of an Inheritance betwixt him and his Brother, answer'd; *Homo quis me constituit judicem, aut divisorem super vos*? And as to the Apostles, St. Bernard *Epist. ad Eugen.* says, *Stetisse Apostolos lego judicandos, judicantes sedisse non lego.* Neither had Priests, in these first three Ages, that ample litigious Jurisdiction which they have at present, excepting the three above-mention'd Cognizances, as we have shewn in the first Book.

A S little had they it in the fourth and fifth Centuries; forasmuch as altho' the Empire was govern'd by Christian Emperors, excepting only in Ecclesiastical Causes, the Priests themselves were judged by the Secular Magistrates<sup>2</sup>, as well in Civil as Criminal Causes, and were look'd upon likewise as Members of the Civil Society; and no Immunity was allow'd them, or any Exemption whatsoever, neither by Divine Right, nor, to this Day, by the Laws of any Prince; consequently they ought to be judged by the Secular Magistrates in Secular Causes. And indeed the Bishops, accusing one another in the Council of Nice, carried their Accusations before *Constantine*, that he might judge them; altho' that Prince was pleas'd, for ending all Disputes, to throw them all in the Fire. *Constantine* himself judged the Cause of *Cecilian*, and *Athanasius* being accus'd of the Crime of High Treason, was by his Sentence condemn'd to Banishment. *Constantinus*, his Son, order'd, that the Cause of *Stephen* Bishop of *Antioch*, should be tried in his Palace<sup>3</sup>; and being convicted, was, by his Order, depos'd by the Bishops. *Valentinian* condemn'd *Cronopius*, a Bishop, in a Fine, and banish'd *Ursicinus* and his Associates, as Disturbers of the publick Tranquillity<sup>4</sup>. *Priscilianus* and *Instantius* were condemn'd for their Crimes and Obscenities by the Secular Judges, as *Severus* testifies. The Secular Magistrates likewise judg'd in the Causes of *Felix Aptungitanus*, of *Cecilianus*, and of the *Donatists*<sup>5</sup>: And the Bishops of *Italy* had recourse to *Gratian* and *Valentinian*, intreating they would be pleas'd to judge *Damasus* whom they accused.

NEITHER was there any Alteration in Civil Causes in these Centuries; it being evident, that when the contending Parties were not willing to acquiesce to the Judgment of the Bishops, who were wont to be requir'd as Arbitrators to make up Matters, but would, by all means, plead and have a positive Sentence, they were to have recourse to the *Reitores* of the Provinces, and other Secular Magistrates, and to inform them of the Awards, and set forth their Cases and Exceptions, as the *Theodosian* and *Justinian* Codes clearly make appear<sup>6</sup>; and when they were cited before any of these Tribunals, they were to give Bail *Judicio Sisti*<sup>7</sup>.

IN the extravagant and apocryphal Title *de Episcopali Judicio*, which was put in a suspicious Place, to wit, in the very End of the *Theodosian* Code, we read of a Constitution<sup>8</sup> of *Theodosius*, *Valentinian*, and *Arcadius*, by which it seems as if the Cognizance of Causes amongst Ecclesiasticks had been given to the Bishops, and likewise that they were not oblig'd to plead any where else, but before themselves: But altho' that Law may be suspected of Forgery, as *Gottifredus* demonstrates at length, and all the Learned take for granted, yet the Priests can reap no Benefit from it, since in express and precise Words, there's nothing treated of in that Law but Ecclesiastical Causes, the Cognizance of which the Church always had by way of Polity; these are the Words of it; *Quantumque ad Causas Ecclesiasticas pertinet.* *Gratian*<sup>9</sup>, who did not like this, left it out altogether, and by his Decree, dismember'd the Law, and chang'd its Sense; this was not a new Thing in this Compiler, as we shall find elsewhere on other Occasions. *Anselm*<sup>10</sup>, on this Law, was guilty of the like Artifice, if not greater in Matters of more Importance, which appear'd afterwards.

<sup>2</sup> Luk. 12. Apost. ad Roman. 13. Irenæus, lib. 5. cap. 20. Origen. Epist. ad Rom.

<sup>3</sup> Chrysost. Homil. 23. in epist. ad Roman. Ambros. in Luc. lib. 4. cap. 5. August. in Joan. tract. 6. Gelas. epist. 8.

<sup>4</sup> Theodoret. lib. 2. cap. 9.

<sup>5</sup> L. 2. C. Th. Quorum appel.

<sup>6</sup> Du Pin, diss. ult. §. ult.

<sup>6</sup> L. 33 & 37 C. Th. de Ep. & Cler. L. si quis, C. de Episc. audient. Novel. Valent. 3. tit. 12. de Episc. Judic.

<sup>7</sup> L. omnes 33. C. de Episc. & Cler.

<sup>8</sup> L. 3. Extrava. de Episc. Judicio.

<sup>9</sup> C. continua §. 11. qu. 1.

<sup>10</sup> Anselm. lib. 3. cap. 109. & Pol. 1. tit. 19.

THE Ecclesiasticks alledge some other Constitutions of the same Kind, and many Canons against a Truth so well known ; but *Du Pin* <sup>1</sup>, a great Divine of *Paris*, answers them at length and to the purpose, and better than any Person whatsoever, demonstrates, that the Clergy, as well in Matters Civil and Politick, as in Criminal Causes, were not, by Divine Right, exempted from the Secular Power, nor from Tribute, nor Punishment ; but in Process of Time, by the Favour of the Emperors and Princes, they did acquire Immunity in some Cases ; which shall be clearly shewn in the Course of this History.

THUS it is, that the Church, to this Time, had not acquir'd that complete Judicial Power, which the Laws call Jurisdiction, over her Priests, and much less over Laicks ; neither had she as yet what the Civilians call *Jus Terrendi* <sup>2</sup>, and consequently no complete Jurisdiction, nor a distinct coercive Power ; neither were her Judges Magistrates, who could pronounce these three essential Words, *Do, Dico, Abdico* ; for which Reason she could not, by her own Authority, imprison her Ecclesiasticks, as in *Fraunce* to this Day it cannot be done without imploring the Assistance of the Secular Power <sup>3</sup>. And because by Custom it was at first tolerated, and afterwards introduc'd, that the Ecclesiastical Judge could imprison those who were within the Limits of his *Auditorium*, so call'd in those Days, which *Boniface VIII.* quickly raised higher by a Decretal which he publish'd, giving Power to the Bishops of placing their *Auditoria* where-ever they thought fit, and consequently to imprison every where ; which Deed, because it could not be conceal'd, was the Occasion, that the said Decretal in many Places was not observ'd ; and in *France*, as *Lemetre* testifies <sup>4</sup>, the contrary is practis'd : In fine, the Ecclesiasticks had no Prison before *Eugen. I.* his Time, according to *Volateranus* <sup>5</sup>.

BESIDES, 'tis certain, that in these Ages, the Church had no Power of inflicting Corporal Punishments, of Banishment, much less of Mutilation of Members, or of Death : and in the more heinous Crimes of Heresy, it belong'd to the Princes to punish the Delinquents with Temporal Punishment, and for keeping their Dominions in Peace and Tranquillity, and purging them of those seditious People, who disturb'd the Quiet of the Commonwealth, they establish'd many Edicts, wherein they set down the Penalties and Punishments due to their Crimes : of which Laws, the Books of the *Theodosian* and *Justinian* Codes are full. Neither could the Judges of the Church in those Days condemn in pecuniary Mulcts <sup>6</sup> ; and the Reason was, because she had no coercive Power <sup>7</sup>, and, according to the *Roman* Laws, the Magistrates only, who had full coercive Power, could impose Fines <sup>8</sup> ; but afterwards, altho' the Church had neither coercive Power nor Exchequer, yet she took upon her to do it, and applied the Fine to some pious Use, giving it to Monks, Prisoners, or for building of Churches ; concerning which we shall have a new Motive for Reasoning.

IT cannot then be doubted, but that all that the Church has at this Time of complete Jurisdiction, depends on the Favour and Concession of Princes. Some have believ'd, that these Concessions begun from *Constantine the Great*, who gave her Peace and Increase : They believ'd, that this Prince, by one of his extravagant Constitutions, which we see inserted in the End of the *Theodosian* Code <sup>9</sup>, had establish'd, that the guilty Person, or the Plaintiff, either as to the whole or any part of the Cause, could demand to have it referr'd to the Bishop ; and that it could not be deny'd him, altho' the contrary Party should thwart and contradict it : And lastly, that no Appeal should be made from the Bishop's Sentence, and that presently without delay, and notwithstanding any Impediment, the Ordinary Magistrates were to put it in Execution ; which if true, the Temporal Jurisdiction would be altogether useless, or at least would only serve for executing the Commands of the Ecclesiasticks.

<sup>1</sup> Du Pin. diff. ult. §. ult.

<sup>2</sup> L. Pupillus, §. territorium, D. de verbor. signif.

<sup>3</sup> Jo. Galli, qu. 103, 245, & 276. Lemetre tract. de Appel. cap. 5. Loyf. des Sign. c. 15.

<sup>4</sup> Lemetr. de Appel. cap. 5.

<sup>5</sup> Volater. lib. 22.

<sup>6</sup> Cap. 1. de Dolo & Contum. cap. licet de Pœnis, cap. irrefragab. §. ult. de Offic. Ordin.

<sup>7</sup> Loyseau, loc. cit.

<sup>8</sup> L. aliud est fraus, §. inter pœnam de Verb. Signif. lib. 1. si qu. jus dicenti non obtem. & tor. tit de mod. mult.

<sup>9</sup> L. 1. C. Th. de Episc. Judic.



THERE was a Time, when this truly extravagant Constitution was reputed genuine, by a Part of it being foisted into the *Capitularia* of *Charles the Great*<sup>1</sup>, and likewise into the *Breviaria* of the *Theodosian Code*; and *John Selden*<sup>2</sup>, because he found it in an ancient Manuscript of *William the Monk of Malmesbury*, believ'd it to be truly *Constantine's*.

OTHERS did not attribute it to *Constantine*, but to *Theodosius the Younger*, such as *Innocentius*<sup>3</sup>, *Gratianus*<sup>4</sup>, *Ivo*, *Anselmus*, *Palermitanus*, and the other Compilers of Decrees, being induc'd so to do, by seeing, in the Frontispiece of some Manuscript Codes, this Inscription; *Arcad. Honor. & Theodos.*

BUT 'tis made manifest by able and grave Writers, to have been forg'd and contriv'd, just so as the Donation of the same *Constantine* had been<sup>5</sup>. *Gotifredus*<sup>6</sup> has demonstrated the Falsity of it by a hundred Proofs, so that one must want Eyes to be able to doubt of it: 'Tis added to the *Theodosian Code* in a suspicious Place, to wit, in the very End of it, intitled thus, *Hic titulus deerrabat a Codice Theodosiano*; it has neither Consul nor Date, and, quite contrary to many other Constitutions, inserted in the same Code: 'Tis not put in the *Justinian Code*, neither is there any mention made of it by the Writers of the Ecclesiastical History.

THOSE who attribute it to *Theodosius* have mistaken it very widely, whose true Law<sup>7</sup> follows this forg'd Constitution; forasmuch as that this true Law is quite in Opposition to it, in which it is determin'd, that Bishops ought not to take cognizance but of Matters of Religion; and that all other Processes of the Ecclesiasticks should be determin'd and judg'd by the ordinary Judges: And 'tis not to be thought, that *Theodosius* would have inserted in his Code a Law quite contrary to one of his own. Besides the Laws of the other Emperors reported in this Code, altho' made in Favour of the Church, yet they don't attribute such Justice to her, and especially the *Novella*<sup>8</sup> of *Valentinian III.* is directly contrary, which says, that according to the Laws of the Emperors, the Church hath no Jurisdiction, and according to the *Theodosian Code* she cannot take Cognizance but in Matters of Religion.

BUT besides the true Laws of *Theodosius* above-mention'd, we see in the Reigns of *Arcadius* and *Honorius*, that the Church only had her primitive Right of judging by way of Arbitration, and even that was disputed with her, whence they publish'd a Law for continuing that with her, of which these are the Words: *Si qui ex consensu apud sacra legis Antistitem litigare voluerint, non vetentur, sed experientur illius, in civili duntaxat negotio, more arbitri sponte reddentis judicium*<sup>9</sup>. And the Practice of the Church in those Ages was, that the Bishops were employ'd as Arbitrators in agreeing of Law-Pleas, which were brought before them by the Consent of Parties, as *Basil*<sup>10</sup> witnesseth; as also *Gregorius Neocæsariensis*, *Ambrosius*, *Augustinus*, and the Writers of the Ecclesiastical History *Socrates* and *Nicephorus*<sup>11</sup>. Which continu'd a long Time even to the Reign of *Justinian*, who was the first that augmented the Power of Cognizance in the Bishops by his *Novellæ*, as we shall see in the sixth Century: Since in the End of the Reign of *Valentinian III.* where we now are, it is certain, that the Bishops had neither Court of Justice, nor coercive Power; neither could they meddle in any other Causes, but in what concern'd Religion, neither with respect to the Clergy nor Laicks, as *Valentinian* himself assures us by a most remarkable *Novella*<sup>12</sup>, of which these are the principal Words; *Quoniam constat Episcopos forum legibus non habere, nec de aliis causis, quam de Religione posse cognoscere, ut Theodosianum Corpus ostendit; aliter eos judices esse non patimur, nisi voluntas jurgantium sub vinculo compromissi procedat, quod si alteruter nolit, sive Laicus, sive Clericus sit, agent Publicis legibus, & jure communi*; adding that the Clergy could be cited before the Secular Judge; which was certainly the Law and the Practice before *Justinian*, as may be seen in many Laws of his Code<sup>13</sup>: And this only Privilege was given to the Ecclesiasticks, that they were not oblig'd to go from

<sup>1</sup> Capitul. Car. M. lib. 6. cap. 281.

<sup>2</sup> Selden. in uxor. Hebr. lib. 3. c. 28. p. 564.  
& de Synod. lib. 1. cap. 10. p. 318.

<sup>3</sup> Inn. c. novit. 13. de Judic.

<sup>4</sup> Grat. 11. qu. 1. cap. 35, 36, 37.

<sup>5</sup> Loyseau de sign. cap. 15.

<sup>6</sup> Got. tom. 6. in fin. C. Th. 1. 1. Epif. judic.

<sup>7</sup> L. 3. de Episc. judic.

<sup>8</sup> Novell. Valent. de Episc. judic.

<sup>9</sup> L. 7. de Epif. audient.

<sup>10</sup> Basil. cap. 247.

<sup>11</sup> Gregor. Niss. invita Gregor. Neocæsar. Ambros. Ep. 24. & lib. 2. Offic. c. 24. August. in Psalm. 118. & lib. de Oper. Monac. cap. 20. homil. de Pœnit. 50. cap. 12. & Ep. ad procul. Donatistam Ep. 147. Socrat. lib. 7. cap. 36. Niceph. lib. 14. cap. 39.

<sup>12</sup> Novel. 12. Valent.

<sup>13</sup> L. cum Clericis, L. omnes 33. C. de Episc. & Cler.

Home or their Place of Abode to plead; and in the Provinces they could not be summon'd before any other Judge but the *Rector* of the Province, as at *Constantinople* before the *Præfectus Prætorio*.

THUS it is, that as to what belong'd to the Cognizance of Causes which the Church had, nothing was alter'd in these Times of what had been practis'd in the first Three Centuries: Neither had the Bishops of these our Provinces, a Court of Justice nor coercive Power, neither was there any Alteration made in these Matters, nor in the Political and Temporal Affairs of the Ecclesiastical State to this Time; but were restricted to the Cognizance of Religious Causes, which were judged by way of Polity, and to the two other Occurrences above-mention'd: All the Jurisdiction and Power being in the Civil Magistrates, to whom, as well Priest as Laick had their recourse both in Civil and Criminal Causes, without any Exception.

BUT altho' the Civil State suffer'd no Alteration by these Matters; nevertheless it was not without some Disorders in these very Times, occasion'd by the Acquisition of Temporal Possessions, which, ever and anon, by the Piety of the Faithful, or rather the too great Avarice of the Clergy, were given to the Ecclesiasticks and the Churches.

Loyseau de sign. cap. 15.

## S E C T. IV.

### of TEMPORALITIES.

WHOEVER names Religion, names Riches, says our *Scipio Ammiratus*<sup>1</sup>, who was a Canon in *Florence*; and the Reason is ready, which he adds, Because Religion being an Account which is kept with God Almighty alone; and Mortals standing in need of a great many Things from Him, are either thanking Him for the good Things receiv'd, or the Evil they have escap'd, or praying that such Things may not befall them, and that other Things may prosper well; it necessarily follows, that out of Gratitude we should be careful to bestow a Part of our Riches, not on him, who being Lord of the Universe, hath no need of any Thing from us, but on his Temples and their Priests. As soon as *Constantine* had given Peace to the Church, and our Religion could be profess'd openly every where, Temporal Riches began to increase. Before *Constantine*, our Churches being reputed a kind of unlawful Assemblies, could not acquire any thing by Legacies, no more than the Community of the *Jews* and other Societies, which had no Right so to do<sup>2</sup>.

THESE Bodies were deem'd uncertain, so of course the Legacies left to them could not take Effect. In the Time of *S. Mark*<sup>3</sup> there was a *Senatus Consultum* made, by which there was Liberty given of leaving to Colleges, and other Communities, whatever People pleased<sup>4</sup>: By which the former Rigour was relax'd; and altho' our Churches, as unlawful Societies, could not be comprehended within the Meaning of the *Senatus Consultum*; for all that, we see, that in the third Century, whether it was by Allowance or Connivance, they began to have Possessions. But no sooner had *Constantine* in the Year 312. embrac'd the Christian Religion, making it not only lawful, but our Colleges venerable and commendable, than the Churches abounded with Temporal Riches. And that there might arise no doubt about that Matter, and that he might excite the Liberality of the Faithful in leaving Legacies to them, he publish'd an Edi&ct in the Year 321. which he directed to the People of *Rome*; by which he gave all Persons liberty to leave by Testament whatever they pleased to the Churches, and especially to that of *Rome*<sup>5</sup>. Thus *Constantine* deserv'd so well of the Christian Religion, by enriching our Churches; and

<sup>1</sup> Ammirat. in his Opusc. disc. 7.

<sup>2</sup> L. 2. D. de Colleg. L. 1. C. de Judais. L. 8. C. de Hæred. instit.

<sup>3</sup> V. Ritter. LI. XII. tab. de Coll. Jur. cap. 8.

<sup>4</sup> L. 20. D. de reb. dub.

<sup>5</sup> L. 4. C. Th. de Epif. & Cler. l. 1. C. Just. de SS. Eccl.

not only after this manner, but likewise order'd, that all the Possessions which belong'd to them, and which in the Reigns of *Dioclesian* and *Maximianus*, had been taken from them, should be restor'd to them again; for which end he publish'd another Edict mention'd by *Eusebius* <sup>1</sup>. Moreover he ordain'd, that the Estates of the Martyrs, if they had not left Heirs, should be given to the Churches, as the Author of his Life affirms <sup>2</sup>.

BUT as this Prince, by the new Disposition which he gave to the Empire, was reputed rather a Destroyer of the Ancient, than the Maker of a new One; So likewise he was thought by many, to have done harm rather than good to the Church, by enriching her so much; since in process of Time the Ecclesiasticks by their Covetousness of Riches, brought Matters to such a pass, that besides neglecting their own Duty, they thought of nothing else but of pilling and robbing the Inheritance of the Dead, and were the Cause of many Abuses and great Disorders, which were brought upon the Commonwealth upon that Account: So that the Princes who succeeded *Constantine* were oblig'd to put a Stop to so great Licentiousness.

S. *Jo. Chrysostom* in his Time deplor'd these Abuses, and lamented, that from the Riches of the Churches there arose two Evils; the one, that the Laicks left off giving of Alms; the other, that Ecclesiasticks neglected their own Duty, which is the Care of Souls, and became Solicitors, Stewards, Toll-Masters, exercising Things unbecoming their Vocation.

FIFTY Years were not yet expir'd, from the Time that *Constantine* publish'd these Laws, when by the Avarice of the Ecclesiasticks, always watchful to take Advantage of the Simplicity of the Women, *Valentinian the Elder* was forc'd in the Year 370. perhaps at the Request, as some have suspected, of *Damasus* Bishop of Rome, to put forth a Law <sup>3</sup>, by which he prohibited the Priests and the Monks, under severe Penalties, to take either by Testament, or any other Deed amongst the Living, the Goods of Widows, Virgins, or any other Woman whatsoever, forbidding them to converse with them, as they were in use to do too freely; against which Custom *Ambrosius* and *Hieronymus* likewise declaim'd: And this Law, besides its being directed to *Damasus*, was also proclaim'd in all the Churches of Rome, that it might be inviolably observ'd. *Valentinian* extended this his Constitution to the Bishops and Virgins consecrated to God, whom with the other Clergy and Monks, he forbade to make such Acquisitions <sup>4</sup>.

TWENTY Years after, on the same Account, *Theodosius the Great* was forc'd to publish another such Law <sup>5</sup>, by which it was forbidden the *Diaconesses*, on account of their overmuch Conversation which they had with the Ecclesiasticks, to leave their Goods to the Monks or the Clergy on any pretence whatsoever; besides this Prince likewise prohibited the same *Diaconesses* to make the Churches, or even the Poor, their Heirs, which *Valentinian* durst not do: Altho' *Theodosius* two Months after revok'd in Part his Law, allowing the *Diaconesses* <sup>6</sup> the Power of leaving their Moveables to whom they pleas'd: Albeit the Emperor *Martianus* in his *Novella* <sup>7</sup> reckon'd that *Theodosius* had wholly revok'd his Law, as at last he was willing to do himself; concerning which see *Gotifredus* his excellent Commentaries <sup>8</sup>.

THE Fathers of the Church in those Days did not complain of these Laws, nor of the Power which the Princes had of making them; neither did it ever enter into their Thoughts, that the Immunity or Liberty of the Church suffer'd thereby; such Language was never heard or known in those Times, but were only griev'd for the Causes which produc'd such Effects, and which mov'd these Emperors to make them, to wit themselves, and the too great Avarice of the Ecclesiasticks that had occasion'd them: Behold how S. *Ambrose* speaks of it <sup>9</sup>, *Nobis etiam privata Successionis emolumenta recentibus legibus denegantur, Et nemo conqueritur. Non enim putamus injuriam, quia dispendium non dolemus, &c.* S. *Hieronymus* speaks more clearly <sup>10</sup> writing to *Nepotianus*: *Pudet dicere, Sacerdotes Idolorum, Mimi, Et Aurigæ, Et Scorta hæreditates capiunt, solis Clericis, ac Monachis hac lege prohibetur: Et non prohibetur a Persecutoribus, sed a principibus*

<sup>1</sup> Euseb. lib. 10. cap. 1. Socrat. lib. 1. Sozomenus, Eutrop. & alii.

<sup>2</sup> Auth. vitæ Const. lib. 2. cap. 20.

<sup>3</sup> L. 20. C. Th. de Epif. & Cler.

<sup>4</sup> L. 21. C. eod. tit.

<sup>5</sup> L. 27. C. Th. de Ep. & Cl. Soz. l. 7. c. 16.

<sup>6</sup> L. 28. C. Th. eod. tit.

<sup>7</sup> Martian. Novel. de Testam. Cl. ult.

<sup>8</sup> Got. l. 28. C. Th. eod. tit.

<sup>9</sup> Ambros. libel. ad rer. relat. Symac.

<sup>10</sup> Hier. Ep. 2. ad Nepot. de vit. Cler.

*Christianis. Nec de lege conqueror, sed doleo cur meruerimus hanc legem. Cauterium bonum est, sed quo mihi Vultus, ut indigeam Cauterio? Provida, securaque legis cautio: Et tamen nec sic refrænatur avaritia, per fidei commissa legibus illudimus, &c.* Thus it was, that in these Times it belong'd to the Jurisdiction and was in the Power of Princes to remedy those Abuses, and to give Liberty to, or put a Restraint upon the Acquisition of the Temporal Goods of the Church, as they saw convenient for the Good of their State. Which in the Ages less distant from us all over Europe by other Princes was commendably, and without any Imputation of Indiscretion, imitated. Thus *Charles the Great*, of Glorious Memory, practis'd in *Saxony*; and in *England*, *Edward I.* and *III.* and *Henry the Vth*<sup>1</sup>. The same was observ'd in *France* by *S. Lewis*<sup>2</sup>, which is a Thing very remarkable; and afterwards successively confirm'd by *Philip III.* *Philip the Fair*, *Charles the Fair*, *Charles V.* *Francis I.* *Henry II.* *Charles IX.* and *Henry III.* And we have a Decree in *Papinian*<sup>3</sup>, by which the Parliament of *Paris* inhibited the *Carthusians* and the *Celestins* from making any new Acquisitions. In *Spain*, *James King of Arragon* made the like Laws in the Kingdoms subject to that Crown; the same was practis'd in *Castile*, *Portugal*, and all the other Kingdoms of *Spain*, which *Narbona* and *Lewis Molina* testify<sup>4</sup>; and in several Places of *Germany* and *Flanders*, the like Statutes were observ'd. In *Holland*, Count *William III.* by his Edict in the Year 1328. strictly prohibited the same<sup>5</sup>. And it was done in *Italy*, *Venice*, and *Milan*<sup>6</sup>: Neither is there any Province in *Europe* in which the Princes did not claim it as belonging to them, and in their Power to make such Laws within their own Dominions.

THE Churches in the Provinces, of which our Kingdom of *Naples* is compos'd, if we consider the Time that pass'd betwixt the Reign of *Constantine*, and that of *Valentinian III.* which all that time were still building by the Bishops in *Naples* and the other Cities, made no considerable Acquisitions: And by looking on them it may clearly be perceiv'd, that they can alledge no other Title, but what they owe to the Concessions made them by the *Longobard* or *Norman* Princes, who were more profuse than the rest; or lastly, by the Princes of *Suevia* or *Anjou*. The Monasteries began to be considerable by their Acquisitions, in the Beginning of the Reign of the *Longobards*; and altho' *S. Benedikt* in the Reign of *Totila*, was the first who brought them into *Italy*; nevertheless that of *Monte Casino* in *Campania* was not much enrich'd, until the Time of the *Longobard* Kings: But in Process of Time the Number of Churches and Monasteries multiplied in such a manner in these our Provinces, and their Acquisitions were so excessive, that there was neither City nor Castle, small or great, that was not swallow'd up by them. Such Excess in the Time of the Emperor *Frederick II.* was suppress'd by a Law, which at this Day is to be seen in our Constitutions<sup>7</sup>; by which, imitating, as he says, the Footsteps of his Predecessors, perhaps meaning the Emperors; or, which is more likely, the *Norman* Kings his Predecessors, whose Constitution on that Head is now lost; he prohibited immoveable Estates to be acquir'd by the Church. But in the Time of the Princes of *Anjou*, other Maxims were introduc'd among us, which taught, that Princes could not remedy those Abuses: For which Cause the Constitution of *Frederick*, was reputed impious and injurious to the Churches, and the former Disorders prevail'd; and if Things had been confin'd within these Bounds, it might have been tolerable; but afterwards the Churches and the Monasteries were seen to abound in so great Lordships and Riches, and in such Numbers, that it would have cost but a very little more trouble, to have swallow'd up that small Residue, which continues in the Possession of the Laicks: But of this we shall speak more opportunely in the following Books; what hath been said hitherto of the Ecclesiastical Polity of these our Provinces during the Fourth and the half of the Fifth Century, may suffice.

<sup>1</sup> Pet. Greg. de Repub. lib. 13. c. 16. Polyd. Virg. lib. 13. hist. Anglic.

<sup>2</sup> Pap. l. 1. Rhapsod. ar. 7. art. 3.

<sup>3</sup> Narbon. lib. 35. Gl. 5. num. 30. tit. 3. lib. 1. nov. recampil. Molina de contr. tit. 2. D. 140. l. 2. l. 8.

<sup>4</sup> Gail. lib. 2. observ. 32. num. 5. Chopin. de Daman. Franc. lib. 1. tit. 14. Christin. tom. 1. decis. 201.

<sup>5</sup> Brant. 1. hist. de Reform. 1. p. 25. Ant. Matth. manud. ad jus Can. lib. 2. tit. 1. Bodin. de Rep. lib. 5. cap. 2.

<sup>6</sup> Bossius de Pœnis num. 43. Signorol. de Homedeis conf. 21. Statut. Civit. Mediol. nov. compil. tit. de Pœn. Colleg.

<sup>7</sup> Constit. Regn. de Rœb. stab. Eccl. non alienaud.





T H E  
CIVIL HISTORY  
Of the KINGDOM of  
N A P L E S.

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B O O K III.

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**T**H E fundry Civil Commotions, the great Changes in the State, and the Vicissitude of the *Roman* Jurisprudence, which fell out betwixt the Death of *Valentinian* III, and the Reign of the Emperor *Justin* II. shall be the Subject of this Book. We shall relate the Events of a Century, in which *Italy*, and these our Provinces, that make up at present the Kingdom of *Naples*, saw new Lords, strange People, and new Laws. Hitherto they knew no other Magistrates nor other Laws, but those of the *Romans* : henceforward they shall see themselves mixed with those of Foreign Nations, who, altho'

*Barbarians*, deserve nevertheless to be commended, not only on Account of their many and remarkable Vertues, but likewise because they were so obsequious to the *Roman* Laws, and honoured them so much, that they not only durst not revile them, but with extreme Moderation, contrary to the Laws of Victory, by which the Vanquish'd become subject to the Laws of the Victor, retain'd them. Therefore the Reader must not expect, that being to treat in this and the following Books, of the *Goths*, *Longbards*, and *Normans*, who have all the same Origin, I ought, as many have done, to treat them as inhuman, fierce, and cruel, and to term their Laws impious, unjust, and rude, as they are, for the most part, reputed by our Writers. In the Exploits of their Princes, Piety, Justice, and Temperance



Temperance will shine no less than Fortitude and Magnanimity ; and their Laws and Customs, altho' they cannot be compar'd to those of the ancient *Romans*, ought not however to be thought to come short of those of later Times, while the Empire was declining, when the Condition of a *Roman* became more vile and abject, than that of those who were reputed *Barbarians* and Strangers.

BEING first of all to treat of the *Goths*, it is not to my Purpose to trace them back to their Origin, or to enquire from what part of the North they broke out, to over-run these our Countries. There are not wanting Writers, who have given Account of their Origin, their Progress, and their Conquests over various Regions of *Europe* ; and the last was the incomparable *Hugo Grotius* <sup>1</sup>, who treats of it with so much Exactness and Dignity, that he eclipses all others : Nevertheless, it will be very necessary to distinguish, with Perspicuity, the Eastern *Goths* from the Western ; since some of our Authors, by doing it confusedly and not distinctly, have likewise confounded their Laws and Customs, by ascribing to one, that which belonged to the other, as shall be clearly shewn in the Course of this Book.

THE Origin of their Name is not very obscure : For their Hospitality and Courtesy to Strangers, they were very famous and renown'd ; even before they had embrac'd the Christian Religion, amongst the *Germans* they acquir'd the Appellation of Good ; *Boni*, says *Grotius* <sup>2</sup>, *Germanis sunt Goten, aut Guten* : Whence it came, that afterwards they were call'd *Goti* by all the other Nations of *Europe*. They were divided according to the Situations of the Countries which they inhabited, into Eastern *Goths* or *Ostrogothi*, and into Western or *Westrogothi*, which the *Latins* corruptly call'd *Visigothi*. Those who inhabited the Countries which lay more to the East, towards the *Euxine* Sea, as far as the River *Tyras*, and who afterwards, by the Permission of the Emperors of the East, had *Pannonia*, *Thracia*, and lastly *Illyricum* for their Habitations, were call'd *Ostrogothi* ; and were govern'd by Princes of the House of *Amali* no less ancient than Illustrious, whence *Theodoricus Ostrogothus*, who govern'd these our Provinces, deriv'd his Pedigree. The others, whose Countries lay towards the West, and who, in the Reign of *Honorius*, govern'd *Aquitaine* and *Narbonne*, and afterwards many Provinces of *Spain*, were called *Westrogothi* ; those were commanded by Princes of the House of the *Balti* ; a Family likewise illustrious, but inferior to that of the *Amali*, who bragg'd of its Nobility : *Toulouse* was their Seat, the Capital of the Province, which Country, on Account of their Residence, is since call'd *Gascony*, which in their Language signifies the Country of the Western *Goths* <sup>3</sup>, altho' others say, that it had the Name of *Gascony* from a People of *Spain*, who having passed the *Pyrenean* Mountains, possessed that Province.

<sup>1</sup> Grot. in Prologom. in Hist. Got.

<sup>2</sup> Grot. in Prolegom. pag. 13.

<sup>3</sup> Paulus Æmilius, de Reb. Franc. lib. 1.



CHAP.



## C H A P. I.

*Of the Western GOTHs, and their LAWS.*

THE *Westrogoth* Princes, of the Family of the *Balti*, under the Empire of *Honorius*, having been firmly establish'd in *Aquitaine* and many other Cities of *Narbonne* by this Prince, fix'd their Residence in *Toulouse*, whence they were afterwards call'd Kings of *Toulouse*. They, with all their Might, endeavour'd to extend their Dominion over the other Provinces of *Gallia* and *Spain*, which were ill used and oppress'd by the *Vandals*. *Vallia*, who succeeded *Rigericus*, Successor of *Ataulfus*, as we have said in the preceding Book, triumph'd frequently and successfully over them in *Spain*, and gave them many terrible and memorable Routs. *Vallia*, after having gain'd so many Victories over the *Vandals*, died in *Toulouse* in the Year of Christ 428, and *Theodoricus* succeeded him in the Kingdom<sup>1</sup>. Writers differ about the Name of this Prince; *Gregory of Tours*<sup>2</sup> calls him *Teudus*; *Isidore*, *Teodoridus*; *Idacius*, *Theodorus*; but we, according to *Jornandes*<sup>3</sup>, the more ancient Writer, and the most accurate in the Affairs of the *Goths*, with *Alteferra*<sup>4</sup>, shall call him *Theodoricus*. This Prince reign'd in *Aquitaine* twenty three Years, a valiant and excellent Captain, who, in the Fields of *Chalon*, fighting against *Attila*, gave signal Proofs of his Valour: he was grievously wounded in this Battle, and being thrown from his Horse was sadly bruised, and died soon after. He left behind him six Sons, *Torrismond*, *Theodorick the Younger*, *Frederick*, *Evarick*, *Rotemerus*, and *Aimerick*, and one Daughter, whom he gave in Marriage to *Hummerick* Son of *Gizerick* King of the *Vandals*.

*Torrismond* succeeded in the Kingdom, who, altho' he was in the Battle against *Attila* with his Father, and had been wounded in it, no sooner heard of the Death of his Father, than he immediately returned to *Toulouse*, where, with universal Acclamation, he was set on the Throne<sup>5</sup>. The Reign of this Prince was of short Duration, and if we may believe *Isidore*, it was only of one Year; for, by the Means of *Theodorick* and *Frederick* his Brothers, who were uneasy under his Government, he was cruelly murdered<sup>6</sup>.

*Theodorick the Younger*, his Brother, succeeded him in the Kingdom: A Prince, according to *Sidonius Apollinaris*<sup>7</sup>, indued with noble and excellent Virtues; and altho' the Genius of the *Westrogoths* was ill suited to the *Roman* Laws, contrary to that of the *Ostrogoths*, who had them always in great Esteem and Veneration, yet nevertheless *Theodorick* II. was a great Lover of them, and prized them exceedingly.

THE *Westrogoths*, on Account of the continual Wars which they had with the *Romans*, were not a little averse to the *Roman* Laws; so much, that *Claudian* speaking of their Times, said<sup>8</sup>, *Mærent captivæ pellito iudice Leges*. *Ataulfus* their King, as we have said, succeeded to *Alarick* I. who by the Fierceness of his Temper, had already determin'd to extirpate them altogether; but being soften'd

<sup>1</sup> Paul. Æmil. loc. cit.<sup>2</sup> Greg. l. 2. Hist. Franc. cap. 7.<sup>3</sup> Jornand. de Reb. Getic. cap. 24.<sup>4</sup> Altef. Rer. Aquit. lib. 5. cap. 12.<sup>5</sup> Jornand. de Reb. Getic. cap. 41. Paul. Æmil. loc. cit.<sup>6</sup> Altef. loc. cit. cap. 13.<sup>7</sup> Sidon. lib. 1. ep. 2.<sup>8</sup> Claud. lib. 2. ad Rufin.

by the continual Persuasions and Exhortations of his so much beloved Wife *Placidia*, he was dissuaded from it, and changed his Mind; and tho' his *Goths* did not bear it patiently, yet he confessed, as *Orosius* testifies, That without these Laws, the Commonwealth could not be rightly maintain'd, so that he could not find in his Heart to abolish them altogether; *Neque Gothos*, says he, *ullo modo parere legibus posse, propter effrenatam Barbariem, neque Reip. interdici leges oportere, sine quibus Resp. non est Respublica*: Whence he tells us <sup>1</sup>, that this Prince, in the Year 412, by a publick Edict, commanded his Subjects to observe the Roman Laws together with the Customs of the *Goths*. *Godastus* <sup>2</sup> relates, the Edict among the Imperial Constitutions, but we see it conceiv'd in the same Words of *Orosius*, and many Things added in it, which are not in that Author.

BUT the Study of the Roman Laws was in such Esteem with *Theodorick the Younger*, of whom we are treating, that *Sidonius Apollinaris* <sup>3</sup>, introducing him in his Verses speaking with *Avitus*, makes him say thus;

- - - - - *Mibi Romula dudum*  
*Per te jura Placent.*

And elsewhere <sup>4</sup> he calls this *Theodorick*, - - - - - *Romanæ columnen, salusque gentis*. And *Claudian*, speaking of this Prince, as *Grotius* observes <sup>5</sup>, says, *Vindictæ Artoris Violatas advena leges*. The *Westgoths*, neither in this King's Reign, nor in those of his Predecessors, had their own written Laws, neither did they take care to form them.

But *Theodorick* dying in the thirteenth Year of his Reign, *Evaricus* having serv'd him in the same manner that he had serv'd *Torismund*, succeeded him in the Kingdom. He was the first who gave written Laws to the *Goths*, as *Isidore* assures us <sup>6</sup>; *Sub hoc Rege Gothi Legum instituta scriptis habere cæperunt, nam antea tantum moribus & consuetudine tenebantur*; for which, *Sidonius* <sup>7</sup>, in an Epistle directed to the Emperor *Leo*, extols *Evaricus* as a wise Prince, and Author of the Laws; *Modo per promotæ limitem sortis, ut populus sub armis, sic frænat arma sub legibus*.

IN the Reign of this Prince, the Roman Laws began to be under a Cloud, not in *Italy*, but in *Aquitaine*, *Narbonne*, and in some Provinces of *Spain*; for those new Laws, which were call'd *Theodoricianæ*, by the Means of the *Goths*, being propos'd to the People of the Provinces, it happen'd that the *Theodosianæ* were not so much valued; and the Knavery of the Roman Officers themselves, concurr'd not a little to make them be despis'd, and particularly of *Seronatus* at that time Præfect of the *Gallia*, who, by favouring the Party of the *Goths*, and betraying his own Prince, set himself in Opposition to the Romans; insomuch, that *Sidonius* <sup>8</sup> call'd him the *Catiline* of that Age. This Man was pernicious to the Romans themselves, not only by the great Losses occasion'd by his Villainy to the Empire of the West in *Gallia*, but much more by his contemning and slighting the *Theodosian* Laws, and by extolling those of the *Goths*. We read also in *Sidonius* the Complaints of the Provincials against this Man; *Exultans Gothis, insultans Romanis, illudens Præfectis, colludensque numerariis, Leges Theodosianas calcans, Theodoricianasque proponens, veteres culpas, nova tributa perquirir*: Whence we may see the Condition of the Romans at that time, who by the Extortion of this pestiferous Person, who loaded them with excessive and exorbitant Tributes, were reduced to that Pass, that, as was said in the first Book, the People of the Provinces chose rather the Servitude of the *Goths* than the Freedom of the Romans; whence *Salvianus* <sup>9</sup>, speaking of them, said; *Passim, vel ad Gothos, vel ad Bagaudas, vel ad alios ubique dominantes barbaros migrant, & commigrasse non pœnitent; malunt enim sub specie captivitatis vivere liberi, quam sub specie libertatis esse captivi. Itaque nomen Civium Romanorum aliquando non solum magno æstimatum, sed magno emptum, nunc ultro repudiatur, ac fugitur, nec vile tantum, sed etiam abominabile*

<sup>1</sup> Arthur. Duk. de Ufu & Authoritat. Jur. Civil. lib. 2. cap. 6. num. 14.

<sup>2</sup> Godast. Const. Imp. tom. 3.

<sup>3</sup> Sidon. Carm. 7.

<sup>4</sup> Carm. de Narbon.

<sup>5</sup> Grot. in Proleg. Hist. Got.

<sup>6</sup> Isid. in Chronic. Æra 504.

<sup>7</sup> Sidon. lib. 8. ep. 3.

<sup>8</sup> Sidon. lib. 3. cap. 1.

<sup>9</sup> Salvian. lib. 5. de Guber. Dei.

*penè babetur.* Paulus Orosius likewise attests <sup>1</sup>, that the People of the Provinces chose to live rather amongst the Barbarians than amongst the Romans: *Qui malint inter barbaros pauperem libertatem, quam inter Romanos tributariam sollicitudinem sustinere.* From whence Isidore <sup>2</sup> concludes, *Unde & bujusque Romani, qui in Regno Gothorum consistunt, adeo amplectuntur, ut melius sit illis cum Gothis Pauperes vivere, quam inter Romanos potentes esse, & grave jugum, tributi portare.* But so great Villainy in *Seronatus* did not go long unpunish'd, he being dragg'd along the Streets of Rome, was beheaded; thus did he undergo the Punishment of so great Wickedness.

THE Laws call'd *Theodorianæ* were establish'd by *Evarick*, not because he acknowledg'd the two *Theodoricks* abovemention'd for the Authors of them, as *Baronius* believ'd <sup>3</sup>, who makes *Theodorick the Younger*, Predecessor of *Evarick*, Author of them; for in their Times this Nation had no written Laws. Much less were they so call'd, because *Theodorick the Ostrogoth*, King of Italy, had been the Author of them, as others were persuaded: Because this Prince, as we shall shew anon, had very different Sentiments concerning the Care of the Roman Laws, and reign'd a long Time in Italy, after *Sidonius Apollinaris* was dead, who could not call these Laws *Theodorian*, because this *Theodorick* was Author of them. *Theodorick Ostrogoth*, as shall be told, reign'd in Italy in the Reign of *Anastafius* Emperor of the East in the Years 493 and 500. when *Sidonius Apollinaris* was dead, which is clear from *Gregory of Tours* <sup>4</sup>; so that *Cujacius* is accus'd deservedly of an Error by *Cironius* <sup>5</sup>, for making *Theodorick* King of Italy Author of these Laws.

*SIRMONDUS* and *Dadinus Alteserra* <sup>6</sup> wisely said, that these Laws were call'd *Theodorianæ*, by way of Allusion or *Paranomasia*, in opposition to the *Theodosianæ*; that as the Romans valued themselves on the *Theodosianæ*, so the Goths having their own Laws, tho' different in Sense, yet the same in Sound, would have them call'd *Theodorianæ*: But as *Cironius* observes <sup>7</sup>, this *Paranomasia* would be too insipid, if *Evarick* had not likewise been call'd *Theodorick*; whence the most learn'd *Savaron* <sup>8</sup> upon that Place of *Sidonius Apollinaris*, demonstrates very clearly that the true Name of this Prince had been *Theodorick*: *Grotius* afterwards in his *Nomenclature* lets us see, that this King was also call'd *Evarick*, because he was the first among the Gothic Kings who made Laws; *Evarix* says he, alias *Evaricus*. *Evarich, legibus Pollens. In glossis lex Evva.*

<sup>1</sup> Oros. lib. 7. c. 28.

<sup>2</sup> Isid. in Chron. Æra 447.

<sup>3</sup> Baron. Ann. tom. 5. A. 468. num. 11.

<sup>4</sup> Greg. Tur. hist. Franc. lib. 2. cap. 23.

<sup>5</sup> Ciron. obs. Jur. can. lib. 5. cap. 1.

<sup>6</sup> Altes. rer. Aquit. lib. 5. cap. 15.

<sup>7</sup> Ciron. lib. 5. cap. 1.

<sup>8</sup> Savar. in lib. 2. Sid. Epist. 1.

## SECT. I.

### Of the ALARICK Code.

THE Roman Laws underwent these Abuses in the Reign of *Evarick*, yet many more by the Villainy of *Seronatus*; but such a Wretch being dispatch'd out of the World, and *Evarick* dying afterwards in the Year 484. they sprung up afresh, and recover'd their ancient Vigour; for the Sentiments of *Alarick* Son of *Evarick*, who succeeded him in the Kingdom, were quite different; forasmuch as the People of the Provinces, who took it ill that they were depress'd, found that Access to *Alarick*, which they never had had to the Father. This Prince gave Ear to the Grievances of the *Aquitani*ans, and his other Subjects, who, to their great Prejudice, having been depriv'd of the Roman Laws under which they had been born and brought up, could not be easily reconcil'd to the *Theodorian*. Besides he knew with what esteem they had been receiv'd by *Theodorick the Ostrogoth*, who reign'd in Italy now in his Time, whose Daughter *Theodelusia* he had married; for which Cause his Son was call'd after *Theodorick*, which may be seen in *Cassiodore*, in that affectionate Letter he wrote

wrote him <sup>1</sup>: He was therefore resolv'd in the Twenty-second Year of his Reign to comply with him; for which end having chosen the most prudent Men, and the most famous Civilians who flourish'd in his Time, over whom he set *Gojaricus* <sup>2</sup>, just so as the Emperor *Justinian* had done by *Trebonianus* in the Compiling of the *Pandects*, and his own Code; he enjoyn'd them, that from the Constitutions of the *Theodosian* Code, and the Opinions of the various Civilians dispers'd in different Books, they should form a new Code. And that he might not lessen the Majesty of his own Empire, as if he should seem to stand in need of the foreign Laws of other Princes, for governing the People subject to him, he order'd that this new Code should be publish'd in his Name, and that the Laws contain'd in it should receive from him their Force and Vigour, that his Subjects might be bound to obey them.

THE most esteem'd and famous Books, in which in these Times the Civil Law of the Romans was comprehended, if we regard the Constitutions of Princes, were the *Gregorian* and *Hermogenian* Codes, and that of *Theodosius* with his *Novellæ*, and among the Volumes of the Civilians, the Opinions of *Paulus*, and the Institutions of *Cajus*, were in greatest Vogue at this time; therefore by the Labour of these able Men <sup>3</sup>, from the Constitutions of these Codes, from the Body of the *Novellæ*, and from the Opinions of these Civilians, was this new epitomiz'd Code compil'd; whence therefore it was also, by the Writers of this and the following Age, call'd the Breviary of the *Theodosian* Code, which according to the Computation of *Gotifredus* <sup>4</sup> was finish'd in the Year 506. Which Compilation is owing to *Gojaricus* and his Collegues, and not to *Anianus* Chancellor to *Alarick*, as *John Tilly* and *Cujacius* thought, who perhaps were deceiv'd by what *Sigebertus* wrote <sup>5</sup>. *Anianus* had no hand in the Composing of it, but only by the Order of *Alarick* it was publish'd and subscrib'd by him, in *Ayre* in *Gascony*, in the Council of both the Orders <sup>6</sup>, that is to say, of the Ecclesiasticks and the Nobility; for at this Time the third Order was of no consequence nor Authority whatsoever in *France* <sup>7</sup>. Which Publication and Subscription of *Anianus* is manifest from the *Commonitorium* of *Alarick* directed to Count *Timotheus*, which is plac'd before the *Theodosian* Code, in which we read these Words <sup>8</sup>: *Anianus vir spectabilis, ex praecepto D. N. gloriosissimi Alarici Regis, hunc Codicem de Theodosianis legibus, atque sententiis Juris, vel diversis libris electum, Aduis Anno XXII. eo Regnante edidit, atque subscripsit.*

SOME for the same Consideration have believ'd, that at the same time *Anianus* had compos'd the Notes on the Opinions of *Paulus*, and the Institutions of *Cajus*, as *Decianus* <sup>9</sup> and *Arthur Duck* <sup>10</sup>, by a manifest Error have written; for in that Breviary, besides the Laws pick'd out of the *Theodosian* Code, there were likewise put the Opinions of these Civilians by the abovemention'd Compilers, and not by *Anianus*. And these Interpretations, which are observ'd in the *Theodosian* Code, ought not to be ascrib'd to *Anianus* but to them, as *Gotifredus* most carefully observes in the *Prolegomena* of that Code <sup>11</sup>. And 'tis also worthy of Observation, that these Notes, and the Interpretations having been join'd to this Code, occasion'd a Mistake in the Writers of the following Ages; that when they quoted the Laws of this Code, they often quoted for Constitutions of it, one of these Interpretations, or Notes of *Paulus* the Civilian, as hath been taken Notice of by *Savaron* <sup>12</sup> on *Sidonius Apollinaris*. Thus we see *Ivo* of *Chartres* <sup>13</sup>, who flourish'd in the Year 1092. often quotes for Laws of this Code, the Interpretations of *Paulus* the Civilian: *Gratian* <sup>14</sup> afterwards in his Decree makes many such Mistakes, as hath been observ'd by *Gotifredus* <sup>15</sup> and others.

<sup>1</sup> Cassiodore lib. 3. var. c. 1.

<sup>2</sup> Got. in prolegem. C. Th. cap. 5. num. 6.

<sup>3</sup> Got. in proleg. C. Th. cap. 5.

<sup>4</sup> Ibidem.

<sup>5</sup> Sigebert. de Eccl. Scrip. c. 70. *Anianus vir spectabilis, jubente Alarico R. volumen unum de legibus Theodosii Imp. edit.*

<sup>6</sup> Got. in prolegom. cap. 5.

<sup>7</sup> Loyseau des ordres.

<sup>8</sup> Altref. loc. cit. Ciron. lib. 5. obs. Jur. can.

cap. 2. Gotifr. in proleg. cap. 5.

<sup>9</sup> Decian in Apolog. advers. Alciat. l. 2. c. 7.

<sup>10</sup> Arth. Duck, lib. 2. cap. 6. num. 14.

<sup>11</sup> Got. in proleg. cap. 5.

<sup>12</sup> Savar. sup. Sidon. lib. 2. Ep. 1.

<sup>13</sup> Ivo Carnut. Ep. 112. quod ex legib. Theod. laudat, id habeat ex inter. ad Paul. 5. Sent. 11.

<sup>14</sup> Gratian. 2. qu. 6. c. id ex interpr. in 5. Paul. Sent. tit. de cau. & pœnis Appel. §. 1.

<sup>15</sup> Got. in proleg. c. 6.

## S E C T. II.

*Of the Translation of the Royal Seat of the Westrogoths from Thoulouse in France, to Toledo in Spain.*

THIS was the alternate Fortune which the Roman Jurisprudence suffer'd by the *Westrogoth* Kings of *Tboulouse*, who rul'd in *Aquitaine* and many Places of *Gallia*, besides the Provinces of *Spain*. But such is the Vicissitude of human Things, that *Alarick*, who after Three and twenty Years Reign, had so well establish'd his Kingdom in *France*, that he had no Reason to think he was to be the last King of *Tboulouse*, was depriv'd both of his Kingdom and Life, and with him the Dominion of the *Gotbs* in *Gallia* was extinguish'd. *Clovis* King of *France*, whether out of Zeal for Religion, or for Reasons of State, was much vex'd to have *Alarick* for a Companion in the Empire of the *Gallia*<sup>1</sup>. *Alarick* was truly *Arian*, as all the *Gotbs* were: And *Clovis* burning with Zeal for the Catholick Religion which he had lately embrac'd, resolv'd to make War against him, and to drive him out of *Gallia*: Thus did this Prince, as we read in *Gregory of Tours*<sup>2</sup>, speak to his Soldiers, *Valde molestè fero, quod hi Arianæ partem teneant Galliarum, eamus cum Dei adjutorio, et superatis redigamus Terram in ditionem nostram*: And having assembled his Armies, he attack'd the Frontiers of the *Gotbs*, and in the Fields of *Vique* came to a fierce Engagement, where *Alarick* being thrown off his Horse, *Clovis* kill'd him with his own Hand. The *Gotbs* being in the utmost Consternation by the Death of their King, were dispers'd, and almost quite destroy'd. *Clovis* triumph'd, and took many Cities and Castles; *Theodorick* his Son retiring to the inner Parts of *Aquitaine*, all these Cities submitted to him: *Clovis* enter'd *Tboulouse*, which had been the Seat of the *Gotbs* for a long time, with triumphal Pomp, where he took all *Alarick*'s Treasure. Thus ended the Dominion of the *Gotbs* in *Aquitaine*; and at the same Time, we may see the Hand of the Lord, how he transfers Kingdoms from one Nation to another.

*CLOVIS* having conquer'd all *Aquitaine* and *Tboulouse*, *Spain*, and a Part of the Province of *Narbonne* remain'd under the Empire of the *Gotbs*; for the latter of which there was for a long time War betwixt the *Gotbs* and *French*: And tho' the *French* at last became Masters of it, yet in the *French* *Narbonne*, as *Grotius* says<sup>3</sup>, the *Gotbish* Blood is not quite extinct, neither is there wanting of the Lineage of the *Bakti*, the Family of the *Baux*, being still extant there, who derive their Origin from none else, but from these *Gotbs*; and they possess yet in that Province, a Part of the Principality of *Orange*. Another Branch of this same Family was transplanted from *France* into our Kingdom of *Naples*, who with us are call'd *Baucio* or *Balzo*, which possess'd the Principality of *Altamura*, the Dukedom of *Andria*, and the County of *Avellino*; for which we shall seek no better Voucher, than *Grotius* himself; these are his Words, *Aliaque ejusdem familiæ propago in Regno Neapolitano Principatum Altamuræ, Ducatum Andriæ, Comitatum Avellinæ, virtutis non degenerantis monumenta tenuit*.

THE *Westrogoths* being driven from *Tboulouse* and *France*, fix'd their Royal Seat in *Toledo* in *Spain*. There they possess'd the Kingdom a long Time, until the astonishing and terrible Irruption of the *Saracens*. *Gesalarick* held it, and after him *Theodorick* the *Ostrogoth* King of *Italy*, who being desirous of returning to *Italy*, left it to *Amalarick* his Nephew. *Teudius* likewise kept it under *Justinian* the Emperor, little less than 18 Years; and after him *Teudiscolus* one single Year; *Agila* five; *Atanagildus* fourteen; and after his Death, which happen'd in *Toledo*, *Liuba*<sup>4</sup>.

<sup>1</sup> Goldast. tom. 1. Const. Imp. relates the Complaint of Theodorick King of Italy, against Clovis, calling him an Usurper and Tyrant, because without just Cause he had made War on Alarick.

<sup>2</sup> Greg. Tur. lib. 2. hist. Franc. cap. 3.

<sup>3</sup> Grot. in proleg. hist. Got.

<sup>4</sup> Ibid. Æra 592. Grot. in proleg. hist. Got.



*Leovigildus* his Brother succeeded him in the Kingdom, a Prince of a deep Reach, and who was altogether intent on Inlarging the Bounds of his Empire. He conquer'd the *Cantabrians*, who are the People of *Biscay*, and the *Navarrians*, he subdu'd *Amaya* and many other rebel Cities; for which he was call'd the Conqueror, having conquer'd a great Part of *Spain*: *Nam antea Gens Gothorum* (as *Isidore* says <sup>1</sup>) *angustis finibus arctabatur*. But all his Virtues were eclips'd by his Persecution of the Catholics, and the Fierceness and Cruelty of his Temper, not pardoning even *Hermonegildus* his own Son.

<sup>1</sup> *Isidor. Æra 606.*

### S E C T. III.

*Of the new Code of the Laws of the Westrogoths.*

THE Roman Laws were not in great Esteem with all these Princes, and much less with *Leovigildus*, who being of the same Sentiments with *Evarick*, would add some others to his own *Gothick* Laws; and what of these he thought were out of Order, or superfluous, he mended or left out, or put in better Method: *In legibus quoque* (says *Isidore* <sup>1</sup>) *ea quæ ab Evarico inconditè constituta videbantur, correxit, plurimas leges prætermittas adjiciens pluresque superfluas auferens*. This Prince likewise increased his Revenue very much; and after eighteen Years Reign, dy'd in *Toledo* his Royal Seat, in the Year 586.

HIS Successors had the same Opinion of the Roman Laws: *Reccaredus* his Son (who was the first that forsook *Arianism*, and embrac'd the Catholick Religion, for which he was call'd the *Catholick King*, a Surname afterwards taken by *Alphonfus* and *Ferdinand*, Kings of *Arragon*, and their Successors) *Liuba II. Witterick, Gundemare, Sisebutus, Reccaredus II. Svintilla, Sifinandus, Cintila, Tulca, Cbindefvindus*, all Catholick and Religious Princes, adding their own Laws to those of their Predecessors, in process of Time this new Code sprung up, and was call'd the Laws of the *Westrogoths* <sup>2</sup>. Of the Laws contain'd in it, some bear the Names of the Authors in the Front, such as King *Gundemare's*, and so of the rest who reign'd after *Evarick* and *Leovigild*: Others are under the Title of ancient Law, which may be ascrib'd to *Evarick*, or rather *Leovigild*, who corrected and increas'd his Laws. The Authority of this Code was so great, that it eclips'd the Splendor of the Roman Laws altogether in these Provinces; for *Cbindefvind* <sup>3</sup> King of the *Westrogoths*, who succeeded *Tulca*, publish'd an Edict by which he banish'd the Roman Laws intirely out of his Kingdom, and ordain'd, that only this Code should be observ'd, under a vain and stupid Pretext, because they requir'd a too subtle Interpretation. These are the Words of the Edict <sup>4</sup>, *Alienæ gentis legibus ad exercitium utilitatis imbui, & permittimus, & optamus; ad negotiorum vero discussionem, & resultamus, & prohibemus. Quamvis enim eloquiis polleant, tamen difficultatibus hærent: adeo cum sufficiat ad justitiæ plenitudinem; & præsentatio rationum, & competentium ordo verborum, quæ Codicis hujus series agnoscitur continere, nolumus, sive Romanis legibus, sive alienis institutionibus a modò amplius convexari*. This Constitution by the Mistake of *Benedict Levita*, having been registred amongst the Capitularies of *Charles the Great*, made *Gonsalez* believe <sup>5</sup>, that *Charles* had been the first who banish'd the Use of the Roman Laws from the Courts of Justice. *Reciswind* his Son, who succeeded him in the Kingdom, renew'd the Injunctions of his Father, and order'd, that no other Laws but what were contain'd in that Code should be obey'd, whether they were Roman or *Theodosian*, or of any other foreign Nations. *Nullus*, says he, *prorsus ex omnibus*

<sup>1</sup> *Isid. in Chron. Æra 608.*

<sup>2</sup> *Ciron. lib. 5. observ. jur. can. cap. 2.*

<sup>3</sup> *Altef. rer. Aquit. lib. 3. cap. 11. Got. in proleg. C. Th. cap. 7.*

<sup>4</sup> *Leg. Wisigoth. lib. 2. tit. 1. c. 9.*

<sup>5</sup> *Gonsal. in c. super Specula, de privil. num. 2.*

*Regni nostri præter hunc librum, qui nuper est editus, atque secundum seriem hujus omnimode translatus, alium librum quocunque negotio in judicio offerre pertinet* <sup>1</sup>. *Reciswind* reign'd thirteen Years after the Death of his Father, and died in *Toledo* in the Year 672. <sup>2</sup>, and *Vamba* was chosen his Successor.

NEVERTHELESS 'tis true, that this Code, in Emulation of that of *Justinian*, was compil'd and divided into twelve Books. The Compilers had the *Theodosian* Code likewise by them, and that of *Alarick*, as is clear from the Constitutions which we read in it <sup>3</sup>. Besides they made use of the *Justinian* Code in computing <sup>4</sup> the Degrees of Consanguinity in the same Order, and almost in the same Words, which *Justinian* made use of in the Books of his Institutions; and which is more remarkable, it was written in pure *Latin*, and not in that insipid and barbarous Stile, which other Nations used; from which *Cujacius* <sup>5</sup> concludes, that the *Goths* were the most polish'd of all other Nations: And such was the Authority of this Code, that it not only had Force and Stability amongst the *Westrogoths*, but also among other Nations, such as the *Burgundians* and *Saxons*. In the Council of *Toledo*, its Constitutions are often quoted, and honourable mention made of them; so that the *Roman* and *Gothish* Laws were blended in such manner, that not only in this Age, but also in the following, they were observ'd, as well by the *Goths* as the *Saracens* <sup>6</sup>, who after the Year 715, having over-run *Spain*, retain'd them; neither did they introduce new Laws, excepting some few concerning Criminal Matters, such as blaspheming their false Prophet *Mahomet*; and at last, these being driven out, they were retain'd by the Kings of *Spain* themselves, as *Grotius* <sup>7</sup>, from the Testimony of *Roderick*, writes, till the Reign of *Alphonfus* IX or X, who, the *Gothish* Laws being almost wore out by disuse, introduc'd the *Roman* into *Spain*, which he caus'd to be translated into the *Spanish* Language by *Peter Lopez* and *Bartholomew* of *Arienza*, and publish'd them, which to this Day are in Force <sup>8</sup>.

WE owe this Code of the Laws of the *Westrogoths*, to the Care of *Peter Pitheus*, who was the first that communicated them to *Jacobus Cujacius*, for which Favour he own'd himself much beholden: Take his own Words for it <sup>9</sup>; *Gothorum sive Wisigothorum Reges, qui Hispaniam & Galiciam Toletō Sede Regia tenuerunt, ediderunt XII. Constitutionum libros, æmulatione Codicis Justiniani, quorum autoritate utimur sepe libenter, quod sint in eis omnia fere petita ex Jure Civili, & Sermonē Latino conscripta, non illo insulso cæterarum gentium, quem nonnunquam legimus ingratis: ut gens illa maximè, quæ consedit in Hispania plane cultior cæteris, hoc argumento fuisse videatur. Communicavit autem mihi ultro Petrus Pitheus, quem ego hominem, & si amore, & perpetuo quodam judicio meo dilexi semper vix jam ex ephebo profatus fore, ut probitate, & eruditione æqualium suorum, nemini cederet: tamen pro singulari isto beneficio, maximam modo animi benevolentiam, & summa, ac singularia Studia omnia me ei debere confiteor, idemq; erit erga eum animus bonorum omnium, si, quod vehementer exopto eos libros in publicum conferre maturaverit.* What *Cujacius* wish'd so much for, *Pitheus* had already done; for not long after, he allow'd it to be put to the Press, as he says, writing to *Edward Moleus*; *Imo etiam, ne quid Orienti Occidens de eadem gente invideret, legis Wisigothorum libros XII. ut tandem aliquando ederentur, concessi* <sup>10</sup>. To the same Person we are likewise indebted for the Edict of *Theodorick* the *Ostrogoth*, King of *Italy*, of which we shall speak by and by.

Altho' *Spain* was afterwards invaded by the *Saracens*, the Name and Blood of the *Goths* were not quite extinguisht, neither were their Laws. The greatest Part of the Nobility of that Kingdom, bragg'd very justly, not only of their Blood, but also of their Names; and indeed, as *Grotius* <sup>11</sup> observes, *Ferdinand*, *Frederick*, *Roderick*, *Herman*, and such like Names, are all *Gothish*, and the *Spaniards* still retain them.

<sup>1</sup> Cod. LL. Wisig. lib. 2. tit. 1. cap. 10. Got. in Proleg. C. Th. cap. 7.

<sup>2</sup> Got. loc. cit.

<sup>3</sup> Cod. LL. Wisig. lib. 5. tit. 5. cap. 9. lib. C. Th. de Usuris. C. LL. Wisig. lib. 3. tit. 1. cap. 1. l. un. C. Th. de Nupt.

<sup>4</sup> LL. Wisig. lib. 4. cap. 11.

<sup>5</sup> Cujac. de Feud. lib. 2. tit. 11.

<sup>6</sup> Arth. Duck, lib. 2. cap. 6. num. 15.

<sup>7</sup> Grot. in Proleg. Hist. Got. postquam e Saracenorum manu recuperari partes Hispaniæ

cæpere, resuscitatæ a veremundo, Adelfunso, Ferdinando, ut Rodericus nos docet, Gothicæ leges: quarum Corpus Forum judicum, & olim & nunc dicitur fons verus Hispanici juris.

<sup>8</sup> Corvar. lib. 1. var. resol. cap. 14. num. 5. Arth. Duck, loc. cit. num. 16.

<sup>9</sup> Cujac. loc. cit.

<sup>10</sup> Pitheus ad Edvard. in ep. Præposita ad Edictum Theodorici in oper. Cassiod.

<sup>11</sup> Grot. in Proleg. Hist. Got. pag. 5.

The Kings of *Spain* themselves boast, and will have it believ'd, that they are descended of *Pelagius* Son of *Favilla*, come of Kingly Race, who upon the Invasion of the *Saracens*, gathering together the Remains of their People in *Austria*, maintain'd himself there, altho' with a slender Fortune, yet with a Royal Title, hoping, that some time his Posterity might recover the Kingdoms of their Forefathers, as it fell out afterwards; *Ad hunc*, as *Mariana* says, *Hispaniæ Reges nunquam intercisa serie, cum semper, aut parentibus filii, aut fratres fratribus successerint, clarissimum genus referunt.* *Frouliba*, Wife of *Pelagius*, was a *Goth*, and her Son-in-law *Adelphonsus* was likewise a *Goth* of the Blood of *Reccared*. They were then of the Royal Race of the *Balti*. The Kings of *Spain*, who in the Space of seven hundred Years, with unwearied and continual Fatigues, had purg'd *Spain* of the *Arabick* Inundation, at last extended their Dominion not only over a great Part of *Europe*, *Africa*, and *Asia*, but subjected a new and unknown World, and likewise for a long Series of Years govern'd these our Provinces, which at this Day compose the Kingdom of *Naples*.

WE have thought fit to enlarge somewhat on the Race and Succession of these *Westrogoth* Princes, and the alternate Fortune the *Roman* Jurisprudence had amongst them in *France* and *Spain*, that we might speak separately of what happen'd among the *Ostrogoths* in *Italy*; not only by adding the Origin of the Kings of *Spain*, by whom, in the Ages less remote from us, our Kingdom hath been govern'd; but also by distinguishing the Vicissitudes of the *Roman* Jurisprudence amongst these two Nations, who had not the same, but altogether opposite and different Sentiments of it. And it was the more necessary, because Writers jumble the Laws of the one with the other; not minding the Series and Genealogy of these Princes, and the various Habitations they had, by which they confound the one with the other, and believe, that this Code had likewise Authority in *Italy* among the *Ostrogoths*, in ascribing to the *Ostrogoth* Princes what the *Westrogoth*s did: Into which Error we are surpriz'd that the careful *Arthur Duck* should have fallen<sup>1</sup>.

<sup>1</sup> *Arth. Duck. de Usu & Aut. Jur. Civil. cap. 6. num. 14.*



## CHAP. V.

### *Of the Eastern GOTHs, and their EDICTS.*



OF the *Ostrogoth* Princes of the illustrious House of *Amali*, *Jornandes* hath given a long Series in his Histories<sup>1</sup>: Before *Hermanarick* he reckons Six, *Amalus*, *Isarna*, *Ostrogota*, who flourish'd during the Empire of *Philip*, *Cniva*, *Ararick*, and *Geperick*. *Hermanarick* was he, who extended the Bounds of his Kingdom further than all the rest, and subjected many Nations. He was a Prince of very great Courage, but much more fortunate: His Death was a great Loss to the *Ostrogoths*, for it occasion'd the *Westrogoths* to separate themselves, and in the Reign of *Valens* the Emperor, to choose *Fridigern* for their Captain, and afterwards *Atanarick* for their King, and after him, in the Reign of *Honorius*, *Alarick*, the Series of whose Successors, who reign'd first in *France*, and afterwards in *Spain*, we have above

<sup>1</sup> *Jornand. Hist. Got. cap. 48. Grot. in Proleg. Hist. Got.*

related.

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related. *Winitarius*, of the same Race of the *Amali*, succeeded *Hermanarick*; but tho' he retain'd the same Princely Ensigns, nevertheless, the *Ostrogoths* continued subject to the *Huns*, because of their residing in their Country. Wherefore *Winitarius*, not patiently bearing the Government of the *Huns*, by degrees, withdrew himself from under their Yoke, until he made himself Master of the Person of *Box* their King, his Sons, and of seventy of the principal Lords of his Kingdom; and for a terrible Example to the rest, he crucified them all, and for many Days left their Bodies hanging to be gazed on; but he enjoy'd the Freedom of the Government he had purchas'd, but one Year only, for King *Balambrus* declared War against him, and was in the first and second Battels defeated with a great Slaughter of the *Huns*, but in the third, *Winitarius* was kill'd by the Stroke of a Dart that pierced his Head, and which *Balambrus* himself threw at him.

THE *Ostrogoths*, in Confusion and Consternation on the Death of their Prince, submitted to the Government of *Balambrus*; but this Prince having married *Waldamarca*, Niece of *Winitarius*, they receiv'd many honourable Conditions of Peace; so that altho' they continued subject to the *Huns*, yet by their Direction and Permission, they never failed to chuse their own King, who govern'd them. Therefore after the Death of *Winitarius*, *Unimondus*, Son of the late famous and powerful King *Hermanarick*, was chosen. To him succeeded *Torrismondus* his Son, a valiant and worthy Youth, who often gain'd great Victories over the *Gepides*; whose Memory was so dear to the *Ostrogoths*, that, after his Death, they continu'd forty Years without a King; after which time they chose *Walamirus*. *Walamirus* was the Son of *Wandalarius*, descended from a Brother of *Hermanarick*, and therefore Cousin German to *Torrismond*<sup>1</sup>. This King had three Sons, *Walamirus*, *Theodemirus*, and *Windemirus*, in whom the illustrious Family of the *Amali* was preserv'd. *Walamirus* was assumed to the Kingdom: and such was the Love and Gratitude amongst these Brothers, that they mutually assisted one another, in order to keep Peace in the Kingdom. Nevertheless they were subject to *Attila* King of the *Huns*, whose Commands they were obliged to obey; neither durst they refuse to fight often against the *Westrogoths*, their Kinsmen, thus bearing the Necessity of Subjection, under which they were.

BUT the Dominion of the *Huns* in the Eastern Parts, on the Death of their gallant and invincible King *Attila*, fail'd in a lamentable manner; for this Prince, by his many Wives, had a prodigious Number of Sons, who all fighting and contending for the Succession, intirely lost it; for *Adarick* King of the *Gepides*, taking Advantage of their Contentions, made a miserable Slaughter of them, and dispers'd them in such a manner, that the other Nations who were subject to the *Huns*, by such prosperous Success, were able to throw off the Yoke of their Servitude, and, together with the *Gepides*, had recourse to *Martianus*, who then govern'd in the East; begging, that he would be pleased to distribute those Countries among them, which they by their own Valour had withdrawn from under the Tyranny of the *Huns*.

MARTIANUS had succeeded to *Theodosius the Younger* in the Empire of the East in the Year 450, who most willingly taking them under his Protection, made Peace with them, assigning to the *Gepides* all *Dacia*, which had been the Seat of the *Huns*, from whom they had recover'd it. The *Goths* having observ'd, that the *Gepides* were not to be easily conquer'd, in order to have no Dispute with them, chose rather to have some other Countries of the Roman Empire assigned them, which was granted; so that they settled in *Pannonia*. The Bounds of *Pannonia* at this time were, towards the East the *Upper Mesia*, towards the South *Dalmatia*, towards the West *Noricum*, and on the North the *Danube*: A Province adorned with many Cities, among which *Sirmium* was the chief, where the Emperors used frequently to reside.

THE *Ostrogoths* then having transferr'd their Seat into *Pannonia*, liv'd a long time under the Dominion of *Walamire* their King, and *Theodemire* and *Widemire* his Brothers; who, altho' they were divided as to Places, which they shared amongst themselves, yet nevertheless they were, in Councils and Deliberations strictly united; so that *Pannonia* seem'd to be ruled and governed by one

<sup>1</sup> Grot. in Proleg. Hist. Got.

single Person only<sup>1</sup>. These Brothers often repell'd the Forces which the Sons of *Attila* brought against them, who accounted them Deserters from their Dominion, for which Cause they often attack'd them, until they were defeated by *Walamire*, and confin'd to *Scythia*. At that same joyful Time, when the Victory was obtain'd over the Sons of *Attila*, *Theodomire* had his Son *Theodorick* born to him, who from his very Cradle gave great Expectations. By his noble Manners and excellent Virtues, being much in favour with the Emperor *Zeno*, he had the good Luck for many Years, with Royal Title, to rule *Italy* and these our Provinces.

THE Peace, in the mean time, betwixt *Martianus* the Emperor, and *Walamire* and his Brothers, continu'd firm and secure; but they being offended, that at the Imperial Court in *Constantinople*, a certain *Theodorick*, the Son of a veteran Soldier, tho' a *Goth*, but not of the Race of *Amali*, had gain'd the Hearts of every Body, and that the Emperor had themselves in no Esteem, and with-held the Pensions which the Empire used to pay them; immediately took up Arms against the Empire, and turn'd all Things topsy-turvey in *Dalmatia* and *Illyricum*. Immediately the Emperor chang'd his Mind; and in order to make them his Friends, sent Ambassadors to settle a more firm and lasting Peace, offering them not only those Pensions, which for the Time past had been deny'd them, but likewise all they could claim to that Time, obliging himself also to keep up a Correspondence with them for the Time to come, provided they would keep themselves within their own Bounds, and not make War against the Empire. The Conditions were agreed to; but the Emperor for the greater Security, would have the Infant *Theodorick*, Son of *Theodomire*, for Hostage. The affectionate Father would not consent to it, not being able to suffer such a dear Pledge to be taken from him; but at last being perswaded by the Intreaties of his Brother *Walamire*, he agreed to it: So there was settled betwixt the *Goths* and the *Romans* a firm and stable Peace, of which *Theodorick* was the Pledge, and was carried to *Constantinople*, and put in the Hands of the Emperor *Leo*, who had succeeded to *Martian* in the East, who lov'd the Child because of his Comeliness and gentle Manners, more than he did his own Son.

THE *Goths* then having made such a firm Peace with the *Romans*, turn'd their Arms against several Nations who border'd with them; but while *Walamire* was fighting gallantly against the *Scythians*, he was thrown off his Horse and kill'd. Therefore the *Goths*, in order to revenge the Death of their King, fought so boldly, that they subdu'd them altogether. *Theodomire* made War likewise against the *Suevi* and the *Germans*, whom he cruelly butcher'd and dispers'd, and had almost extinguish'd them: And whilst he was returning triumphantly to *Pannonia* his Seat, his Son *Theodorick*, who had been given in Hostage, return'd from *Constantinople* loaded with Presents, being dismiss'd by the Emperor *Leo*, that he might enjoy full Liberty in his paternal Soil.

*THEODORICK* being return'd into *Pannonia*, and scarcely out of his Childhood, not as yet eighteen Years old complete, began to give Signs of incredible Valour: Having, without his Father's Knowledge, gathered together many Troops of those who were most affectionate to him, being very near Six thousand, he pass'd the *Danube*, and waged War against *Babai* King of *Sarmatia*, who a little before, had triumph'd over *Camundus* a Roman Captain, whom he defeated and kill'd; having got a compleat Victory over him, he likewise surpriz'd the City *Semandria*, which had been possess'd by the *Sarmatians*; but did not restore it to the *Romans*, but subjected it to his own Kingdom.

WHILST the *Goths* were thus preying upon their Neighbours, and the Desire of enlarging their Bounds, and to go in quest of more commodious Habitations in other Parts grew the greater; *Widemire* was making himself ready with his People to pass into *Italy*, which he did, but he had scarcely arriv'd there, when all his Designs were blasted by unexpected Death: He was succeeded in the Kingdom by his Son, who was likewise call'd *Widemire*, and who being advis'd by *Glicerius*, who then reign'd in the West, from *Italy* directed his March into *Gallia*, and join'd himself to the *Westrogoths* his Kinsmen, with whom he was able to clear *Gallia* and *Spain*, of many Nations wherewith they were infested, and to defend those Provinces against the Invasion of the *Vandals*.

ON the other Hand, *Theodomire* his Uncle, with *Theodorick* his Son, being spurr'd on by *Gezerick* King of the *Vandals*, march'd with their Army towards

<sup>1</sup> Jornand. loc. cit.

*Dalmatia* and *Illyricum*, took *Neissa* the Capital City of that Province, and afterwards *Ulpianum*, and all the other Places, tho' reckon'd inaccessible; he subjected *Heraclea* and *Larissa*, Cities of *Thessaly*, to his Dominion: He went further, and pretended to take *Thessalonica*: *Clarianus* a Patrician and Roman Captain, was Governor of that City, who being so unexpectedly catch'd napping by *Theodomire*, and considering that his Forces were not sufficient to resist him, sent him Ambassadors with many Presents, desiring that he would give over Thoughts of besieging that City. The Conditions of Peace were soon agreed to, by leaving to the *Goths* all those Places which had surrend'rd to them, to wit, *Ceropellas*, *Europus*, *Mediana*, *Petina*, *Bereus*, and the other Countries of *Illyricum*, where the *Goths* with their King, laid down their Arms, and took their Rest. Not long after *Theodomire* became grievously sick, and having conven'd the *Goths*, and appointed *Theodorick* his Son for their King, and his Successor, ended his Days lamented by all<sup>1</sup>.

<sup>1</sup> Jornand. de reb. Get.

## S E C T. I.

Of *Theodorick the Ostrogoth, King of Italy.*

**W**HILST *Italy*, by the Death of *Valentinian III.* which fell out in the Year 455<sup>1</sup>, and the Change of so many Princes and Emperors was all in a Convulsion, and miserably afflicted; *Maximus*, Author of the infamous Assassination, caus'd himself to be proclaim'd Emperor of the West, and marry'd *Eudoxia* Wife of *Valentinian*, and Daughter of *Theodosius*; but having discover'd that he had been the Author of the Death of her first Husband, she call'd from *Africa* *Genferick* King of the *Vandals*, who with a powerful Army came into *Italy*, and enter'd *Rome*, which he destroy'd and plunder'd; and while *Maximus* was making his Escape, he was stoned and tore to pieces by the People. After *Genferick* had over-run many Provinces, he retir'd with a Design to leave *Italy*, and return to *Africa*: He over-run our *Campania*, laying it all waste and in Confusion, took *Capua* and *Nola*, and destroy'd and pillag'd many Cities of this Province; from thence he return'd to *Carthage*. *Avitus* during these Commotions by the Favour of the *Westrogoths* caus'd himself to be proclaim'd Emperor in *France*, but he very soon quitted the Purple; for the Emperor *Martianus*, who, as we have said, had succeeded to *Theodosius the Younger* in the Empire of the East, hearing of the Death of *Maximus*, solicited the Senate and the Soldiers to make *Majorianus* Emperor, which was done in the Year 457. *Majorianus* not long after, was murder'd by the Means of *Severus*, who intruded himself into the Empire; but the third Year was not over, when he was put to Death by *Ricomerus*, who fix'd *Antemius* in his Place; he likewise had the Favour of *Leo*, who in the Year 457. by the Death of *Martianus*, had succeeded in the Empire of the East. But *Ricomerus* having afterwards declar'd against *Antemius*, he was likewise put to Death in the Year 472. and *Olibrius* put in his Room, who reign'd only eight Months; and *Glicerius*, more by his own Strength, and the Assistance of the *Westrogoths*, than by a free Election, was declared Emperor in *Ravenna*. But his Empire scarcely lasted one Year, when *Julius Nepos*, in the Year 474. caus'd him to be depos'd, and took the Title of Emperor himself: *Orestes* being appointed by him General of his Armies, rebell'd against him, and caus'd *Augustulus* his Son to be declar'd Emperor in *Ravenna*.

**FOREIGN** Princes seeing so much Confusion and Disorder among the *Romans*, thought fit to take Advantage of it, as *Evarick* the *Westrogoth*, and many more had already done; but during the Reign of *Augustulus* Disorders growing more and more, the *Heruli* and the *Thuringi*, under *Odoacre* their Captain, being likewise invited by the Friends of *Nepos*, at last made themselves Masters of *Italy*: *Orestes* was put to Death, and *Augustulus*, depriv'd of the Empire, was banish'd to *Naples*,

<sup>1</sup> Pagi Dissert. de Consulib. p. 288.

where



where he was confin'd in the Castle of *Lucullus*, which is now call'd *Ovo*<sup>1</sup>. Thus was the Empire of the *Romans* in the West, extinguish'd in *Augustulus* in the Year 476. which made *Jornandes* say, *Sic quoque Hesperium Romanæ gentis Imperium, quod Septingentesimo vigesimo tertio urbis conditæ anno, primus Augustorum Octavianus Augustus tenere cepit, cum hoc Augustulo periit, anno decessorum, prædecessorumque Regni quingentesimo sexto; Gothorum dehinc Regibus, Romam, Italiamque tenentibus.* In his Person also ended the Title of Emperor of the West, because *Odoacre* having made himself Master of *Italy*, took no other Quality upon him than that of King.

*ODOACRE* held the Kingdom of *Italy*, according to *Jornandes*, little less than fourteen Years<sup>2</sup>, till the Year 489, when *Theodorick* the *Ostrogoth* expell'd him, and confin'd him to *Ravenna*, where he was closely besieg'd. Neither *Italy*, nor these our Provinces, ever had more miserable Times, than those from the Death of *Valentinian III.* to the Reign of *Theodorick*; if we will but consider what Detriment the Change of Princes or Government brings upon a Commonwealth or Kingdom, we may easily imagine how much these our Provinces suffer'd in such Times by the Change of so many Princes and Emperors. All was in Disorder, all in Confusion, and every Thing turn'd topsy-turvy; the Laws were contemned, and Justice yet more. The Emperors, who were so often made and unmade, thought of nothing less: Only some *Novellæ* of *Martianus*, *Majorianus*, *Severus*, and *Antemius*, have reach'd us, which were collected by *Gotifredus*, which we see printed at the End of his *Theodosian Code*. But *Theodorick* having taken upon himself the Government of the Kingdom, deserv'd much Commendation, for he was the first who put an end to so great Calamities; so that in the Space of little less than Thirty-eight Years that he reign'd in *Italy*, he restor'd it to such Grandeur, that the late Misfortunes and Desolations were no more perceiv'd; forasmuch as he governing it according to the Institutions and Laws of the *Romans*, restor'd it to its ancient Splendor and Majesty. For which Cause it becomes us to give a particular Account of the Achievements of this mighty Prince, to whom these our Provinces which now compose the Kingdom of *Naples*, are much indebted.

*THEODORICK* after the Death of *Theodomire* his Father, having succeeded him in his Paternal Kingdom, reign'd in *Illyricum*, where the *Ostrogoths*, as we have said, after their Conquests, laid down their Arms and settled themselves. At this Time *Zeno* reign'd in the East, who in the Year 474. had succeeded to the Emperor *Leo*: *Zeno* understanding that *Theodorick* had been chosen King of the *Ostrogoths*, and fearing that by his too great Power he might disturb his Empire, thought it convenient to recall him to *Constantinople*; where he receiv'd him with incredible Marks of Esteem, and first of all caus'd him to be enroll'd amongst the prime Lords of his Court; not long after he adopted him for his Son, and created him *Consul Ordinarius*, the most eminent Dignity in the World at that Time: But that would not serve him, he likewise caus'd to be erected before the Porch of the Imperial Palace, an Equestrian Statue, in Honour of so worthy a Personage. But whilst this Prince was enjoying all these Advantages in *Constantinople*, and all the Honours which could be heap'd upon him by Imperial Hands; yet for all that his generous Soul could not bear to see his own People, who were trifling away their Time, abas'd with Idleness, Poverty and Straits in *Illyricum*, and himself idly enjoying these Pleasures, leading an indolent and lazy Life: Rouz'd by such powerful Motives, he resolv'd upon more generous Undertakings; and having waited on the Emperor *Zeno*, as *Jornandes* relates<sup>3</sup>, he spake thus to him.

“ Altho' by your Generosity and Grandeur, there be nothing wanting either to me  
 “ or my *Goths*, who are under your Command; nevertheless be pleas'd to hear the  
 “ Wishes and Desires of my Heart, which I am going freely to unfold to you. The  
 “ Empire of the East, which for many Years hath been govern'd by your Predecessors,  
 “ is going to be involv'd in War; and there is not a barbarous Nation that  
 “ does not pillage it, disorder it, and seize on it: *Rome*, which was formerly the  
 “ Head and Mistress of the World, with *Italy*, is oppress'd by the Tyranny of  
 “ *Odoacre*: Will you suffer us to be here idle and lazy, whilst others are committing  
 “ Depredations in the most beautiful Part of your Empire? Why don't you order

<sup>1</sup> *Jornand. de reb. Get. Augustulum filium ejus de Regno pulsum, in Lucullano Campaniæ Castello exilij pœna damnavit.*

<sup>2</sup> *V. Pagi in proleg. de Consulib. num. 40.*

<sup>3</sup> *Jornand. de reb. Ger.*

“ me with my People to carry our Arms thither ? We will revenge your Wrongs,  
 “ and your Shame ; and besides, you will save the great Charges which our being  
 “ here costs you. If I, with the Assistance of God, shall be Victorious, the Fame of  
 “ your Piety and Honour will be spread over all the World. I am your Servant,  
 “ and likewise your Son, therefore it will be more fitting and reasonable, that if I  
 “ should be Victorious, I should possess that Kingdom by your Gift, which is now  
 “ oppress’d by the Tyranny of strange Nations, who keep your Senate, and a great  
 “ Part of your Commonwealth in base Servitude and Captivity : If I shall triumph  
 “ over them, by your Bounty I shall possess the West ; if I be vanquish’d, your  
 “ Empire and your Piety will suffer nothing by it, but will be eased of these heavy  
 “ and considerable Expences.”

THIS so magnanimous a Resolution of *Theodorick’s*, altho’ it much displeas’d the Emperor *Zeno*, who could not easily bear his Absence, nevertheless being unwilling to ruffle him, by opposing it, and considering with himself, that it were better, that his *Goths*, who were impatient of Rest, should employ their Arms elsewhere, and not disturb the Eastern Parts, he approv’d of it, and granted him all that he demanded ; and loading him with most rich Presents, dismiss’d him, recommending to him above all Things, the Senate and People of *Rome*, for whom he was to have all the Esteem and Regard that was possible. *Theodorick* leaving *Constantinople* full of the greatest Hopes, return’d to his *Goths*, and order’d Matters so, that many follow’d him ; and by the straight Way, passing through *Pannonia*, he led his Army towards *Italy*. From thence entering the Confines of *Venice*, he pitch’d his Camp at the Bridge of *Lisonzo*, not far from *Aquileja*.

IN the mean Time Messengers had gone before to acquaint *Odoacre* of his March, who hearing that *Theodorick* was encamp’d at this Bridge, march’d his Army against him. But *Theodorick* getting to the Fields of *Verona* before him, offer’d him Battle, where they had a very sharp Engagement, in which *Theodorick* made a cruel Slaughter of the Enemy ; whereupon entring boldly into *Italy*, and crossing the *Po*, he encamp’d his Army near to *Ravenna* ; and during the Siege of this Imperial City, there happen’d a general Revolt. *Odoacre* who was within, did all he could to defend it, and frequently by Sallies in the Night-time, disturb’d the *Gothish* Army ; and by fighting in this manner, sometimes with Loss, sometimes with Advantage, the third Year of the Siege drew on : But *Odoacre* strove in vain, for *Theodorick* was proclaim’d King and Lord over all *Italy*, and all Things both Publick and Private succeeded according to his Wishes. In this Condition *Odoacre* perceiving that all was lost, and seeing himself only possess’d of *Ravenna*, and that already Provisions were wanting, resolv’d to surrender ; therefore he sent Ambassadors to *Theodorick* desiring Peace : Which was granted him ; but afterwards fearing lest *Odoacre* by Treachery should endeavour to regain the Kingdom, he caus’d him to be put to Death.

DURING these fortunate Successes, *Theodorick* gave a distinct Information of all that pass’d to the Emperor *Zeno*, advising him that he only wanted *Ravenna* to be intire Master of *Italy* ; at which *Zeno* was mightily pleas’d, so that by his Imperial Decree he confirm’d him Emperor of *Italy* ; and by his Advice, *Theodorick* laying aside the *Gothish* Habit, put on, not the Imperial Diadem, but the Kingly Ensigns and Mantle, and was proclaim’d King of the *Goths* and *Romans* <sup>1</sup>. Afterwards in the second Year of the Empire of *Anastasius*, who succeeded *Zeno*, he took *Ravenna*, and in the Year 493. he fix’d his Royal Seat in this City, as his Predecessors had done.

IF there ever was a Prince in the World, in whose Favour, in the Acquiring of his Kingdoms, so many just Titles concurr’d, certainly *Theodorick* deserves to be reckon’d such with respect to the Kingdom of *Italy*. In his Time the Empire of the West, by the Death of *Augustulus*, was altogether at an End and extinct : *Spain* was in Possession of the *Vandals*, the *Westrogoths*, and the *Suevi* ; *Gallia* was in the Hands of the *French*, and the *Burgundians* ; *Germany* under the Dominion of the *Alemanni*, and other more unciviliz’d and barbarous Nations. The Emperors of the East not able to defend *Italy*, it was left a Prey to the most barbarous Nations :

<sup>1</sup> Jornand. de reb. Get. Zenonisq; Imperatoris tum deponens, insigne regii amictus, quasi jam consulto privatum habitum, suæq; gentis vesti- | Gothorum Romanorumq; Regnator, adsumpsit.

*Giserick* King of the *Vandals* destroy'd and plunder'd it: *Odoacre* invaded it, and made it groan under his Tyranny; *Theodorick* came to set it at Liberty, and at his own Charges, in the Midst of infinite Dangers, by the Valour of his Arms, and with the Troops of his own Nation, subdu'd the Tyrant, drove him out, and kill'd him. All the People receiv'd him for their King and Lord with loud Acclamations, and long'd for his Government. If there was any who had any Claim of Right to *Italy*, it was the Emperor of the East, but *Theodorick* having been sent by him, acquir'd it, and drove out the Invader. Having conquer'd it with his own Troops, the Empire was confirm'd to him by *Zeno*, by whose Counsel and Authority he cloath'd himself with the Royal Ensigns, and was declar'd King of *Italy*, *Zeno* transferring to his Person the most supreme Rights, reserving nothing to himself. For which we shall seek no other Vouchers but the *Greeks* themselves; we shall say nothing of *Jornandes*, who being a *Goth*, may be suspected by some; neither shall we mention *Ennodius* that holy Bishop of *Pavia*, who for the Justice of his Reign, made a panegyric Oration<sup>1</sup> on him; I will make use of *Procopius*<sup>2</sup> a *Greek* by Nation, who in his History, as he is very complaisant to his own *Greeks*, so he is no great Flatterer of the *Goths*: Thus he writes of the Facts according to the Translation of *Grotius*, *At Zeno Imperator, guarus rebus uti, ut dabant tempora, Theodorico hortator est, ut in Italiam iret, Odoacroque devicto, sibi ipse ac Gothis pararet Occidentis regnum. Quippe satius homini in Senatum allesto, Romæ, atque Italis imperare, invasore pulso, quam arma in Imperatorem cum periculo experiri.* For which reason the unfortunate *Goths*, when, in the Reign of *Teja* their last King, they were oblig'd by *Justinian* to abandon *Italy*, having recourse to the *French* for Assistance, among other Things which they insisted on to move them to come to their Relief, told them, that what the *Romans* did to them now, would be what they would meet with in their turn; for now that their Power was at a very low Ebb, under specious Pretexts they made War upon them, by alledging, that *Theodorick* invaded *Italy*, which belong'd to the *Romans*: *Cum tamen*, said they, as *Agathias*<sup>3</sup> has it, *Theodoricus non ipsis nolentibus, sed Zenonis quondam Imperatoris concessu venisset in Italiam, neque eam Romanis abstulisset, qui pridem eam amiserant, sed depulso Odoacro invasore peregrino, belli jure quæsvisset quæcunque ille possederat.*

AND the Emperor *Zeno* being dead, *Anastasius*, who succeeded him in the Empire of the East, was of the same Opinion with his Predecessor, owning him for a just and lawful Prince; for tho' in the *Anonymus Valesianus* we read, as 'tis related by *Pagi* in his *Dissertatione bypatica de Consulibus*, that the *Goths*, *Odoacre* being dead in the Year 493. *Sibi confirmaverunt Theodoricum Regem, non expectantes jussionem novi Principis* (meaning *Anastasius*, who had then succeeded *Zeno*) which, as *Pagi*<sup>4</sup> observes, was unknown before that Time: Nevertheless we see in the Letters of *Cassiodorus*, that *Anastasius* approved of that which the *Goths* had done by their own Authority; so that while he lived he maintain'd a firm and lasting Friendship with *Theodorick*, exhorting him always to love the Senate, to use the Laws of the *Roman* Princes his Predecessors, and endeavour to maintain a settled and secure Peace in *Italy* during his Reign; of which *Theodorick* assur'd him: as may be seen in his Letters, which we read in *Cassiodore*, directed to *Anastasius*<sup>5</sup>.

*JUSTINIAN* himself, who drove the *Goths* out of *Italy*, could not but acknowledge the Reign of *Theodorick*, and the other Kings of *Italy*, his Successors, both just and lawful; for after he had conquer'd it, by means of the two illustrious Captains *Belisarius* and *NarSES*, he abolish'd all the Acts, Concessions, and Privileges of *Totila*, whom he reputed an Invader and Tyrant, but did not so by those of this Prince and his Successors<sup>6</sup>.

INDEED tho' *Theodorick* was not pleas'd to assume the Title of Emperor, yet he was held for such by all his People; and *Procopius* himself says, that he wanted nothing of that Decorum which belong'd to an Emperor; on the contrary, *Cassiodore* thinks, that this Title was as due to him as to any of the most shining Emperors of *Rome*; and really this Prince, whether it was out of Respect to the Emperors of the East, or whether it was because *Odoacre* took no other Quality but that of King, or whether it was that this strange Nation, reckon'd the Title of King

<sup>1</sup> Ennodii panegyricus, apud Cassiodor.

<sup>2</sup> Procop. lib. hist. Got.

<sup>3</sup> Agathia lib. 1.

<sup>4</sup> Pagi Dissert. de Consulib. pag. 300.

<sup>5</sup> Cassiod. lib. 1. Ep. 1.

<sup>6</sup> Pragm. Sanctio Justin. post nov. c. 1. & 2.

more

more advantageous and strong, as denoting a Sovereignty altogether independent and free, than that of Emperor; he never took upon him the Title of Emperor of the West, as *Charles the Great* did afterwards. And even, whether we regard the Extent of his Dominions, or the eminent Virtues with which he was adorn'd, he would no less have deserv'd that Honour than *Charles the Great*. He possess'd *Italy*, with all its Provinces, and likewise *Sicily*. Neither was it this Part of *Europe* only that was under his Government; he held *Rhetia*, *Noricum*, *Dalmatia*, with *Liburnia*, *Istria*, and Part of *Suevia*; that Part of *Pannonia*, where *Sigetinez*, and *Sirmium* are situated, some Part of *Gallia*, for which he was often at War with the *French*; and lastly, as Tutor to *Amalarick* his Nephew he govern'd *Spain*; so that *Jornandes* said<sup>1</sup>: *Nec fuit in parte Occidentis gens, quæ Theodorico, dum viveret, aut amicitia, ut subjectione non deservir.*

THE Custom of Anointing, and being crown'd by the Hands of the Bishops of the Metropolitan Cities, was not as yet introduc'd into the West. They had begun already in the East to practise this Ceremony; and in these very Times we read, that *Leo the Thracian*, after having been chosen Emperor by the Senate of *Constantinople*, was crown'd by *Anatolius* Patriarch of that City. If this Custom had been found introduc'd into *Italy*, and if it had pleas'd *Theodorick* to have gone to *Rome*, and caus'd himself to be crown'd Emperor by Pope *Gelasius*, as *Charles the Great* did by Pope *Leo III.* it would certainly have been said now, that the Empire of the West had been transferr'd from the *Romans* to the *Goths*, by the Authority of the *Roman* Apostolick See.

<sup>1</sup> Jornand. de Reb. Get.

## S E C T. II.

*The Roman Laws retained by Theodorick in Italy, and his Edicts conformable to the same.*

**B**UT altho' this Prince was not pleas'd to assume the Title of Emperor of the West, nevertheless he govern'd *Italy* and these our Provinces, not as a Foreign Prince, but in the same manner as all the other Emperors had done. He retain'd the same Laws, the same Magistrates, the same Polity, and the same Distribution of the Provinces. First he divided the *Ostrogoths* amongst the fortified Places, with their Captains, that in Time of War they might command them, and in Time of Peace govern them, and, except as to Military Discipline, he gave to the *Romans* all Honours. In the first Place he commanded, That the *Roman* Laws should be retain'd, inviolably observ'd, and have the same Force which they had under the other Emperors of the West; so much did he reverence and respect them, that he often speaks of them in *Cassiodore* thus; *Jura veterum ad nostram cupimus reverentiam custodiri*; and elsewhere, *Delectamur Jure Romano vivere*; and in other Places, *Reverenda Legum antiquitas*, &c.<sup>1</sup> So that the *Roman* Pontiffs were exceedingly pleas'd with *Theodorick*, because, like a wise and prudent Prince, he had retain'd the *Roman* Law in *Italy*. Thus *Gelasius*, as *Gotifredus* relates it<sup>2</sup>, or according to *Alteferra*<sup>3</sup>, *Symmachus* his Successor, congratulated *Theodorick*; *Certe est magnificentiae vestrae, leges Romanorum Principum, quas in negotiis hominum custodiendas esse præcepit, multo magis circa beati Petri Apostoli sedem pro suæ felicitatis augmento, velle servari.* For which Cause, in the first five Books of *Cassiodore*, which are compos'd of the Letters and Edicts of *Theodorick*, we see nothing so much recommended to the Judges and Magistrates, as the due Observance of, and Respect for the *Roman* Laws: and very many Consti-

<sup>1</sup> Cassiod. lib. 3. cap. 43. & lib. 1. cap. 27.

<sup>2</sup> Got. in Prolog. ex Gelasii PP. Ep. in Decreto-Ivonis, par. 1. cap. 18. ad Theodor.

<sup>3</sup> Altef. rer. Aquit. lib. 3. cap. 14. ex Decreto Gratiani Can. certum 12. dist. 10.

tutions

tutions of the *Theodosian Code*, and many *Novellæ* of *Theodosius*, *Valentinian*, and *Majorianus*, are quoted in these Books; of which the most exact *Gotifredus* in his *Prolegomena* to that Code, hath compos'd a long Catalogue<sup>1</sup>.

NEITHER had this Prince any other Notion, but of supporting the Kingdom of *Italy* with these same Laws, and the same Spirit and Union with which *Honorius*, *Valentinian III.* and the other Emperors of the West had govern'd it. Thus he explains himself to *Anastasius* Emperor of the East, on that Head; *Quia pati vos credimus inter utrasque Respublicas, quarum semper unum Corpus sub antiquis Principibus fuisse declaratur, aliquid discordiæ permanere; quas non solum oportet inter se otiosa dilectione conjungi, verum etiam decet mutuis viribus adjuvari. Romani Regni unum velle, una semper opinio sit*<sup>2</sup>: For which Cause, no new Laws were introduced into *Italy* by *Theodorick*, because he believ'd the *Roman* were sufficient, by which it had been long govern'd. And altho' we have at this Day one of his Edicts<sup>3</sup>, consisting of One Hundred and Fifty-four Heads (which we owe to the Care of *Peter Pitheus*, who caus'd it to be printed) however, excepting some Heads, which are branded for *Gothish* Rigor, such as *LVI*, *LXI*, and some others, all the rest are taken out of the *Roman* Laws, as *Theodorick* himself confesses in the End of it; *Nec cujuslibet dignitatis, aut substantiæ, aut potentiæ, aut cinguli, vel honoris persona, contra hæc, quæ salubriter Statuta sunt, quolibet modo credat esse veniendum, quæ ex Novellis legibus, ac veteris juris Sanctionia pro aliqua parte collegimus*. There is scarcely any Head of the foresaid Edict, which appoints any thing that is not to be found in the *Roman* Laws; so that *Theodorick*, for corroborating his Orders or Prohibitions, often refers to them. Thus in the *XXIVth* Head, *Secundum legum veterum constituta*; and in the *XXVIth*, *Secundum leges*; and in the *XXXVIth*, *Legum censuram*, and elsewhere.

BUT what was commendable in this Prince was, that he would likewise have these Laws common not only to the *Romans*, but also to the *Goths* themselves who lived amongst the *Romans*, as is manifest by this his Edict, leaving to the *Goths* few of their own Laws, which were rather their own Customs, as being more used to them, than written Laws: But in Matters of Moment, such as Succession, Testaments, Adoptions, Contracts, Penalties, Crimes, and, in short, in all that concern'd Publick or Private Right, the *Roman* Laws were common to all. Neither when a *Goth* had any Dispute with a *Roman*, or a *Roman* with a *Goth*, would he allow the Judges to have regard to any other Laws for deciding their Controversies, as *Theodorick*, in his Rescript to a certain *Januarius* President of our *Samnium*, expressly order'd; *Intra itaque Provinciam Samnii, si quod Negotium Romano cum Gothis est, aut Gotbo emerferit aliquod cum Romanis, Legum consideratione definias; nec permittimus discreto Jure vivere, quos uno voto volumus vindicare*<sup>4</sup>. Only when the Dispute was betwixt *Goth* and *Goth*, he would have it decided by their own Judge, whom he appointed in each City, according to his own Edicts, which altho', as is said, they contain'd something of *Gothish* Discipline, however they did not differ much from the *Roman* Laws; but from that the *Romans* were exempted, since their Judges could only determine betwixt *Goth* and *Goth*: But if it fell out, that a *Roman* had likewise any Concern, either as Plaintiff or Defendant, be that as it wou'd, they were to have recourse to the *Roman* Magistrature: And in this Manner was the *Formula* of the *Comitia* conceiv'd by *Theodorick*, which he gave to those whom he chose as Judges of the *Goths* in each Province, related by *Cassiodore* in his Seventh Book, amongst his many other *Formulae*<sup>5</sup>.

<sup>1</sup> Got. in Proleg. cap. 3.

<sup>2</sup> Cassiod. lib. 1. ep. 1.

<sup>3</sup> Edict. Theod. in Operib. Cassiod.

<sup>4</sup> Cassiod. lib. 2. var. ep. 13.

<sup>5</sup> Ibid. lib. 7. cap. 3.

## S E C T. III.

*The same Polity, and Magistrates retain'd by Theodorick in Italy.*

**A**S *Theodorick* took great Care to retain the *Roman* Laws in *Italy*, so his Study for preserving the same Form of Government, was certainly no less, as well in what concern'd the Distribution of the Provinces, as of the Magistrates and Dignities. He having found the Imperial Seat translated to *Ravenna*, by *Honorius* and *Valentinian* his Predecessors, who had not fix'd it there by Chance, and to be far from *Rome*, but to be near at hand, and ready to put a Stop to the Irruptions of the *Barbarians*, who in that Part broke in upon the Borders of *Italy*; he likewise resided there. Therefore the Complaints of the *Romans* were unjust and unreasonable, when they complain'd of him for having fix'd his Residence in *Ravenna* and not in *Rome*: For he left Tokens of his Love to that famous City, by adorning it with publick and fair Monuments of his Grandeur and Royal Spirit, and, out of his Magnificence, surrounding it with strong and secure Walls. His Love and Respect for the *Roman* Senate was no less, as the so many affectionate Letters directed by him to that Body, full of Esteem and Respect, which we read in *Cassiodore*, do testify. In *Ravenna* then, did he fix his Royal Residence, as his Predecessors had done; from whence he ruled *Italy* and these our Provinces, which now make the Kingdom of *Naples*, by the same Magistrates by whom they had been govern'd, during the Time of the *Roman* Emperors.

**A**LTHO' under his Government a few Alterations were made of some of the Magistrates and Officers of the Palace and Kingdom, without any Change of Titles or Dignities; nevertheless, he retain'd very many of them, tho' not altogether with Power and Jurisdiction, like those of the *Romans*, yet they were much the same in effect. He retain'd the Senators, Consuls, Patricians, *Præfectus Prætorio*, *Præfects* of the City, and *Quæstors*. He retain'd the *Consulares*, *Correctores*, *Præsides*, and many others. Some little Difference there was in the lesser Officers, it being the Custom of the *Goths* to send to every little City, *Comites*, and particular Judges, for the Administration of the Government and Justice, and to create some other Officers, whose Titles are not known in the *Notitia* of the Dignities of the Empire.

**B**UT if we will follow the Opinion of the most accurate *Hugo Grotius* in this Variety of Magistrates introduc'd by the *Goths*, we must say, they were much more to be commended in that, than the *Romans* themselves, because says he, the *Romans* had many Titles of Dignity altogether vain and groundless: *Multa apud Romanos ejusmodi inani sono Constantia, Vacantium, Honorariorum, &c.*<sup>1</sup> On the contrary, the *Goths* had quite different Sentiments, as we read in *Cassiodore*<sup>2</sup>: *Grata sunt quinino nomina, quæ designant protinus actiones, quando tota ambiguitas audiendi tollitur ubi in Vocabulo concluditur, quid geratur.* Besides *Grotius* consider'd, that the *Romans* sent a *Consularis*, or a *Præses* to every Province, who was to have the Government and Care of all the Cities and Castles of that Province, many of which were at a great Distance from his Place of Residence; whence it fell out, that it not being in the Power of the *Præses* to be present in every Place, the People were put to immense Charges, being oblig'd to have recourse to him from the most remote Parts. The *Goths* went another way to work; tho' every Province had its *Consularis*, *Corrector*, and *Præses*: Nevertheless not only to the more principal Cities, but likewise to every little Castle, *Comites*, or other inferior Magistrates were sent, who were faithful, uncorrupted, and approved of by the Consent of the People, in order to distribute Justice, and take Care of the Tributes and other Affairs of those Places.

<sup>1</sup> *Grot. in Proleg. ad Hist. Gothor.*

<sup>2</sup> *Cassiod. lib. 6. cap. 7.*



SO that this Disposition of Magistrates, which to this Day is observ'd in our Kingdom, of sending Governors and Judges to every City, is not owing to the *Romans*, but to the *Goths*.

AND if the like Strictness and Care were practis'd in our Time, which in that of *Theodorick* was used in the choice of such Magistrates, that is to say, in sending Men of known Integrity and Learning, and acceptable to the People, and allowing no Appeals to other distant Tribunals, but when the Weightiness of the Matters, and the manifest Injustice requir'd it, certainly these our Provinces would be freed of an infinite Number of Law-Suits, and heavy Expences which now they labour under. On which account many Writers extol the Government of the Eastern People, and those of *Africa*; and with respect to our common Law-Suits we used to envy them, because that not only in the Cities, but in every little Castle, they have their Judges always ready and prepar'd, and Law Pleas are no sooner begun, but they are immediately determin'd, and seldom, or never, admit of Appeals; because the People, having their Magistrates in due Veneration, soon rest satisfied with their Decrees, and suffer more willingly, that the Goods in Dispute be taken from them, than to go to distant Courts of Justice to complain, with greater Charges, and Uncertainty of gaining the Cause, and often in fear of losing it; and they reckon it to be more for their Advantage to have ready and quick Injustice, than languishing and slow Justice. Wherefore *Clenardus*<sup>1</sup> having left *Europe*, and taken up his Residence in *Africa*, in the Kingdom of *Fez*, used to write to many of his Friends in *Europe*, that he did not envy them the Magnificence and Grandeur of so many fine Cities, because he was no more obliged to go to Courts of Justice to be toss'd up and down amongst so many wicked People, full of Cavils; for where he was, there was no occasion for prattling Lawyers: But if there happen'd any Dispute among those *Africans*, the Judge was always ready to decide it, and they never went home before it was determin'd. But that, as Matters stand, is rather to be wish'd for than expected; for the Disease is in the Root: Besides, that in the Election of Magistrates, these Qualifications are no more to be expected, which perhaps in those Times, which we now call Barbarous, were punctually requir'd: And what was then a Remedy, would now become deadly Poison; seeing from the Time of *Alphonfus* I. King of *Arragon*, the Disease was spread, by granting to the Barons of the Kingdom all Jurisdiction and Command. And at present there are more Governments depend on them, than on the King, and the greatest Part of the Kingdom is govern'd by them *prima instantia*; wherefore it were expedient to lay aside the Custom of having recourse to superior Tribunals, which we observe at present: Seeing the Design of *Charles* VIII. King of *France*, while he govern'd this Kingdom, of taking from the Barons all Jurisdiction and Command, and rendring them like those of *France* and other Countries of *Europe*<sup>2</sup>, could not be put in Practice.

BUT to return to where we left off: The *Goths*, as they are represented to us in the Books of *Cassiodore*, were very wary in the Choice of their Magistrates, and no less in the Election of the greater Officers, than in that of the lesser, which they sent to each City, in which they were very careful; whence we read in *Cassiodore* of so many new Officers, such as Chancellors, *Canonicarii*, *Comites*, and *Referendarii*; and the so many set Forms, by which so many and different Dignities were conferr'd on Subjects of known Goodness and Learning. *Petrus Pantinus*<sup>3</sup> wrote a Book, not despicable, of the Dignities of the *Gothish* Court: But as *Grotius*<sup>4</sup> has observ'd, he might have saved himself that Labour, because they are all to be found in the sixth and seventh Book of *Cassiodore*, where they are all represented and describ'd.

<sup>1</sup> *Clenardi Epistolæ ad Arnoldum Streiterium, & ad Jacobum Latonum A. 1541. Geo. Pasquius de Nov. inv. de varia fortun. Doct. Juris.*

<sup>2</sup> *V. Affist. in prælud. ad Confit. Reg. Phil. Comin: Koppin. de Demanio Franciæ.*

<sup>3</sup> *Pet. Pantinus de Dignit. Goth. Aulæ.*

<sup>4</sup> *Grot. in Proleg. ad hist. Gothor.*

## S E C T. IV.

*The same Disposition of the Provinces retain'd by King Theodorick.*

THIS Prince retain'd the same Division of the Provinces of which *Italy* was made up under the Empire of *Constantine*, and his Successors: They were in Number the same as in *Adrian's* Time; to wit, Seventeen: Neither was that which we now call the Kingdom of *Naples*, divided into more Provinces than four; they were the same under the Dominion of *Theodorick*, I. *Campania*, II. *Calabria* with *Puglia*, III. *Lucania* and the *Brutii*, IV. *Samnium*. For the Government of *Campania*, *Consulares* were sent as formerly; to the other two *Calabria* and *Lucania*, *Correctores*; and to *Samnium*, *Præfides*.

## Of CAMPANIA and its Consulares.

THE first *Consularis* of *Campania*, which we find in the five Books of *Cassiodore*<sup>1</sup>, was a certain *John*, to whom *Theodorick* sent a Letter, in which he so much recommends Justice, and the Care of the Publick Welfare, honouring him with this Title *Viro Senatori*, and the Inscription is thus: *Joanni V. S. Consulari Campania, Theod. Rex.* To the same *John*, *Theodorick* directed that his Edict, which we read also in *Cassiodore*<sup>2</sup>, by which he most severely prohibited that most wicked Custom, which had been introduc'd into *Campania* and *Samnium*, that the Creditor, without publick Authority, but at his own Hand, seiz'd on the Goods of the Debtor for a Pledge, neither did he restore them till he was paid the Debt; and very frequently the Goods, not of his Debtor, but of his Friend, Neighbour, or Relation, were seiz'd, which in *Italy* are call'd Reprisals: Which Custom was severely forbidden, and the Penalty of losing the Debt was imposed, and restoring the double, in case the Reprisal had been made, not on a Debtor, but on a Friend or Relation. The Emperor *Zeno* had done the same in the East, by such another Constitution of his<sup>3</sup>: Therefore *Theodorick*, who design'd to govern *Italy* by the same Maxims, would imitate him: *Justinian* afterwards renew'd it in his *Novellæ*<sup>4</sup>. Neither would *Theodorick* ever allow such Violence to be practis'd in his Kingdom; but that Creditors, as the *Roman* Laws likewise prescrib'd, should try their Rights by the legal Way of publick Judgment.

THIS Prince finding himself exhausted by the Wars which he had had for some Time with the *French*, had occasion to provide his Armies with all Sorts of Victuals out of this Province; on which Occasion we see another of his Edicts<sup>5</sup>, ordering the Masters of Ships in *Campania*, to carry those Provisions into *Gallia*: He design'd to have impos'd other Burthens on it, but *Boetius Severinus* begging an Ease for that Province<sup>6</sup>, and laying before him the many Miseries, Afflictions and Desolations, which it had suffer'd by the Invasion of the *Vandals*; *Theodorick* most graciously granted it Indulgence, neither would he lay any more new Burthens on it; on the contrary, the Inhabitants of *Campania*, and particularly the *Neapolitans* and *Nolans*, having suffer'd great Damage, at that Time by the Irruption of *Vesuvius*, he likewise freed them of their ordinary Tributes, which we see in *Cassiodore* by another of his Edicts<sup>7</sup>; in which the roaring Noise, the terrible Clouds, and the Torrents of Fire which this Mountain uses to vomit forth, are ingeniously and lively describ'd. *Cassiodore* is admirable at such Descriptions; but what is unpardonable in him, is, that besides his making use of some bold *Hyperboles*, and some *Metaphors* immoderately licentious, he brings in *Theodorick* speaking after such a

<sup>1</sup> Cassiod. lib. 3. cap. 27.<sup>2</sup> Cassiod. lib. 4. cap. 10.<sup>3</sup> L. un. Nullus ex vicanis pro alien. vican. deb. ten. lib. 11.<sup>4</sup> Novel. 52. & 134.<sup>5</sup> Cassiod. lib. 4. cap. 5.<sup>6</sup> Petrus Bertius in vita Boetii.<sup>7</sup> Cassiod. lib. 4. cap. 50.

manner,

manner, that 'tis not possible to know, whether he intended to make Laws, and provide for the Necessities of his Provinces, which was his Scope, or act the Part of a Declaimer, for he often introduces him speaking at such a strange rate, that it would not be sufferable, even in the most high-soaring Panegyrist of our Times.

*CAMPANIA* had truly suffer'd insupportable Damages, when *Genferick*, with a powerful Army from *Africa*, invaded *Italy*. It was cruelly used at that Time by the *Vandals*; the Country was laid waste, and *Capua*, the Metropolis, barbarously pillaged, and almost quite destroy'd. *Nola* underwent the same Calamities, and many other Cities. *Naples*, by reason of its Situation, was safe from the Fury of those Barbarians. A City at that Time, tho' little, yet well defended by the Valour of its Citizens, its Situation, and more by the strong Walls which surrounded it. And by this alternate Fortune which happen'd to them, it fell out afterwards that many Cities of these our Provinces, from Great became Small, and from Small Great; whence it likewise came to pass, that *Capua*, and many Cities of this Province, being ruin'd, *Naples* by Degrees began to raise itself above all the rest; and in the Time of the *Greeks* and *Longobards*, became the Head of a great Dukedom.

IN the Reign of *Theodorick*, we do not read of any other City of this Province, that was so well pleased with the Government of this Prince as *Naples*; nor any that by their Devotion and obliging Behaviour towards him, gave so many and conspicuous Marks of their Fidelity and Respect. No sooner had he mounted the Throne, than the *Neapolitans* erected his Statue in their largest Market-Place; the same, which afterwards was the ominous Prefage of the unfortunate End of the Government of the *Goths* in *Italy*; for, as *Procopius*<sup>1</sup> relates, the *Neapolitans* having rais'd this Statue, made with wonderful Art of small Pebbles of various Colours, and so well join'd together, that they represented the Image of this Prince to the Life, while he was yet alive the Head of this Statue fell of itself, and the joining of the Pebbles giving way, it broke to pieces; and not long after, the Death of this Prince was heard of in *Naples*, and that *Athalarick* his Nephew had succeeded him. In the eighth Year of this Prince's Reign, on a sudden that which compos'd the Belly likewise gave way, and fell to pieces, and at the same Time the News of the Death of *Athalarick* was brought. Not long after, that of which the Genitals were made dropp'd off, when the Account of the Death of *Amalasunta*, the Daughter of *Theodorick* came. But when at last the *Goths* besieg'd *Rome*, in order to retake it, all the Materials of which the Thighs and Feet were form'd, fell to the Ground, nothing remaining where the Statue had been plac'd: From which Event the *Romans* conjectur'd, that the Army of the Emperor of the East would be Victorious; interpreting the Feet of *Theodorick* to denote the *Goths* whom he had govern'd: And this vain and ridiculous Prefage, was of such Weight among the Vulgar, who are generally more moved by such Things, than by any fine Speech of a Captain, and animated them so, that it gave them no small Hopes of Victory. And what contributed likewise to it, was, some *Sibylline Verses*, put forth by some *Roman* Senators, very well adapted for imposing upon the People; the Sense of which, as *Procopius* well consider'd, before the Event of the Things, was not to be conceiv'd in the least by human Understanding; because they were so disorder'd and confus'd, and truly Enthusiastical, that skipping from the Misfortunes that were to befall *Africa*, to those of *Persia*; from thence, after mentioning the *Romans*, they immediately speak of the *Assyrians*; and returning to the *Romans* again, they lastly sing of the Calamities of *Britain*: And afterwards when they had seen the Event, they publish'd a thousand favourable Interpretations, fancying they had discover'd the Sense of the obscure and fantastical Verses.

BUT let us return to our Subject; *Naples* was very faithful and devoted to *Theodorick*; and on the other hand, that Prince treated the *Neapolitans* with no less Marks of Love and Gratitude; and it was no small Mark of Respect, that amongst the Forms of the *Comitiva* of the first Order, which *Theodorick* used to give to those to whom he committed the Government of some famous City, we read yet in *Cassiodore*<sup>2</sup> that which was appointed for *Naples*; for this Author relates only the Forms which were given to Persons appointed to govern the greater, but not the lesser Cities. We only read those of *Syracuse*, *Ravenna*, *Rome* and other conspicuous Places:

<sup>1</sup> Procop. lib. 1. hist. Got.

<sup>2</sup> Cassiod. lib. 6. cap. 24.

As for the other smaller Cities, there's a general one only, which we read serves for them all; and the *Comitiva*, which were given for the Government of these, were not of the first, but of the second Order, as is clear from the Form itself in *Cassiodore*<sup>1</sup>. Neither are the Prerogatives of this City forgot in the *Comitiva* (or if we may name it in the Language of the present Times, the *Schedule* or *Patent*) nor its Pleasures, its Excellency, its extensive Commerce, its large Authority and Jurisdiction which he grants it; nor the Majesty of its Tribunal, it is call'd<sup>2</sup>, *Urbs ornata multitudine Civium, abundans marinis, terrenisque deliciis: Ut dulcissimam vitam te ibidem invenisse dijudices, si nullis amaritudinibus miscearis: Prætoria tua Officia replent, militum turba custodit. Consendis gemmatum Tribunal, sed tot testes pateris, quot te agmina circumdare cognoscis. Præterea littora, usque ad præfinitum locum data jussione custodis. Tux voluntati parent præregina commercia. Præstas ementibus de pretio suo, Et gratiæ tuæ proficis, quod avidus mercator acquirit. Sed inter hæc præclara fastigia, Optimum esse judicem decet, &c.* Neither are the Expressions of this Prince less affectionate, in the Letter which he usually sent by the Person he had appointed to be Governor, recommending him to the City of Naples; for the Form of which we are indebted to *Cassiodore*<sup>3</sup>; neither must it be forgotten, that *Theodorick* allow'd the *Neapolitans* the same Form of Government they had in the Time of the *Romans*, that is to say, a Court or Senate, as formerly, whereina the Affairs of that City, with respect to the *Annonæ*, the Repairing of the Streets, and other Matters concerning the Government of it, was taken Care of; he only took from the *Decuriones*, the Power of electing Magistrates, and gave it to the Governor, or *Comes* whom he sent thither. This City had likewise its Chancellor, whose Charge or Function is describ'd by *Cassiodore* in the eleventh and twelfth Books of his Works<sup>4</sup>.

#### *Of Puglia, and Calabria, and their Correctores.*

AS *Theodorick* did not make any Alteration in *Campania* among the chief Magistrates, leaving the *Consulares* in it, as it had under the *Romans*; so he was pleas'd not to change them in the Provinces of *Puglia* and *Calabria*: Neither did he divide *Puglia* from *Calabria*, as to the Government, nor did these Provinces change their Names, as they did in after-times: They were govern'd by one *Moderator*, altho' he sent particular *Comites*, or Governors to each City, according to the commendable Custom of the *Goths*.

THE first *Moderator* of *Puglia* and *Calabria*, which we meet with in the first five Books of *Cassiodore*, was a certain *Festus* or *Faustus*, as others read; we see a Letter directed by *Theodorick* to him<sup>5</sup>, by which he grants to the publick Dealers, an Exemption from Toll and Customs; and 'tis worthy of Observation, with what graceful and comely Titles he treats this Minister.

*Theodorick* took particular Care of this Province and its Fields, and made many wholesom Regulations concerning it, as may be observ'd in many Places of *Cassiodore*<sup>6</sup>. Amongst the most conspicuous Cities of *Puglia*, *Sipontum* was once one, of which there's scarcely any Vestige to be seen at this Day: a City so ancient, so noble, and powerful, that the *Sipontines*, in after-times, were able to make War with the *Neapolitans* and the *Greeks*, of which we shall speak in its Place. This City was not exempted from the common Calamities, which *Italy* suffer'd from the Irruption of the *Vandals*, and the Tyranny of *Odoacre*; its Citizens, in the three last Years of the War, which *Odoacre* maintain'd with *Theodorick*, because they had submitted to this Prince, were cruelly treated by *Odoacre*, and their Fields destroy'd, infomuch that the Merchants being reduc'd to great Extremities, had recourse to the Clemency of *Theodorick*, desiring to be free of Tribute, and to have some Indulgence from their Creditors; it was compassionately granted by this Prince, that for two Years they should be exempted from Tribute, and not molested by their Creditors, as appears by another Letter directed to the foresaid *Faustus*

<sup>1</sup> Cass. lib. 2. cap. 26.

<sup>2</sup> Cass. lib. 6. cap. 23.

<sup>3</sup> Cass. lib. 6. cap. 24.

<sup>4</sup> Cass. Var. 1. 11. c. 37. & lib. 12. c. 1. & 3.

<sup>5</sup> Cassiod. lib. 2. cap. 26.

<sup>6</sup> Cass. lib. 5. cap. 7. & 31.

*Moderator* of this Province, or as others will have it to *Atemidorus*, which we see in *Senator* <sup>1</sup>.

Of *Lucania* and the *Brutii*, and their *Correctores*.

THE Provinces of *Lucania* and the *Brutii* are next, in the Government of which *Theodorick* likewise alter'd nothing. They kept their *Correctores*, neither were the *Brutii* divided from *Lucania*, but continued under one *Moderator* as formerly. *Rbegium* was their Seat; whence it is, that in *Cassiodore* <sup>2</sup>, the Citizens of this City are recommended to *Anastasius*, Chancellor of *Lucania* and the *Brutii*, and the Origin of the Name of *Rbegium* is describ'd; *Rbegienses Cives, ultimi Brutiorum, quos a Sicilia Corpore violens quondam maris impetus segregavit, unde Civitas eorum nomen accepit; divisio enim prius Græca lingua vocitatur, &c.*

IT ought not to be look'd upon as a small Honour to this Province in the Reign of *Theodorick*, that it had *Cassiodore* himself for *Corrector*, who was the chief Personage of this Age, on whom *Theodorick* profusely heap'd all sort of Honours, which with his Royal Hands he could dispense. In the Beginning of his Reign, the Affairs of *Sicily*, by reason of the new Government, being yet doubtful, *Cassiodore* was pitch'd upon for the Government of that Island; where having given sufficient Proofs of his excellent Talents, he was sent to *Lucania* and the *Brutii* to be *Corrector* of this Province; not long after, he was made *Præfektus Prætorio*; and lastly was advanc'd to the supreme Honour of *Patriciate* by *Theodorick* <sup>3</sup>, which is clear from the Form which *Cassiodore* has inserted in his Book <sup>4</sup>; from which without doubt may be gather'd, as *Barrius*, *Fornerius*, *Romeus*, and many other Authors have written <sup>5</sup>, that *Brutium*, and properly *Squillace*, was the native Country of such a noble Genius; and we ought to give the due Praise to his Soil for having produc'd such a noble Plant, and it may be likewise concluded from the Words of *Theodorick*; *Sed non eo præconiorum fine contenti, Brutiorum, & Lucaniæ tibi dedimus mores regendos: nè bonum, quod peregrina Provincia* (meaning *Sicily*) *meruisset, genitalis soli fortuna nesciret.*

AFTER *Cassiodore*, under the same Prince, *Venantius* was *Corrector* of *Lucania* and the *Brutii*, to whom *Theodorick* wrote that Letter, in which he charges him with the Collection of the Tributes of this Province; thus we read it in *Cassiodore* <sup>6</sup>, *Venantio viro Senatori Correctori Lucaniæ, & Brutiorum, Theod. Rex.* There's honourable mention made of this same *Venantius* by *Theodorick* in this his Edict <sup>7</sup> directed to *Adeodatus*, where we read; *Viri Spectabilis Venantii Lucaniæ & Brutiorum Præfulis* <sup>8</sup>; and of the *Corrector* of this Province we likewise read, in *Cassiodore*, these Words, *Corrector Lucaniæ, Brutiorumque.* *Lucania* and *Brutium* had their Chancellor likewise, as may be seen in *Cassiodore* <sup>9</sup>.

THE Masters of Ships of *Lucania*, as well as those of *Campania*, were, by *Theodorick*, likewise order'd to transport Provisions to *France*, as we read in *Senator* <sup>10</sup>. Neither was this Province neglected by *Athalarick* his Nephew. He took special Care, that a Fair which was held in these Times, and to which a great Number of the People of the other Provinces went, and a great Festival, which was celebrated on St. *Cyprian's* Day, should not be disturb'd; which gave Occasion to *Cassiodore* <sup>11</sup>, as elsewhere <sup>12</sup> he did the Fountain of *Arethusa* in the Territory of *Squillace*, to describe the wonderful Fountain *Marcilianus* which was in *Lucania*, and in the Description of it, according to his wonted Stile, he makes use of all his bold Strokes and Hyperboles; and, which is more, puts them in the Mouth of a Prince who had no other Scope, but by severe Edicts to forbid the disturbing of such a Solemnity by perverse and wicked Men.

<sup>1</sup> Caf. lib. 2. c. 37.

<sup>2</sup> Ibid. lib. 12. c. 14.

<sup>3</sup> Ibid. lib. 1. c. 3.

<sup>4</sup> Ibid. lib. 12. c. 15.

<sup>5</sup> P. Garetus in Vita Cassiod.

<sup>6</sup> Caf. lib. 3. c. 8.

<sup>7</sup> Ibid. lib. 3. c. 46.

<sup>8</sup> Juret. id est, Correctoris.

<sup>9</sup> Caf. lib. 2. cap. 39. & lib. 12. cap. 12, 14, & 15.

<sup>10</sup> Ibid. lib. 4. cap. 5.

<sup>11</sup> Ibid. lib. 8. cap. 33.

<sup>12</sup> Ibid. lib. 12. cap. 15.

*Of Samnium, and its Præfides.*

IN the laſt Place is *Samnium*, a Province; as by the *Romans*, ſo by *Theodorick* honour'd with no other but a *Præſes*. We read in *Caffiodore* <sup>1</sup>, that *Theodorick*, at the Deſire of the *Samnites*, ſent a certain *Januarius*, or as others read it <sup>2</sup> *Sunbivadus*, to be *Moderator* or Judge of this Province; enjoyning him, that if any Controverſy ſhould fall out in it betwixt the *Romans* and the *Goths*, or betwixt the *Goths* and the *Romans*, to decide it by the *Roman* Laws; being unwilling to allow, that the *Romans* ſhould live with the *Goths* under various and different Laws, whoſe Words we have quoted already upon another Occaſion. This Province had likewiſe its Chancellor, as is clear from *Caffiodore* <sup>3</sup>; and *Theodorick* makes mention of *Samnium* elſewhere <sup>4</sup>; ſo that there is not a Province of thoſe which now make the Kingdom of *Naples*, which *Theodorick* did not carefully provide for, giving them juſt and neceſſary Means for their good Government, which we ſee in the Records that are now remaining of this Prince; for all which, among other Writers, we are indebted to *Caffiodore*.

<sup>1</sup> Caf. lib. 3. cap. 13.  
<sup>2</sup> P. Garet.

<sup>3</sup> Caf. lib. 11. cap. 36.  
<sup>4</sup> Ibid. lib. 5. cap. 27.

## S E C T. V.

*The ſame Codes retain'd, and the ſame Conditions of Perſons and Inheritances.*

FROM whence we may clearly perceive, that our Provinces, when the *Roman* Empire of the Weſt was extinguiſh'd, altho' they came under the Dominion of the *Goths*, yet did not ſuffer thoſe Changes which uſually happen under the new Government of Foreign Nations. There were no new Laws introduced into them, but they retain'd the *Roman*; and the Common Law of our Inhabitants was that of the *Romans*, which is now contain'd in the *Gregorian* and *Hermogenian* Codes, and above all in the *Theodoſian*; and in the Body of the *Novellæ* of this Emperor, *Valentinian*, *Martian*, *Majoran*, *Severus*, and *Antemius*, his Succeſſors; And full Authority and Force was given to the Books of thoſe Civilians whom *Valentinian* made Choice of.

THERE was no new Form of Government introduced, and the ſame Officers were continu'd; neither was the Variation of Magiſtrates ſo great, but the moſt conspicuous and ſublime Dignities were preſerv'd: For it was the Notion of *Theodorick*, and afterwards of his Succeſſor *Athalarick*, to govern *Italy*, and theſe our Provinces with the ſame Spirit and Form by which the Empire was govern'd under the Emperors; and it is the firm Opinion of our Writers, that the Affairs of *Italy*, under his Reign, were more quiet and peaceable than in the Reigns of the laſt Emperors of the Weſt, and that he was the firſt who baniſh'd ſo many Miſchiefs and Diſorders.

WHENCE it came to paſs, that altho' theſe our Provinces paſſed from the *Romans* under the Dominion of the *Goths*, nevertheleſs the People did not become liable to the ſame Servitude that thoſe of other Provinces of the *Roman* Empire, conquer'd by other Nations, underwent. Thus *Gallia*, when it was vanquiſh'd by the *French*, was treated as a conquer'd Country; it being certain, that they made themſelves Maſters both of the People and Lands of it, that is to ſay, they made themſelves perfect Lords, as well of the publick Dominion, as of the Property and private Inheritance<sup>1</sup>; and, as to the Perſons, they made the

<sup>1</sup> Loyſeau, de Sign. cap.

Natives



Natives of the Country Slaves, not by intire Slavery, but such as the Romans call'd *Censiti*, or *Ascriptitii*, or Colonies condemn'd to the Plough<sup>1</sup>. The *Goths* did not treat *Italy*, *Sicily*, and these our Provinces after that manner, but left the Condition of the Persons untouch'd; for they were not govern'd by a Foreign Prince, but by a King who valued himself upon living after the Roman manner, and keeping the same Laws and Institutions which the Romans had: Altho' there were in many Villages of our Provinces some of those *Ascriptitii* and *Censiti* (as there were likewise Slaves, because in the Time of the *Goths* the Use of them had not been abolish'd<sup>2</sup>) or their Off-spring, in the same manner as they were under the Romans, of whom there are many Vestiges in the *Theodosian* and *Justinian* Codes, whom the succeeding Ages call'd *Angari* and *Paraganri*<sup>3</sup>; which is confirm'd by an Event, related by *Hugo Falcandus*, in *Sicily*, in the Time of *William II.* which was this; The Citizens of *Caccamus* having complain'd to the King against *John Lavardin* a Frenchman, who had oppress'd them by exacting the Half of their Income, according to the Custom of *France*, as he said; and these Complaints being reported to the Chancellor *Stephen Partius*, likewise a Frenchman, who gave no Redress; his Enemies incens'd all the *Sicilians* against him, who cried out, That they were free, and were not to be treated after the Custom of *France*; *Ut universi populi Siciliae redditus annuos, & exactiones, solvere cogerentur juxta Galliae consuetudinem, quae Cives liberos non haberet.*

A N D as for the Inheritance, and the Lands of *Gallia*, the victorious French confiscated them all, the State assuming to itself both the one and the other Dominion of them<sup>4</sup>. And excepting those Lands which were reserv'd for the King's Demains, they distributed all the rest to the principal Chiefs and Captains of their own Nation; giving to one a Province, with the Title of a Dukedom; to another a Frontier Country, with the Title of Marquisate; to some a City with its adjoining Territories, with the Title of County; others got Castles and Villages with some Lands about them, with the Title of Barony, or Lordship of the Manor, according to every one's Merit, and the Number of Soldiers which they had under their Command; for they were given both to themselves and their Soldiers. The *Goths* did not so in *Italy*, and in these our Provinces; for they left the Lands to the Possessors, neither did they disturb any Persons in their private Estates and Heritages; and the Provinces and Cities were govern'd by the same Officers, as formerly they had been under the Empire of *Valentinian*, and the other Emperors of the West his Predecessors. Neither in *Italy*, nor in these our Provinces was the Custom of Feodal Tenures, Dukedoms, or Counties introduc'd, except in the Kingdom of the *Longobards*, of which we shall treat in the fourth Book of this History.

<sup>1</sup> Cod. de Agric. & Cens. lib. 2. Connan. in Com. Jur. Civ. lib. 2. tit. C.  
<sup>2</sup> Leo Ostiens. in Chronic. Caffin. Glossator. in Notis, cap. 6. num. 532.

<sup>3</sup> Got. in Cod. Theod. lib. 8. tit. de Curs. Pub. & Angar. lib. 4.  
<sup>4</sup> Loyseau, loc. cit.

## S E C T. VI.

### *Of the eminent Virtues of Theodorick, and his Death.*

**T**HEODORICK was truly endow'd with all those rare and noble Virtues that ever adorn'd a most excellent Prince. For his Piety and Worship of the true God, he was extoll'd, with immense Praise, by *Ennodius* the Catholick Bishop of *Pavia*: And altho' he was well instructed in the Christian Religion, yet his Doctors had confounded and stain'd it with the pestilent Heresy of *Arius*, wherewith he and all the *Goths* were infected. This Fault is not to be laid to the Charge of the *Goths*, but of the Romans themselves, and especially of the Emperor *Valens*, who sent

*Arian*

*Arian* Doctors to instruct this Nation in the Christian Religion ; so that *Salvianus* <sup>1</sup>, that holy Bishop of *Marseilles*, call'd this Misfortune of theirs, not a Fault of the *Goths*, but of the *Roman* Magistracy ; and this holy Bishop testifies, That they reckon'd this Error of theirs but as a greater Honour done to God ; and for this their pious Belief and Motive, the *Goths* ought not to be reputed unworthy of the Catholick Faith ; and if we compare their Works with those of the Catholics, they will be found to exceed them very far in Goodness and Justice, in Veneration of Churches, in Faith, Hope, and Charity : Whence it is, that *Socrates* <sup>2</sup>, the Writer of the Ecclesiastical History, gives the Title of Martyrs to many *Goths*, who were kill'd by the *Pagans* for their Religion, as those, who with a single and devout Heart were dedicated to Christ their Redeemer. And if the *Goths* fell into this Error by the Fault of another, that Blot was wash'd away and recompens'd by the Merit of *Riccardus*, who purg'd all *Spain* from *Arianism* with their Blood.

AND it was a singular Piety of the *Goths*, and especially of *Theodorick*, his forbearing all Violence against his Subjects with respect to Religion ; and altho' they were tainted with the *Arian* Tenets, yet for all that, he did not hinder his People to profess the Faith of the great Council of *Nice* <sup>3</sup> ; for all the Time that *Theodorick* reign'd over *Italy* and these our Provinces, he not only allow'd his Subjects to profess the Catholick Religion, without any Molestation, but likewise permitted the *Goths* themselves, if they had a mind to quit *Arianism* and embrace the Faith of *Nice*, freely to do it.

THE Piety of this Prince will be the more resplendent, if we consider, that altho' he did not profess the Catholick Faith, yet he had so much Care and Concern for it, that he would not allow any to be chosen for the Government of the Church, but Bishops of known Probity and Learning, and such he lov'd and respected ; of which *Athalarick* his Nephew gives full Testimony, as we have it in *Cassiodore* <sup>4</sup> ; *Oportebat enim arbitrio boni Principis obediri, qui sapienti deliberatione pertractans, quamvis in aliena Religione, talem visus est Pontificem elegisse, ut agnoscat illum hoc optasse, præcipue, quatenus bonis Sacerdotibus Ecclesiarum omnium Religio pullularet.*

WHENCE it was, as *Paul Warnefrid* and *Zonara* relate <sup>5</sup>, that this great Schism having arose in the *Roman* Church in his Time, it was soon extinguish'd by his calling a Council, and Things restor'd to a firm and quiet Peace. We read likewise most severe Edicts of this Prince, and also of *Athalarick* his Nephew, by which all those Ordinations of Bishops were severely prohibited, which, out of Ambition or by the Power of Money, were made, annulling them altogether, and reckoning them of no Force or Effect <sup>6</sup> ; of which we shall discourse more at large when we come to treat of the Ecclesiastical Polity of this Century. And besides we read of *Theodorick*, that altho' he profess'd another Religion, he would have the Catholick Bishops offer up Prayers for him to God, which he often thought availed him : For which Cause it ought not to seem strange, as *Grotius* says, that *Silverius*, a *Roman* Catholick Bishop, had been suspected by the *Greeks*, as if he had been more willing and desirous of the Dominion of the *Goths* in *Italy*, than of the *Greeks* themselves.

AND 'tis to the Piety of this Prince we are indebted, that these our Provinces, which now make up the Kingdom of *Naples*, altho' they were under the Dominion of the *Arian* *Goths* little less than Seventy Years, yet were never molested with that pestilent Heresy, but retain'd the Catholick Faith as pure and untainted as their Fore-fathers had embraced it, and that afterwards they were able to stand their Ground against the frequent Incurfions of the *Saracens*, who in the following Time invaded them, and made War with them : Forasmuch as *Theodorick* was pleas'd not only to leave it as he had found it, but to favour it, and to be its Keeper and Defender ; by whose Example *Athalarick*, and the other *Goths* his Successors were moved to act so, that during their Dominion it was neither molested, nor in the least polluted.

<sup>1</sup> *Salvian. lib. 5. de Gubern. Dei.*

<sup>2</sup> *Socr. lib. 4. cap. 52.*

<sup>3</sup> *Grot. in Proleg. ad Hist. Goth.*

<sup>4</sup> *Cass. lib. 8. cap. 14.*

<sup>5</sup> *Grot. loc. cit.*

<sup>6</sup> *Cass. lib. 9. cap. 15.*

WE have no occasion to enlarge on the Justice, Humanity, Faith, and all the other most valuable and noble Virtues of this Prince, seeing *Cassiodore* in his Books has given us such a lively Idea of so polite, just, and clement a Reign, that *Grotius* upon good Grounds says <sup>1</sup>: *Planèque si quis cultissimi, clementissimi Imperii formam conspiciere voluerit, ei ego legendas censeam Regum Ostrogothorum Epistolas, quas Cassiodorus collectas edidit*; so that the *Goths* with good Reason could boast of this Praise to *Belisarius* <sup>2</sup>: Neither was it without Reason, that *Theodorick* himself said; *Æquitati fave: eminentiam animi virtute defende, ut inter Nationum consuetudinem perversam, Gothorum possis demonstrare justitiam*: And elsewhere; *Imitami certe Gothos nostros, qui foris prælia, intus norunt exercere justitiam*. And the Study and Care of this Prince was so great in governing his Subjects with exact and perfect Justice, that he said to them, He would demean himself so towards them, that they should be sorry they were not sooner under the Empire of the *Goths*. *Procopius*, tho' a *Greek*, could not forbear extolling these his Royal and Super-excellent Virtues: He was the Preserver of the Laws; just in appointing the Prices of the *Annonæ*; exact in settling the Weights and Measures; and in imposing of Tributes his Equity was wonderful, and often on just Occasions was ready to remit them: If his Soldiers on a March at any time wrong'd the Country People, *Theodorick* used to send Money to the Bishops to reimburse them of their Damages: If there was occasion for Materials for Building of Ships, or Fortifying his Camps, he immediately paid the Value of them: He was most liberal to the Poor; and the greatest Part of his Royal Employment was in relieving and taking Care of the Orphans and Widows, of which *Cassiodore* hath given us clear Evidence.

THE Moderation of this Prince, from the above-related Facts, is sufficiently evident; and it being in his Power to subject the Vanquish'd to the Laws of the Conqueror, yet he allow'd them to enjoy the Laws under which they were born and brought up. He allow'd, that under his Reign *Rome* should be govern'd by the same *Roman Senate*: That the *Romans* should be judg'd by *Romans*; the *Goths* and *Romans*, by *Goth* and *Roman*: That they should retain that Religion which they had suck'd in with their Milk <sup>3</sup>, he was most averse from introducing Novelties, they being always pernicious to the Commonwealth, and the Occasion of great Disorders.

HIS Temperance was call'd by *Ennodius* a Sacerdotal Modesty; and, according to the Custom of his Nation, he was most sparing of his Food, and much more sober in his Cloathing. In his Reign, the *Goths* were most continent and chaste, neither were there Snares laid for Womens Virtue; *Quæ Romani polluerant fornicatione*, says *Salvianus* <sup>4</sup>, *mundant Barbari castitate*: And elsewhere; *Impudicitiam nos diligimus, Gothi execrantur, puritatem nos fugimus, illi amant*. They liv'd on very simple Food, such as Bread, Milk, Cheese, Butter, Flesh, and frequently raw, only a little macerated with Salt. For Brevity's sake, I pass over his Royal Virtues. To this Day in *Rome* and *Ravenna*, the Monuments of his Magnificence in Buildings, Aqueducts, and other splendid Works are admir'd. His Valour, Fortitude, great Spirit, and Genius, always ready for noble and hard Enterprizes, are sufficiently known by the Course of his gallant Achievements from his Childhood upwards. A Prince most expert both in War and Peace; for in the one he was always Victorious, and in the other doing Good to the Cities and his People: and his Power arriv'd to that Pitch, that he could keep within their Bounds, without the Tumult of War, but only with his own Authority, all the barbarous Kings who had any Footing in the Empire; and for restoring *Italy* to its ancient Peace and Tranquillity, he built many Cities and Fortresses along the Point of the *Adriatick* Sea and the *Alps*, as Barriers against the IncurSIONS of new Barbarians: So that 'tis the constant Opinion of all Writers, that by his Power and Goodness, he not only freed *Rome* and *Italy*, but all the other Parts of the Western Empire, from the continual Skirmishes which for so many Years, by so many Inundations of *Barbarians* they had endur'd, and reduc'd them to good Order and a happy State.

<sup>1</sup> Grot. in Proleg. ad Hist. Got.

<sup>2</sup> Procop. Hist. Goth.

<sup>3</sup> P. Gares. in Vita Cas. par. 1. §. 12.

<sup>4</sup> Salvian. loc. cit.

I KNOW there are some who believe, that all these Virtues of *Theodorick* were sullied by his Treachery towards *Odoacre*, and at last putting him to Death; and in the latter End of his Days, by some Cruelties occasion'd by suspected Persons in his Kingdom, and for having put to Death *Symmachus* and *Boetius* his Son-in-law, who were Senators and rais'd to the Consulship: Men of most noble Blood, most accomplish'd in the Study of Philosophy, most Religious, and for Piety and Learning most remarkable.

BUT if these Facts were attentively consider'd, Reasons of State will excuse the first; and as for his Cruelty to *Symmachus* and *Boetius*, we ought to blame *Theodorick* for the self same thing, for which his own Domesticks blamed him; *Id illi injuriæ*, as *Procopius* says, *in subditos primum, ac postremum fuit, quod non adhibita, ut solebat, inquisitione de viris tantis Statuerat.* *Theodorick* only failed in this, that *Symmachus* and *Boetius* out of Envy, having been charg'd with plotting against his Life and Kingdom, without making great Inquiry in so serious a Matter, which requir'd the utmost Circumspection, he condemn'd them to Death; as for the rest, as *Grotius* well observes <sup>1</sup>, *Actum ibi, non de Religione, quæ Boetio satis Platonica fuit, sed de Imperii Statu.* Certainly *Theodorick* was not induced by slight Motives, but for Reasons of State, not Religion, as some believe. We have seen very well, what the Sentiments of this Prince were, concerning Liberty of Conscience as to Religious Matters, and sticking to what Religion each one best pleas'd. It could not be *Boetius* his Case, whose Religion was more Platonick than Christian: And if we may believe *Procopius*, *Theodorick*, a little before he died, was heartily sorry for his Fault with the most intense Grief of Mind; for whilst he was at Supper one Night, a Fish with a prodigious big Head being put on the Table, the Image of *Symmachus* came so lively in his Mind, that he fancy'd the Head of the Fish was that of *Symmachus*, and that with a cruel and horrible Countenance, it threaten'd to be reveng'd of him for his Death; so that being frighted by such an ominous Sight, there run a Coldness through his Veins which oblig'd him to lie down, and to be cover'd with Heaps of Bed-cloaths; and having told *Elpidius* his Physician what had happen'd to him; *In Symmachum, ac Boethium quod peccaverat, deservit: penitentieque, ac doloris magnitudine, non multo post obiit*, as *Procopius* relates.

*Jornandes* says nothing of this strange Adventure, but makes him die of old Age, by telling, that *Theodorick* postquam ad senium pervenisset, Et se in brevi ab hac luce egressurum cognosceret, caus'd the *Goths* to be conven'd before him, with the principal Lords of the Kingdom, and in their Presence appointed *Athalarick*, Son of *Amalasuntha* his own Daughter, his Successor, his Father *Butarick* being dead, who was likewise of the illustrious Race of the *Amali*; and being but ten Years old, he was educated under the Care of his Mother. He did not neglect to recommend to them the Fidelity which they ow'd to the King his Nephew: He recommended to them likewise Love and Respect to the Senate and People of *Rome*; and above all he charg'd them to cultivate the Friendship and Favour of the Emperor of the East, with whom they were to maintain a firm and settled Peace and Confederacy: Which Advice *Amalasuntha* having religiously observ'd, the Affairs of the *Goths* went on prosperously enough, while her Son *Athalarick* liv'd; for, during the Space of eight Years that they reign'd, they maintain'd the Kingdom in a firm and settled Peace. Such was the Death of this illustrious Prince, which fell out in the Year 526, after having reign'd little less than Thirty-eight Years, and restor'd to *Italy* and these our Provinces, their ancient Peace and Tranquillity.

<sup>1</sup> Grot. loc. cit.

## S E C T. VII.

Of ATHALARICK, King of ITALY.

**D**URING the Minority of *Atbalarick*, *Amalasuntha* his Mother took upon her the Government of the Kingdom: A Princess adorn'd with many Virtues, who was equal in Wisdom to the wisest Kings of the Earth: She govern'd the Kingdom, and the Nonage of her Son with so much Prudence, that it seem'd little inferior to that of *Theodorick* her Father. He was no sooner dead, than being mindful of his Advice, she caus'd *Atbalarick* to write to the Emperor *Justinus* I. (who having succeeded to *Anastasius*, govern'd at that Time in the East) affectionate and respectful Letters, for preserving Concord, which *Theodorick* had enjoin'd to be done. She caus'd other Letters to be written to the Senate and People of *Rome*, most affectionate and full of Esteem, which we yet read in *Cassiodore*.

*SHE* kept up the same Form, and Institution of Government which *Theodorick* had done; neither did she allow any Thing to be alter'd during the Reign of her Son; retaining the same Laws<sup>1</sup>, the same Magistrates, the same Disposition of the Provinces, and the same Administration. All her Study was to have the young Prince brought up after the Manner of the *Romans*, and instructed in good Literature and Virtue; for which purpose he had many Masters for teaching him. But the *Goths*, and the great Men of the Court, having soon forgotten the Counsels of *Theodorick*, took it ill, that *Amalasuntha* should cause the Prince to be brought up after that manner, crying out, That they would have a King that should be bred amongst Arms as his Predecessors had been. At last she was oblig'd to leave him to their Management, which was so fatal to this poor Prince; that falling into all sorts of Lewdness, he languish'd in such a manner, that it soon brought him to his Grave; for having scarcely reign'd eight Years, he ended his Days in the Year 534, which was the Beginning of the Misfortunes and Ruin of the *Goths* in *Italy*, and of the Confusions and so many Revolutions which afterwards fell out: In the mean time, *Justinus* had rais'd his Nephew *Justinianus* to the Empire of the East, who, for his so many famous Atchievements shall be the Subject of the following Chapter.

<sup>1</sup> Cas. lib. 8. cap. 1, 2, 3.<sup>2</sup> Cas. lib. 8. cap. 3.

CHAP.



## C H A P. III.

*Of the Emperor JUSTINIAN, and his LAWS.*

**W**HILE *Amalasuntha*, by her Prudence, was maintaining the same Peace and Tranquillity in *Italy*, in which *Theodorick* had left it; and the Reign of *Atthalarick*, as being uniform with that of his Grandfather, prov'd most gracious to the People, at the Request of the *Constantinopolitans*, *Justin* made his Nephew *Justinian* his Collegue and Emperor, on the first Day of *April* in the Year of our Salvation 527. And *Justin* dying four Months after, he begun to rule the Empire of the East alone<sup>1</sup>. This was that *Justinian*, who for his notable Achievements, acquir'd the Surname of *Great*; under whom the Empire recover'd Vigour and Strength, not only in Time of Peace, but of War, by reason of the famous Civilians who flourish'd in his Days; and by the Valour of *Belisarius* and *Narses*, his illustrious Captains. His first great Enterprizes were those which he undertook in Time of Peace. In the first Year of his Reign he employ'd himself in giving a more noble Form to the Roman Jurisprudence; and envying no less the Glory of *Theodosius the Younger*, than of *Valentinian III.* which they had acquir'd, the one by composing the famous *Theodosian Code*, and the other by the Care he took of the Books of the Civilians; he would not only imitate them, but excel them in such manner, that being compar'd together, his should eclipse and smother their Fame; and that neither in the East, nor in the West, their notable Deeds should be any more remember'd.

<sup>1</sup> Pagi Differ. hyp. de Consulib. p. 300.

## S E C T. I.

*Of the first JUSTINIAN Code.*

**I**N the first Year of his Empire, in the Month of *February* in the Year 528. he put forth an Edict, directed to the Senate of *Constantinople*, for the Compiling of a new Code. He chose for this Work the most famous Men in his Time of three Orders, of Magistrates, Professors, and Advocates: Of the Order of Magistrates, *Joannes*, *Leontius*, *Phocas*, *Basilides*, *Tomasus*, *Tribonianus*, and *Constantine*: Of Professors *Theophilus* was chosen; and of the Lawyers *Dioscorius* and *Presentinus*, and over them all *Tribonianus* was put as their Head.

THE Form which he prescrib'd to them, was to collect from the three Codes, the *Gregorian*, *Hermogenian*, and *Theodosian*, the Constitutions of the Princes contain'd in them; and besides these, to add the others, which *Theodosius the Younger*, and the other Emperors his Successors, down to himself, had from time to time publish'd, and likewise those which he himself had put forth; all which they were to join together in one Volume. He moreover prescrib'd to them the Order and Method, that is to say, to retrench what they found Useless and Superfluous in

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them, to leave out the Prefaces, to expunge altogether those that clafh'd with one another, to curtail, change, and correct them, and to render their Meaning more clear; and to place them according to the Order of the Time, and the Matter of which they treated. They were not to neglect to put to each Constitution the Names of the Emperors who publish'd them, the Place, the Time, and the Persons to whom they were directed: All this was in Emulation of *Theodosius*, as is manifest from the Edict of *Justinian*, which we read under the *Tit. de novo Cod. faciendo*.

THESE famous Civilians employ'd their Labours little more than a Year in the Compiling of this new Code; so that in the Beginning of the third Year of his Reign, and properly in *April* in the Year following 529. it was compleated, and publish'd: And by another Edict under the *Tit. de Justiniano Cod. confirmando*, he ordain'd that this Code should solely have Authority in the Courts of Justice; that the Judges should make use of it, and the Advocates, in their Pleadings at the Bar, should quote no other Laws but what were contain'd in it: He entirely prohibited the first three Codes, which he stripp'd of all Authority, and they were never any more to be quoted in the Courts; so that the *Theodosian* Code was eclips'd in the East. However it was not so in the West, and particularly in *Italy*, where, during the Dominion of the *Goths*, that of *Justinian* was not receiv'd; therefore the *Theodosian* Code had better Success in the West, than in the East, by the Means of *Justinian*.

THE Constitutions which were collected together into this new Code, and divided into twelve Books, being taken out of the three first Codes, began from *Adrian* down to *Justinian*, and contain'd the Laws of 54 Emperors. Whence it is, that some Constitutions quoted by the Civilians in the Pandects, are to be found in this new Code, that are not in the *Theodosian*, which begun from *Constantine the Great*, but are to be found in the *Gregorian* and *Hermogenian* Codes, from which this last was taken.

## S E C T. II.

### *Of the Pandects and Institutions.*

**J**USTINIAN in order to excel *Theodosius* in Fame, was not contented with the Code alone; but took in hand a more noble Undertaking: that is to say, of collecting and joining together the Memorials of all the ancient Jurisprudence, and of disposing them in order; and as he had done with the Constitution of the Princes which reign'd from *Adrian* down to himself, so he intended to do with the *Responsa* of the ancient Civilians; the Notes which they had made on the *Roman* Laws, and especially on the *Edictum perpetuum*; their Treatises; their methodical Books; and, in a Word, with all their Commentaries; the Works of which were so ample and numerous, that they were reckon'd to be 2000 Volumes. *Justinian* in the fourth Year of his Reign, put forth another Edict<sup>1</sup>, directed to *Tribonianus*, wherein he gave Orders to him, and sixteen others his Colleagues, to set about such a hard and difficult Task. The greatest Wits of the Age were chosen, which truly such a crabbed Work requir'd. Besides *Tribonianus*, *Theophilus*, and *Cratinus*, famous Professors of the Law in the Academy of *Constantinople*, were elected; *Dorodeus*, and *Anatolius*, likewise Professors in the Academy of *Berytis*: Of the Order of Magistrates *Constantine*; and of the Order of Advocates, eleven were chosen, to wit, *Stephanus*, *Menna*, *Prosdocius*, *Eutolmius*, *Timotheus*, *Leonides*, *Leontius*, *Plato*, *Jacobus*, *Constantius*, and *Joannes*<sup>2</sup>.

WHILE they were all intent upon this great Work, which in the Space of three Years they finish'd, *Justinian* was pleased to order *Tribonianus*, *Theophilus*, and *Dorodeus*, to compile for the Benefit of the Youth, the Institutions or Elements, and Principles of the Law, because the Youth, setting out at first in this plain and simple Path, might afterwards advance to the Study of the Pandects, that were

<sup>1</sup> L. 1. C. de vet. Jur. enucl.

<sup>2</sup> L. 2. C. de vet. Jur. enucl.

already preparing : Which was soon perform'd by these three excellent Civilians, after the Example of the Ancients, to wit, *Cajus*, *Ulpianus*, and *Florentinus* ; and altho' the Composition of the Digests had been first order'd : Nevertheless the Institutions were publish'd a Month before the Pandects, for the foresaid Purpose, to wit, in *November* 533. in the seventh Year of his Empire. They divided these Elements into four Books, Ninety-nine Titles, and if we should also number the Principles of them, into Eight hundred and sixteen Paragraphs. A Work, in the Opinion of the incomparable *Cujacius*, most perfect and most elegant, which ought not to be loaded with so large Commentaries, as is practis'd in our Days ; but it should be always at hand, and with the help of small Notes, in the simplest manner explain'd to the Youth, which was the Opinion of those who compos'd it, and of *Justinian* who order'd it.

THESE Elements being publish'd, the great Work of the Pandects was quickly finish'd, which a Month after, in the Month of *December* in the same Year 533. were publish'd over all the East and *Illyricum*. They no sooner appear'd than they got two Names, the one *Latin Digesta*, the other *Greek Pandectæ*, both of them taken from the ancient Civilians : They were call'd *Digesta*, because in the Books which they contain, the Opinions of the ancient Civilians were plac'd in a certain Order, and dispos'd of, as much as was possible, under each Title, according to the Method and Series of the perpetual Edict : They were likewise call'd *Pandectæ*, as comprehending all the ancient Jurisprudence<sup>1</sup>.

WHENCE, from what Civilians, and what Books of theirs the *Digesta* were compos'd, is a Thing easily to be gathered from the Catalogue of the ancient Civilians, and from their Works, which we see at this Time prefix'd to the *Florentine* Pandects. There we see 37 Authors, most famous Civilians, often commended by us ; for in the first Book, we made mention of the Civilians, who liv'd from the Reign of *Augustus* to that of *Constantine the Great* : Besides these, there's honourable mention made of many others, who deserve to be named and praised for their Works ; and they ought to be explain'd and illustrated with just Commentaries, and lasting Notes. In which we ought not to rob *Jacobus Labittus* of his deserv'd Praise, who with great Care and Accuracy compos'd an *Index* of the Laws, which are in the Pandects ; in each of which, besides designing the Author, he goes on distinctly to mark, from what Book, or Treatise of these ancient Civilians, it had been taken, picking out the Laws which are scatter'd here and there through the whole Body of the Digests, and then placing each of them under that Treatise, or Book of the Civilian from which it had been taken. A Labour as ingenious as useful for the right Understanding of the true Sense of them ; it being a wonderful Thing to see, how the one is cleared up by the other, when they are dispos'd under the Books from which they were taken ; which Light could never have been expected if they were read so dispers'd. And this Author fully demonstrates by many Examples, how much the use of this Index conduces to the true Interpretation of the Laws ; and how much he was commended by *Cujacius* his Master, who encourag'd him to prosecute this excellent Work, and cause it to be printed : *Cujacius* confirm'd by his own Example, what had been demonstrated by *Labittus*, by putting in Practice, and bringing to bear, what he had taught ; whence we see that this incomparable Civilian, in Commenting upon the Laws of the Pandects, takes another Method, and goes not the same way to work, as had been practis'd by the other Commentators ; that is to say, by separating the Laws, those which were *Africanus's*, and taken from his Books, he puts together, and disposes them under proper Titles ; then in this order comments on them, as he did likewise on *Papinianus*, *Paulus*, *Scevola*, and some other Civilians ; the admirable Use of which, and of what great Advantage it is, *Antonius Augustinus* very well knew, who compil'd such another Index, and likewise all those who understand our Jurisprudence fully know the Benefit of it.

IN the mean time *Tribonianus* and his Collegues, were pleas'd to divide this great Work of the Digests into seven principal Parts, to distinguish it into fifty Books, and to distribute it into 430 Titles. If we will look on the *Florentine* Pandects, which are preserv'd with great Care in *Florence*, in the Library of the *Medici*, we shall see them divided into two large Volumes : Altho' *Crispin*<sup>2</sup> reports, that anciently

<sup>1</sup> V. Ant. August. in libel. de nominib. propriis Pandect. Florent. c. de Pand. nom. & gen.

<sup>2</sup> Crispinus in serie PP. in Princ.

all the 50 Books made but one Volume; but those which are now in the Hands of every Body, have been variously divided according to the different Editions. Of the many which we observe at this Time, and particularly those of our latest Times, which are infinite, there are three that are most esteem'd, and receiv'd into the Academies and Tribunals of Europe. The first Edition, that is to say, the Vulgar and less correct, is that which *Accursius* and the other ancient *Glossators* made use of. The second is call'd the *Norican*, or the *Nuremberg*, and is that which *Gregorius Aloandrus* caus'd to be printed in the Year 1531. The Third is call'd the *Florentine* or *Pisan*, which we owe to *Franciscus Taurellus*, who in the Year 1553. caus'd it to be printed from the Library of the *Medici*.

THE common Division of this Work into three Volumes, is much more ancient than some believe; since from the Time of *Pilcus*, *Bulgarus*, and *Azo*, it was divided in such manner for the greater Convenience<sup>1</sup>, it being so bulky, when comprehended in one Volume, it could not be read or manag'd but with great Difficulty. How afterwards the Name was given to each Volume, to the first the ancient Digest, the second *Infortiatius*, and to the third the New, they all three coming forth at the same Time, is very hard to account for. For the First's being call'd the Old, and the Last the New, it would not seem strange; but that the Middlemost should, by a foreign Vocabule, be call'd *Infortiatum*, is what hath employ'd the Pens of many Writers, who have stoop'd too low by meddling with such a poor Subject.

SOME have believ'd that it was call'd *Infortiatum*, from the Greek Word *φορτίον*, which in Latin signifies *Onus*, because this Volume contains the most obligatory Laws, such as the Restitution of Portions, of Guardianships, Heritages, Aliments, the performing of Deeds of Trust, and others<sup>2</sup>. The Conjecture of *Bernardus Walterus*<sup>3</sup> is more tolerable, who says, it's call'd so corruptly, by the Fault of the Writers, who, instead of *Infarcitum*, as being plac'd in the Middle betwixt the Old and New, have call'd it *Infortiatum*. But above all the rest, that of *Alciatus* seems to be the best, who reckon'd it a barbarous and insipid Word<sup>4</sup>; or the other which lastly was communicated to *John Doviati*<sup>5</sup> by *Claud Chappellaine*, Doctor of the *Sorbonne*, and King's Professor of the Hebrew Language in *Paris*: He supposes it to be deriv'd from the *Chaldean Fortbiata*, which Word is taken by the Rabbins to signify Testament; or a Man's last Will; whence it may have happen'd, that some Body either jestingly, or for Novelty's sake, who instead of Testament, had call'd it *Infortiatius*, and from thence transferr'd the Word to this Volume of Digests, wherein Testaments are treated of, gave it that Name: But, be that as it will, for surely the Riches of Greece are not hidden under it, let us return to our Subject: 'Tis most certain, that the Digests of *Justinian*, tho' publish'd and dispers'd over all the East, and committed to the Prefects of the East, of *Illyricum* and *Lybia*, in order to make them known to all the People subject to their Jurisdictions, as is clear from the Preface which *Justinian* prefix'd to the Digests, and from other Laws<sup>6</sup>; yet they could not at that Time penetrate into *Italy*, and these our Provinces, as being under a foreign Prince, and subject as yet to the Dominion of the *Goths*; so that they could not be planted in our Soil, and acquire that Authority and that Force, which afterwards in the Course of many Ages they happily obtain'd, and grew into so great Esteem and Reputation, as we see them in at this Day.

<sup>1</sup> Barbof. ad rubr. D. Solut. matr. num. 2.

<sup>2</sup> Rainald. Cursus. indagar. Jur. 1.

<sup>3</sup> Ber. Walter. in Mascell. obs. lib. 2. c. 5.

<sup>4</sup> Alciat. lib. 1. dispunct.

<sup>5</sup> Doviati. in hist. Jur. Civ. in fin.

<sup>6</sup> L. tanta, C. de vet. Jur. enucl.

### S E C T. III.

#### Of Justinian's Second Code de Repetita Prælectione.

THIS truly Royal Work being finish'd, this excellent Prince for all that did not stop there; he having been told, that in the Compiling of the Digests it was observ'd, that many Controversies remain'd yet undecided, and that it was necessary they should be determin'd by his Imperial Authority; and moreover he having in the

the mean Time, after the first Code was publish'd, proclaim'd his other Constitutions, which were scatter'd up and down, and not confin'd to any Volume; and it having been likewise observ'd, that many Things were wanting in the Code already made, he order'd that in the following Year, which was the eighth of his Reign, and properly the Year 534. this Code should be mended and revised, and another made out of it, more compleat and perfect<sup>1</sup>. In the mean Time he thought on five of those, who had been employ'd in the making of the Digests, to wit, *Tribonianus*, *Dorotheus*, and three other Advocates, *Menna*, *Constantius*, and *Joannes*: These according to the Order prescrib'd to them by *Justinian*, which we read in his Code<sup>2</sup>, took away from the first these Constitutions, which they thought useless and superfluous, and also those which had been corrected or annull'd by later Constitutions.

THERE was the Space of five Years betwixt the first Code and the Second, and in that Time many Constitutions had been establish'd by *Justinian*. In the Consulship of *Decius*, after the Publication of the first Code, some were publish'd by *Justinian*, amongst which that was famous enough which we read under the *Tit. de bon. quæ lib.*<sup>3</sup>, wherein it was generally establish'd, that what the Son acquir'd, and not *ex paterna substantia*, was his own Property, and the Father had only the Use of it, contrary to what was appointed by the ancient and middle Jurisprudence. Afterwards in the Consulship of *Lampadius* and *Orestes*, almost all the fifty Decisions which it pleas'd *Justinian* to establish, for removing all the Controversies and Doubts of the ancient Civilians, were publish'd<sup>4</sup>; many of which we have under the *Tit. de usufr.* as the *l. 12, 13, 14, 15, and 16*; since the 17th, altho' it be one of the 50 Decisions, was made in the following Year, after the Consulship of *Lampadius*. In this Consulship, not only almost all these Decisions were publish'd, but also some other Constitutions were made, such as the *l. 7.* which we read under the *Tit. de bon. quæ lib.* whereby it was ordain'd, that the Father should not have the Use of Goods given to the Son by the Prince, or the Empress; and that excellent one, to wit, *L. un. C. de rei ux. act.* It was in this Year 530. which was the fourth of the Empire of *Justinian*, that this other Constitution was publish'd, which we read under the *Tit. de vet. Jur. enucl.*; where, as is said, *Justinian* commanded *Tribonianus*, and the sixteen other Civilians, to compose the Digests.

IN the following Year, after the Consulship of *Lampadius*, and the fifth of the Empire of *Justinian*, many were proclaim'd, such as the *L. 2. de Constit. pecun.* whereby the *Actio receptitia* was repeal'd; the *L. 2. C. Com. de Legat.* whereby the Difference betwixt Legatees, and particular Trustees was taken away; the *L. 2. C. de indic. viduit.* by which the Law *Julia Miscella* was abolish'd; the *L. 3. C. de Edict. D. Hadrian. toll.* by which the Edict of *Adrian*, for the twentieth Part of the Heritage was struck out and cancell'd; and the *L. 4. C. de liber. præd.* by which the Difference of Sex in Disinheriting was abolish'd. In this same Year were likewise put forth these noble Constitutions, to wit, *L. si quis argentum 35 C. de donat.* the *L. ult. C. de Jur. delib.* the *L. ult. C. qui pot. in pign.* and some others.

IN the second Year after the Consulship of *Lampadius* and *Orestes*, was publish'd the *L. 2. Cod. de vet. Jur. enucl.* and in the following 533. the seventh of his Empire, were publish'd the Institutions, as is said, and the Pandects a Month after. These two Years are remarkable because there were no Consuls.

WHEREUPON the Compilers of this new Code added all these Constitutions, which, according to *Balduinus*<sup>5</sup> and *Rittersfusius*<sup>6</sup>, exceeded 200 in Number, and were publish'd after the first Code, in the Space of five Years, which likewise may be seen in *Aloandrus* in the Catalogue of Consuls join'd to his Code, on which *Franciscus Raguellius*<sup>7</sup> made particular Commentaries; as did also *Edmundus Merilius*, upon the 50 Decisions<sup>8</sup>. By which the System of divers Matters relating to our Jurisprudence was alter'd, and particularly the Doctrine of *Peculium*, *Legatees*, and many others were varied: Whence it follows, as *Balduinus*<sup>9</sup> and *Rittersfusius*<sup>10</sup>

<sup>1</sup> Auctor Cronici Alex. apud Pagi in Differt. Hypatica de Consulib. pag. 301. His Coss. Justinianus Codex renovatus est, adjunctis novis, post priorem Codicem, Constitutionibus, Justique est, antiquato priore, suam obtinere vim, sive auctoritatem IV. Kal. Jun. indict. XII.

<sup>2</sup> Cod. de emendat. C. Justin. & secunda Edit.

<sup>3</sup> L. 6. C. de bon. quæ lib.

<sup>4</sup> V. Edmund. Meril. in decis. Justin.

<sup>5</sup> Balduin. in Justiniano p. 497.

<sup>6</sup> Ritterf. in Jure Justin. in præf. cap. 1. num. 4.

<sup>7</sup> Fr. Raguell. 1. Comment. ad Constitut. & decis. Justin.

<sup>8</sup> Edmund. Meril. ad 50 Decis. Justin.

<sup>9</sup> Balduin. in Justin. p. 497.

<sup>10</sup> Ritterf. loc. cit.

have likewise observ'd, that 'tis a great Mistake to believe, that only the 50 Decisions were added to this new Code; and that excepting these Decisions, the Pandects differ'd in nothing else from this Code *de Repetita Prælectione*.

THESE Constitutions then of the Princes being put into this better Form, in this new Code, in which also were inserted some Constitutions of the Successors of *Theodosius*, *Valentinian*, *Martin*, *Leo*, *Antemius*, *Zeno*, *Anastasius*, and *Justin*, *Justinian* ordered, that the first Code should be no more of any Authority or Force; but that this Second, which, after the Example of the Ancients, he call'd *de Repetita Prælectione*, should solely be of Force and Vigour in the Tribunal and Judgments; neither from any others but from it, could the Constitutions be quoted in the Courts of Justice, annulling all the others which were scatter'd up and down: Whence it is, that some very pertinently have observ'd, that those Constitutions of *Zeno*, or other Emperors, which we don't find inserted in this Code, were of no Force, and which we only owe to the Care and Learning of some Writer, who had dug them out of the Darkness in which they had been buried, and restored them to the Light of the World; for many of which we are indebted to *Contius*, *Jacobus*, *Cujacius*, *Dionysius*, and *Jacobus Gotifredus*, and other learned Men; the Use of which will be, not to use them, as the Constitutions of Princes, which have lawful Authority, but only to draw from them some Light for the better Understanding those that were received, and those which by ancient Custom have acquired with us the Force of Laws in our Courts of Justice; altho' the Constitution of *Zeno* which he made concerning Buildings, and the Prospect of the Sea, is defended by many as lawful and of Authority, that is to say, because we see it confirmed by *Justinian* in his *Novella*; and in the Code is declared not to be local in *Constantinople* only, but to comprehend all the other Provinces of the Empire<sup>1</sup>.

*JUSTINIAN* was so strict in not admitting any other Constitutions, but those which were gathered together, and united in this Code, that he would have all the others, which upon any emergent Occasion, should come forth for the future, to be collected into a distinct Volume, to which he gave the Name not of Code, but of *Novellæ Constitutiones*, and that they should form another Body distinct from his Code: Whence, altho' the Name of *Codex*, generally speaking, may be given to every Book, *A caudicibus arborum deducto Vocabulo*; nevertheless our Civilians call'd only that Book a Code by *Antonomasia*, wherein the Constitutions of the Princes were collected after a certain Order, because, as *Gotifredus*<sup>2</sup> observes from *Cujatius*, the Constitutions and Rescripts of the Princes used to be written in *Codices* and *Pugillares*, which were Tables of Wood, and also of Copper and Ebony, which were kept in the Cabinet, or Chancery of the Prince for Preservation; whence we read, that *Theodosius the Younger*, when he caused his Code to be compiled, sent to ask of *Valentinian III.* the Constitutions made by him for the West, which were kept in his Cabinets, in order to join them to his own, and those of his Predecessors for composing this Code. On the contrary, the *Responsa* of the Learned, from which the Digests were compiled, used to be written on Parchment, and not on Wood or Copper.

THE first Code then being abolish'd, and the Memory of it altogether extinguish'd, all Authority was given to the Second, which is that we now have, and which all the Tribunals, and Academies of *Europe* make use of, as every body sees it, divided into twelve Books, and distinguish'd into 776 Titles. Its Constitutions were all dictated in the *Latin* Tongue, and contain the Constitutions of 54 Emperors, beginning at *Adrian* down to *Justinian*, as is manifest from the Catalogues which *Aloandrus* and *Dionysius* prefixed to their Codes. We are indebted to the Industry and Care of *Jacobus Labittus*, and *Antonius Augustinus*, for the Index of the Laws publish'd by each Emperor, which is no less useful to those who study our Jurisprudence, than that which they composed of the *Responsa* of the Civilians in the Pandects.

SOME have blam'd *Justinian*, who was so Catholick a Prince, for having caus'd to be inserted in this Code, many Constitutions not becoming his Piety and Religion. Our *Mathew de Afflictis*, by falling into this Error, wrote, that he had caus'd to be inserted many impious Laws in the three last Books; but he was handsomely rebuk'd for it by *Valenzuola*. Others said, that *Justinian* did ill in putting the Laws of *Valens* against the *Solitarii* into his Code, and *Amaja* durst not defend him: But 'tis

<sup>1</sup> V. Card. de Luca de Servit. Disc. 1.

<sup>2</sup> Goth. ad Tit. de nov. Cod. faciendo in princ. clearly

clearly seen that that Law was not made against the true *Solitarii*, but against those, who under pretence of Religion affected to be such, by joining with them in order to shun the Charges of the Court. Some others blame him, because he made many Laws concerning Usury and Divorces, and yet allowed of them; but *Godelinus*<sup>1</sup>, *Leotardus*<sup>2</sup>, and others vindicate him. Others because he inserted many Laws concerning the outward Ecclesiastical Policy; but they are to be excused, because they did not advert to the Circumstances of the Times in which they were publish'd, but according to the Maxims of the Ages in which they wrote, thought it did not suit with the Authority of the Prince to establish them; which will be better seen, when we come to treat of the Ecclesiastical Policy of that Century.

<sup>1</sup> Godelino de Jur. novil. cap. 10. in fin.    <sup>2</sup> Leotar. de Usur. qu. 6. num. 28.

## S E C T. IV.

*Of the NOVELLÆ of JUSTINIAN.*

**A**LTHO' *Justinian* had made sufficient Provision for the Study of the Jurisprudence, by these three commendable Works, to wit, the Institutions, the Digests, and the Code; nevertheless, as in the Course of Years, according to the various Affairs and new Emergencies, it was necessary to provide a-new, and put forth new Constitutions: These not long after grew to that Bulk, that it behoved him to join them together in another Volume, which was call'd the *Novellæ Constitutiones*. These were put forth from time to time by *Justinian*, not in the Latin Language, as the others contain'd in the Code, but almost all in the Greek<sup>1</sup>, excepting the Nov. 9, 11, 23, 62, 143, 150, which were written in Latin<sup>2</sup>; in which truly there are many Things amiss as to the Elegancy, Brevity, Gravity, and Doctrine; and so far as the Constitutions of the Princes, from *Constantine the Great* down to him, yield to the Constitutions of the more ancient Emperors, from *Adrian* to *Constantine*, so much these *Novellæ* of *Justinian* come short of the Brevity and Elegancy of the latter; so that 'tis always going retrograde, from worse to worse, the Reading of which gives much Disgust, they being Loquacious, Bombast, void of the Brevity, Gravity, and Elegancy of the first: But what is of the greatest Import, is to observe in them a certain Inconstancy and Fickleness that's inexcusable, changing and varying that which a little before was establish'd, and what just now pleas'd, soon after is chang'd and cancell'd; which has induced many to believe, that so much Inconstancy proceeded from the Womanish Levity of *Theodora* the Wife of *Justinian*, who was often meddling with such Matters; and the Avarice of *Tribonianus*, who for Money often chang'd and varied the Laws at his Pleasure<sup>3</sup>.

OF these *Novellæ* only Ninety-six were known by our ancient Glossators, altho' *Julian*, Professor of Law in the Academy of *Constantinople* a little after *Justinian*, compendiz'd and translated them from the Greek into the Latin Tongue, to the Number of One Hundred and Twenty-five. In later Times, *Aloandrus* found some others, and increas'd their Number to One Hundred and Sixty-five: *Jacobus Cujacius* added other three, so that their Number at present amounts to One Hundred and Sixty-eight<sup>4</sup>.

BUT we must observe, that in joining these *Novellæ* together, the Order of Time has not been exactly observ'd; for we perceive a great many of these which were publish'd towards the End of the Empire of *Justinian*, put before those which were publish'd sooner, and on the contrary, those which were first publish'd placed last. Thus in the Ninth Year of the Empire of *Justinian*, in the Consulship

<sup>1</sup> Ant. Augustin. in Parat. ad Nov.

<sup>2</sup> Ritterf. in Proem. cap. 4. num. 1.

<sup>3</sup> Procop. lib. 1. de Bello Persico. Suidas in Dictione Tribonianus.

<sup>4</sup> Doviati. Hist. Jur. Civ. Ritterf. in Jur. Justin.



of *Belisarius*, when they began to be establish'd, the following *Novellæ* were publish'd; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18; and also in the same Year, the 24, 25, 26, 27, 28, 29, 32, 42, 51, 102, 103, 107, 110, 116, 118, and 157. In the following Year, after the Consulship of *Belisarius*, the 19, 20, 21, 22, 31, 38, 39, 40, 43, 45, 122: And the next Year, the Eleventh of his Empire, were made the *Novellæ* 41, 52, 53, 54, 55, 56, 58, 59, 60, 61, and many others.

IN the Consulship of *Joannes*, and Twelfth Year of the Empire of *Justinian*, were publish'd the *Novellæ* 63, 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76; as in the Year after 78, 79, 80, 81, 83, 97, 99, 101, 133, 162; and in the following, in the Consulship of *Justinus*, the 98th.

IN the Consulship of *Basilus*, and the Fifteenth Year of the Empire of *Justinian*, were proclaim'd the *Novellæ* 108, 109, 111, 113, 115, 117, 119, 120, 121, 123, 124, 125, 128, 129, 130, 131, 132, 134, 135, 136, 137, 145, 146, 147, 153. In the following Years nothing was publish'd by *Justinian*; but in the Thirty-second Year, the last of his Empire, was put forth the *Novella* 141, whence it ought to be reputed the last of all, as being made in the Year 558.

THESE *Novellæ*, together with thirteen Edicts publish'd from Time to Time by *Justinian*, were collected and joyn'd together in one Volume, not by *Justinian's* Order<sup>1</sup>, but after his Death, by private Industry and Care, as *Cujacius* and *Antonius Augustinus* shew us, without observing any other Order than as above set down. All the Business then of the Interpreters was to divide them into nine *Collationes*, which after the Manner of Books, each contains many Titles; and was call'd afterwards, in the Days of *Bulgarus*, *Authenticum*, either because these Constitutions, as being publish'd after the Laws of the Code, were of more Authority and Weight; or, which is more probable, like to the *Latin* Epitome made by *Julian*, this Work, as containing the intire *Novellæ*, as they were publish'd by *Justinian*, ought to be reputed the Original and Authentick<sup>2</sup>.

WE have three *Latin* Versions of these *Novellæ*: The first ancient, of which *Bulgarus* is said to be the Author; but *Cujacius*<sup>3</sup> and others don't allow of it; The second was made by *Aloandrus*; and the third by *Henricus Agileus*. Authors don't agree neither in the Name, nor in the Age of this ancient Interpreter; some have believ'd him either more Ancient or Contemporary with *St. Gregory the Great*, because this Pope quoted and transcrib'd many Passages of these *Novellæ* into his Books, of which Opinion *Balduinus* was also<sup>4</sup>: But *Antonius Augustinus*<sup>5</sup>, follow'd by *Ritterfusius*, reports, That in the Days of *Irnerius* and *Bulgarus*, the Greek Volume of these *Novellæ* was found by the Labour of a certain Monk, who translated it into *Latin*: He was call'd *Bergonto Pisanius*, of whom 'tis likewise said, that he translated into *Latin* these Greek Clausules, which we find in the Books of the Digests.

THE Translation made by *Aloandrus* happen'd thus: There was kept in *Florence* a Manuscript Volume of the Greek *Novellæ*, from which that of *Bologna* had been copied. *Aloandrus* made use of this last, and he was the first who caus'd the Greek *Novellæ* to be printed, after he had translated them into *Latin*. The first Edition came forth in the Year 1531, to the Honour of the Senate of *Nuremberg*, who was at the Charges of it. *Henricus Scrimgerus*, many Years after, having found in *Venice* another Manuscript Copy more exact, which belong'd to Cardinal *Bessarion*, from this new Copy he made up a great deal of what was wanting in the Edition of *Nuremberg*, and caus'd it to be printed in Greek; from which *Henricus Agileus* made a third Translation, who also translated the *Novellæ* of *Leo*; and *Contius* likewise translated some others into the *Latin* Tongue.

WERNERUS, or, as we call him, *Irnerius*, to the great Advantage of the Studios, abridg'd them, and to each of the Laws of the Code, which had been corrected from the *Novellæ*, or that treated on the same Subject, joyn'd the Epitome of them; by which it might be known, what had been alter'd on that Subject by these latest Constitutions of *Justinian*, therefore they got the Name of

<sup>1</sup> Ritterf. in Jure Justin. cap. 1. num. 18. in Proœmio.

<sup>2</sup> Ritterf. in Jure Justinian. in Proœm. cap. 1. num. 10, 11, 12.

<sup>3</sup> Cujac. lib. 8. Obs. cap. ult. Doviart. Hist. Jur. Civil.

<sup>4</sup> Balduini Justin. pag. 573.

<sup>5</sup> Ant. August. in Parat. Nov. 9c. Ritterf. in Proœm. cap. 4. num. 9.

*Authentica*, which ought to be carefully compar'd with the Originals from whence they were taken, because sometimes they differ widely from them; and *Georgius Ritterfusus*<sup>1</sup>, the Son of *Conradus*, reckons Seventy Places which don't agree with the Originals.

AND 'tis likewise to be observ'd, that this Volume of the *Novellæ* differs chiefly in three Things from the Code. The first, that the Code comprehends the Constitutions of many Princes, beginning with *Adrian* down to *Justinian*; and the *Novellæ* are only Constitutions of *Justinian* alone. The second, that the Laws of the Code were almost all dictated in the *Latin* Language, and the *Novellæ* in the *Greek*. The third, that in the Code, the Constitutions are subdivided into certain Classes, and placed under various Titles, according to the Variety of the Subject they treat of, and many times there are many of them dispos'd of under one Title; whereas in the Volume of the *Novellæ* each Constitution has its own Title, and are put together without Order, only observing the Order of Time; neither was that Order observ'd altogether, as we have shewn above.

<sup>1</sup> Georg. Ritterf. in Appendice ad Jus Justin. Patris.

## S E C T. V.

*Of the Use and Authority of these Books in Italy, and in these our Provinces.*

ALTHO' *Justinian*, by these his celebrated Works, had eclips'd the Fame of *Theodosius* in the East so much that the Name of his Code was intirely extinguish'd; neither were the Academies nor the Courts of Justice to have recourse to any other Books but these; and tho' in the Empire of the East, they alone were receiv'd, and all others rejected; nevertheless in the West, and particularly in *Italy*, their Fortune was different, being publish'd by *Justinian* in the last Years of the Reign of *Athalarick*, while the Dominion of the *Goths* yet continued, they were not receiv'd in *Italy*, nor in these our Provinces, where, as being a Foreign Soil, they could not take deep Root; but the ancient Codes, and the old Books of the Civilians were retain'd, and the *Theodosian* Code lost nothing of its Esteem or Authority; on the contrary, by the Authority of *Alarick*, they were in great Reputation amongst the *Westgoths*, insomuch that the Compend of the *Theodosian* Code, which they called a Breviary, was not only of great Value and Authority amongst them, but also amongst the *Ostrogoths*, and many other Nations, such as the *Burgundians*, *French*, and *Longobards*, and what was *Roman Law*, was contain'd in these Books.

AND altho' after the Death of *Athalarick*, and that of *Amalasuntha* soon after, the Affairs of the *Goths* in *Italy*, were reduced to a very low Ebb; and *Justinian*, by the Valour of *Belisarius*, had gain'd many Victories over them, and by a particular Edict<sup>1</sup>, had order'd the *Roman* Laws contain'd in his Books, to be observ'd over all the Provinces of *Italy*; and *Belisarius* afterwards, in the Tenth Year of this Emperor's Reign, had conquer'd *Naples*, *Puglia*, *Calabria*, *Samnium*, and *Campania*, and taken these Provinces from the *Goths*; nevertheless, they having afterwards recover'd their ancient Spirit and Valour, under the most gallant and wise Prince *Totila*, made so great a Revolution in the Affairs of *Italy*, that in the Heat of so cruel a War, when no regard was had to Laws, those of the *Romans* contain'd in the Books of *Justinian* again lost their Vigour and Authority: And tho' at last, in the latter End of his Reign, he had gain'd an intire Victory over them, and under *Teja* their last King, by the Means of *Narses*, had wholly subdued and defeated them, yet, notwithstanding all that, he dying soon after, and being succeeded by *Justin the Younger*, a most foolish Prince, it was not long

<sup>1</sup> Pragm. Justin. Post. Novel.

before *Italy* came under the Dominion of the *Longobards*, who, following the Example of the *Goths*, acknowledg'd no other Laws but their own, and those of the *Romans* which were contain'd in the *Theodosian Code*, and what by Tradition had been remember'd by the People; so that the Books of *Justinian* were not minded, of which the *Longobards* had little or no Knowledge, as we shall shew anon.

A D D to this, that not many Years after they began to have the same Fate in the East, where, as we shall shew in the following Books, partly by Ignorance and the Folly of his Successors, and partly by Envy, they came to be so forgotten, by reason of the numerous Collections which were made of them in Emulation of *Justinian*, that the Credit of them was quite eclips'd and extinguish'd; by which we see the strange Vicissitudes of human Things: This great Work of *Justinian*, compil'd with so much Care and Study, that it ought to have been famous and immortal for ever, yet scarcely was its Author dead, when it was likewise buried in the thickest Darkness and profoundest Oblivion for the Space of Five Centuries; but rising again in the West in the Reign of *Lotharius*, it spread its Fame over all the Provinces of the World; so that there was no Nation, neither civiliz'd or barbarous, which had it not in high Esteem and Veneration, and which did not prefer it to their own Laws and Customs.



## C H A P. IV.

### *The Expedition of Justinian against Theodatus King of Italy, the Successor of Athalarick.*



AFTER *Justinian* had put the last Hand to a certain and fixed Form of the *Roman Jurisprudence*, with the same good Fortune he betook himself to Arms. A Prince most fortunate as well in Time of Peace as War; for as in his own Time, for the accomplishing the Undertaking of the Laws, which was as bold and noble, as hard and difficult, he had those famous Civilians *Tribonianus*, *Theophilus*, *Dorodeus*, and all the others, of whom we have made honourable mention, who were able to bring it to Perfection; so in War he had most gallant and famous Captains, such as *Belisarius*, *Narses*, *Mondus*, and some others, who by their incomparable Virtue, and glorious Atchievements, added no less to his Glory than to the Increase of the Empire by their many Conquests; whence his Name was transmitted to Posterity, adorn'd with so many Titles of *Alemanicus*, *Gothicus*, *Francicus*, *Germanicus*, *Anticus*, *Alanicus*, *Vandalicus*, and *Africanus*, for his having conquer'd and subdued so many Nations. He was as fortunate in the Opportunities which offer'd to make the Conquests easie, as he was in so illustrious and gallant Captains who flourish'd in his Time; and particularly in the War which he made upon the *Goths* in the Expedition of *Italy*, the Success of which we are briefly to relate.

AFTER that *Belisarius* had conquer'd the *Vandals* in *Africa* and taken *Carthage*, having made *Gilimere* their King Prisoner, and carried him in triumph to *Constantinople*; *Justinian* seeing that vast Kingdom subjected to his Empire, turn'd all his Thoughts on the Expedition of *Italy*, in order to drive the *Goths* out of it; and a very lucky Opportunity, which presented it self, hasten'd the Undertaking, and push'd on the Execution.

*Amala-*

*Amalasuntha*, a most prudent Princess, seeing her Son, by a riotous Life, had contracted a lingering Disease, so that there were no more Hopes of his Life, was afraid, that after his Death she should not be able to live amongst the *Goths* in Safety, who, because she could not bear with their Disorders and Debaucheries, hated her mortally, and because she was much respected by the Emperor *Justinian*, who honoured and regarded her so much, that at last *Theodora* his Wife became jealous of her; began secretly to treat with *Justinian*, how she might be able to put him in Possession of the Kingdom of *Italy*, thinking by that means she might live in Peace and Quiet; but the untimely Death of her Son gave her not Time enough to accomplish her Design: For which Cause, being suspicious that the *Goths*, who would not suffer her to continue in the Government, might chuse a King according to their own Mind, she cunningly prevented them, by placing upon the Throne *Theodatus* her Cousin, Son of *Amalafrida* Sister to the great *Theodorick*, who was likewise of the illustrious House of *Amala*. This was a Prince who had led his Life in the Desarts of *Tuscany*, and was much addicted to the Platonick Philosophy<sup>2</sup>; a Man of great Learning, and a perfect Master of the *Latin* Tongue, which in his Time had so far decay'd in its Purity, that he who understood it to Perfection was in great Esteem; and, if we may believe *Cassiodore*<sup>3</sup>, since *Procopius* says nothing of it, *Theodatus* was also expert in Divinity, and the Ecclesiastical Learning: Forasmuch as in the Letter which *Amalasuntha* wrote to the Senate of *Rome*, wherein she gives them an Account of his Advancement to the Throne, amongst the other Commendations and Honours which she bestows on *Theodatus*, she tells them, That he was a Prince very knowing in Ecclesiastical Learning. But all this Learning was not able to change his Nature, and the Meanness of his Spirit; and besides he was most unexpert in Military Matters, Fearful, Lazy, and above all most Covetous, without Honour or Probity, and so full of Treachery and Mischief, that he was capable of committing the most vile Actions in the World, when he was push'd on by his own or the Passions of other People.

THE unhappy Princess *Amalasuntha* soon after was sensible of his treacherous Nature to her utter Ruin; for he no sooner mounted the Throne, than, forgetting all the Promises he had made to his Benefactress, he suffer'd himself to be govern'd by the Relations of those whom this Princess had put to Death for their Crimes; and following the Advice of these People, caused her to be carried from the Palace of *Ravenna*<sup>4</sup> to Prison, in an Island in the Middle of the Lake of *Bolsena*, and some Days after order'd her to be barbarously strangled in the Bath, at the same time that he was begging Peace of the Emperor *Justinian*, having first compell'd that unhappy Princess to write to the Emperor for obtaining it. There are not wanting Writers who say, that *Theodatus* was induc'd to commit such a Piece of Villainy, not only thro' the Perverseness of his Nature, and the Advice of those of his Court, but likewise by the Means and Persuasion of *Theodora* the Wife of *Justinian*, who being jealous of the Love that her Husband had for this Princess, was afraid, that one Day he would forsake her for *Amalasuntha*.

IN the mean time, *Justinian* being furiously inrag'd at the horrible Brutality of *Theodatus* and the *Ostrogoths*, resolv'd to revenge the Death of *Amalasuntha*; and, on the other hand, being eagerly desirous of uniting *Italy* to the Empire, he thought this was the best Opportunity that could ever offer to make War upon the *Goths*, in order to drive them out of *Italy*: Therefore, in the Year of our Lord 535, having pitch'd upon *Belisarius* for that Undertaking, and made great Preparations both by Sea and Land, he sent him with a powerful Fleet to *Sicily*, judging it to be the fittest Place to begin the War in, it being in a manner the Nursery of these Provinces, which now form our Kingdom, which being taken would render the Conquest of them the more easy.

*JUSTINIAN* likewise tried all Means for facilitating this Enterprize, and used all his Endeavours to bring the *French* to his Assistance, informing them of all his Grievances against the *Goths*, and laying before them the Reasons which he thought most just for undertaking this War. The *Goths*, says he, as *Procopius*<sup>5</sup>

<sup>2</sup> Procop. de Belle Gor. Cassiod. lib. 10. cap. 1. 2, 3.

<sup>3</sup> Jornand. de Reb. Gest.

<sup>4</sup> Cass. lib. 10. cap. 2. Princeps vester etiam Ecclesiasticis est Literis Eruditus.

<sup>5</sup> Jornand. de Reb. Gest.

<sup>6</sup> Procop. lib. 1. de Belle Gor.

has it, *rapta Italia, quæ nostri baud dubiè est juris*, they not only don't like to restore it to the Empire, but besides, in Contempt of me, they have cruelly murdered *Amalasuntha* whom I so much esteem'd, and had so great a Value for, at the same time when they were begging Peace of me. But the *French* made no Motion towards his Assistance. On the contrary, *Theodebert* their Prince, Nephew of the great *Clovis*, whom *Justinian* in his Edicts had so much extoll'd, and also given him the Surname of *Francicus*, as if he had subdued his renowned People, made War against him in Favour of *Theodatus*, and afterwards of *Vitiges*.

IN the mean time, *Belisarius* arriving in *Sicily* made an easy Conquest of it, by reason of the Confusion that was there. Having taken it, he immediately passed over from *Messina* to *Rhegium*, where the Gates were open'd to him; from thence by Land he march'd directly to *Rome*. All the Places on his March surrender'd willingly; therefore without much Resistance he took *Aprutium*, *Lucania*, *Puglia*, *Calabria*, and *Samnium*: *Beneventum*, and almost all the principal Cities of these Provinces yielded by the Terror of his Arms, and much more by the Astonishment the *Goths* were in, and the Stupidity and Fright of *Theodatus*. Only *Campania* resisted as much as the Forces in it were able. In this Province, the Cities that were able to defend themselves were *Naples* and *Cuma*: *Naples* stood out with great Valour and Intrepidity, and endured a Siege of many Days without surrendering; but a Soldier luckily having discover'd an Aqueduct which reach'd into the City, by which, with great Constancy, altho' sometimes dishearten'd, the *Greeks* enter'd it at last, and to the great Astonishment of the Besieged, turned every thing in the City topsy-turvy; and the Pillage had been more lamentable and dismal, if *Belisarius* had not put a Stop to the Insatiableness of the Soldiers. After the Conquest of these our Provinces, *Belisarius* pursued his way to *Rome*, and at last took it in the Eleventh Year of the Empire of *Justinian*, after it had been Sixty Years in the Possession of foreign Nations.

WHEN by the Terror of these Arms, and the so many Victories of *Belisarius*, *Theodatus* was quite discourag'd, he tried all ways possible for obtaining Peace from *Justinian*: He sent many Ambassadors to *Constantinople*, amongst whom Pope *Agapitus* offer'd Terms and Conditions of Surrendring<sup>1</sup>. *Justinian* had likewise sent into *Italy* one *Peter* to treat of this Peace; he was a venerable Person, and most expert in managing State Matters. *Theodatus* propos'd many Projects to him, which, without the express Orders of the Emperor, he could not accept of, so that they were sent directly to *Constantinople*. *Theodatus* offer'd *Sicily* to *Justinian*: That the People of *Rome*, on Solemn and Festival Days, or upon any other Publick Occasion, either on the Theatre or the publick Market-place, should celebrate the Name of the Emperor before that of *Theodatus*: That there should be no Statue erected, either of Marble, of Brass, or any other Matter whatsoever, nor any Medal struck with the Image of *Theodatus* alone, but should be inscrib'd and stamp'd with that of the Emperor likewise, and that the Effigies of the Emperor should possess the most honourable Place on the Right Hand of *Theodatus*.

DURING the Time that they were expecting *Justinian's* Answer, *Theodatus* never ceas'd asking of the Ambassador, for whom he had a great Regard and Veneration, as may be seen by his Letters in *Cassiodore*, if he thought the Emperor would accept of the Conditions offer'd: He complain'd grievously of *Justinian* to *Peter*, that upon so slight an Occasion he had made so cruel a War against him, and, under various Pretexes, sought unjustly to take *Italy* from the *Goths*, after they had recover'd it out of the Hands of *Odoacre* with their own Forces, and with the Consent of the Emperor *Zeno* himself. *Peter*, as also the *Greek* Captains, gave no other Answer to these Complaints, than this; That it was a Duty incumbent upon the Emperor to recover these Provinces, which were known to every Body to have been lopp'd off the Empire; and that it became him, to whose Care it was committed, to use all Means to restore them to it again<sup>2</sup>. In the mean time, the Proposals which had been sent by *Theodatus* to *Justinian* were laugh'd at, as *Alexander the Great* laugh'd at those offer'd to him by *Darius*, who propos'd to give him, as a Portion with his Daughter, all those Places betwixt the *Hellepont* and the River

<sup>1</sup> P. Garet. in Vita Cassiod. p. 1.

<sup>2</sup> Procop. de Bello Got. at illum non dedecet | repetere terram, quam constat fuisse ejus, quod ipsi commissum est Imperii.

*Hali*, which he had already conquer'd <sup>1</sup>; and as the *Romans* did by *Volgesus* King of the *Parthians* <sup>2</sup>; and as afterwards *Charles the Great* did by *Nicephorus*, who offered him *Saxony* which he had already subdu'd <sup>3</sup>; forasmuch as *Theodatus* offer'd *Sicily*, which had been already possess'd by *Belisarius* together with the Provinces of our Kingdom: So that these Conditions being rejected, *Theodatus's* Fear, and the Terror of the *Goths* increased.

THE miserable *Goths*, seeing themselves in such a Consternation, and perceiving the Fright of *Theodatus*, and that by his Cowardliness they had been reduc'd to such a lamentable Condition, had a Mind to try if at least they could bring about the Treaty of Peace with *Belisarius*; wherefore they sent Ambassadors to lay before him their just Grievances, and to stop him from pursuing his Design. Being admitted to *Belisarius*, they began to lay forth to him the Wrong which was done the *Goths* by this unjust War. The *Romans* are much in the Wrong, said they <sup>4</sup>, who without any Cause have taken up Arms against us, their Confederates and Friends. The *Goths* have not taken *Italy* from the *Romans* by Force; it was *Odoacre*, who by much Slaughter and superior Strength robb'd them of it, while *Zeno* reign'd in the East, who not being able to revenge himself, by retaking the unjust Prey, nor having sufficient Force to oppose the Tyranny of the *Heruli*, called our Prince *Theodorick*, who was then threatening, on account of some Difference which had fallen out betwixt them, to besiege him in *Constantinople* itself, and intreated him to forgive his new Enemy, for the Sake of the Dignity of Patriciate, and *Roman* Consulship, which he had conferr'd upon him, and for the Regard he had always had for his Person, to turn his own Courage, and the Ferity of his People elsewhere; and to turn his Arms against *Odoacre*, and revenge the Death of *Augustulus*, dishonourably killed by him, and recover *Italy* from him, which he freely resign'd to him, and his *Goths*, that for ever after they might govern it, and hold it with a just Title, and good Right. *Theodorick* came to *Italy*, and by his own Valour, and the Strength of his *Goths*, drove out the Tyrant, and with the Consent of, and in Confederacy with all the Princes of the East govern'd it so many Years, as it is to this Time govern'd by his *Goths*: With what Justice then could they pretend to make War against them, who possess it by so just Titles, after having possess'd and govern'd it so many Years with so much Justice?

BUT *Belisarius*, who flush'd with his late Successes, was not to be moved by such Stories, which signify nothing, if they are not back'd by Force, answer'd them to their Face severely and gravely; That they had said more than they could make good: That *Theodorick* was indeed sent by *Zeno* to fight *Odoacre*, but not to make himself Master of *Italy*; since it signified nothing to the Emperor, as long as it was not restored to the Empire, whether it was under the Slavery of the one or the other Tyrant; that *Italy* was to be set at Liberty, and put under the Imperial Laws: But that *Theodorick* having behaved himself gallantly against *Odoacre*, set up for himself, and refused to deliver *Italy* to its Right Owner. To me, said he, he seems to be as bad, who keeps Goods that are not his own, against the Will of the Owner, as he that takes them by Force; therefore I will never yield to any Man in the World that Country which belongs to the Empire.

<sup>1</sup> Curtius lib. 4.<sup>2</sup> Tac. Annal. lib. 15.<sup>3</sup> Avent. lib. 4. Ann. Bojor.<sup>4</sup> Procop. lib. 2. de Bello Got.

## S E C T. I.

*Of Vitiges, Ildibaldus, and Eraricus, Kings of Italy.*

BY such a surly Answer, the *Goths* gave themselves up to Despair: they made use of all their Power and Art to find a Remedy for so imminent a Danger. They reveng'd themselves upon *Theodatus*, whose Stupidity had been the Cause of their impending Ruin, and whose Folly had made him unfit to govern: They first dethron'd

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him, and then put him to Death, and in his stead, in the midst of the Army, chose *Vitiges*, and proclaim'd him their King. *Goldastus*<sup>1</sup> gives us another Reason for his Death; to wit, that the *Goths* had discovered, that *Theodatus* being wearied with so long and toilsome Wars, had agreed with *Justinian* at last to surrender the Kingdom to him, for a large yearly Pension, that he might retire to some solitary Place, and give himself up to the Study of Philosophy; and both the Letters which *Theodatus* wrote to *Justinian*, and his Answers to them, are related by the same *Goldastus*. *Vitiges* had for Wife *Matasuenda*, Daughter of the Princess *Amalasuntha*: He was a Prince of great Courage and Prudence, of which his notable Deeds bear Testimony, as do also his Speeches, and Letters which we read likewise in *Cassiodore*<sup>2</sup> and *Goldastus*<sup>3</sup>.

NO sooner had *Vitiges* mounted the Throne, after having in vain attempted to make Peace with *Justinian*, than he laid close Siege to *Rome*, which he kept block'd up for a Year and nine Days, till *Belisarius* reliev'd it in the Year 538. Whereupon seeing himself disappointed of his Hopes, he retired with his Wife to *Ravenna*: Not long after, *Belisarius* being Victorious every where, made them both Prisoners, and it luckily fell out (for at that Time he was recall'd by *Justinian*) that he triumph'd over *Vitiges* King of the *Goths*, in *Constantinople*, as he had done over *Gillimere* King of the *Vandals*.

THE Emperor *Justinian* recall'd *Belisarius* to *Constantinople*, being jealous of his Conduct, and sent *John* and *Vitalis* to *Italy* in his Room, altogether unlike him in Valour and Manners, which had this Effect, that the *Goths* taking new Courage, chose *Ildibaldus*, who was Governour of *Verona*, for their King<sup>4</sup>; but he, on account of his Cruelty, was soon after kill'd by the *Goths*, and *Eraricus* chosen in his Place, who likewise in a short time was put to Death, being suspected to have enter'd into a Confederacy with the *Greeks*, and *Totila* advanced to the Throne.

<sup>1</sup> Goldast. tom. Const. Imp.

<sup>2</sup> Caf. lib. 10. c. 31, 32, 33, 34, 35.

<sup>3</sup> Goldast. Const. Imp. tom. 1.

<sup>4</sup> We read some Edicts of *Ildibaldus* in Goldast. tom. 1. Const. Imp.

## S E C T. II.

### Of T O T I L A, King of Italy.

UNDER this Prince, by his singular Virtue, and extreme Bravery, the *Goths* recover'd Vigour, and retook many Provinces which *Belisarius* had taken; they defeated the Emperor's Army, and regain'd *Tuscany*. Not long after they recover'd these our Provinces, which form the Kingdom. They having regain'd *Samnium*, and destroyed *Beneventum*, which they took by Force, threw down their Walls. From thence they went to *Campania*, and besieg'd *Naples*; and in the mean time took *Cuma*, and all the other Places along the Sea-Coast; and during the Siege of *Naples*, their Fleet being made very strong by the infinite Number of *Goths* that flock'd to it from all Parts, they made themselves Masters of *Puglia*, *Calabria*, and all the other Provinces, by their Lieutenants, without Resistance; from which they drew immense Sums, which had been gathered by *Justinian*. The *Neapolitans* at last surrendered; and altho' they were afraid, that by such Resistance, they should be severely treated by *Totila*, nevertheless they had a Proof of the Mildness of this Prince, who not only was a Defender and Preserver of the Chastity of the *Neapolitan* Women<sup>1</sup>, but treated them kindly, and with the greatest Humanity. And thus by the Valour of *Totila*, these our Provinces, which by the Folly of *Theodatus* had been lost, return'd anew to the *Goths*.

HITHERTO the Popes had not meddled in the Affairs of State nor of Princes; but were indifferent whether *Italy* were under the Dominion of the *Romans*, *Goths*, or *Greeks*. All their Care was employ'd in reuniting the Church of the East with

<sup>1</sup> Gröt. in Prolegom. ad Hist. Got.

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that of the West, and in taking Order in various Councils about several Controversies which had arisen amongst the Bishops of the East, both in Doctrine and Discipline. The Popes *Silverius* and *Vigilius* were the first: *Silverius* being suspected by the Greeks, as more desirous of the Government of the Goths, than that of the Greeks, was accused by *Belisarius* of keeping a Correspondence with the Goths. *Silverius* on the Death of Pope *Agapitus* had been elected in Rome in his Place, and acknowledged by the Clergy and People of Rome, as lawful Bishop of that City. On the other hand, *Vigilius* a Deacon of the Church of Rome, who having been sent to *Constantinople* about the Affairs of Religion, had remain'd in that City, aspired likewise to the Papacy, and seeing himself prevented by *Silverius*, who was supported by the Romans and the Goths, left no Stone unturn'd to induce *Justinian* to send *Belisarius* again into Italy with a powerful Army, and retake from the Goths all they had recovered under *Totila*; and had now prevail'd with him to do it. He likewise used all his Art and Cunning with the Empress his Wife, promising that if she would get him to be elected Pope, he would receive *Theodosius*, *Antimus*, and *Severus* into his Communion, and approve of their Doctrine.

THEREFORE *Belisarius* return'd to Italy in order to drive the Goths out of it; but having carried so few Troops with him, he rather lost the Reputation which he had gain'd by his first Expedition, than acquir'd a greater; forasmuch as *Totila*, while *Belisarius* with his Forces was at *Ostia*, took Rome in his Sight; and seeing that he could neither conveniently leave it nor keep it, he laid it waste for the most Part, and drove the People out of it, carrying the Senators along with him; and undervaluing *Belisarius*, he went with his Army to Calabria, to encounter the Forces that were coming from Greece to his Assistance. Rome being deserted, was immediately retaken by *Belisarius*, who in all haste rebuilt the Walls, and recall'd the Inhabitants. *Vigilius*, hearing that *Belisarius* had retaken Rome, left *Constantinople* with a secret Order from the Empress, directed to *Belisarius* to put her Design in Execution. When he came to Rome he deliver'd it to *Belisarius*, promising to give him Money if he would put him in Possession of that See: *Belisarius* sent for *Silverius*, and accus'd him of keeping a Correspondence with the Goths, and urg'd him to acknowledge *Antimus*; which *Silverius* refusing to do, was stript of his Pontifical Garments, and banish'd to Patara, and *Vigilius* elected in his room. But Fortune soon put a Stop to the Proceedings of *Belisarius*, because at that Time *Justinian* being attack'd by the *Partians*, recall'd him. He to obey his Master, abandon'd Italy, and this Province was left to the Discretion of *Totila*, who retook Rome; but it was not so cruelly treated as formerly, because being besought by S. *Benedict*, who in these Times had a great Reputation of Sanctity, he rather began to repair it. In the mean time *Justinian* having made up Matters with the *Partians*, and designing to send new Succours to Italy, was diverted from it by the *Sclavonians*, a new Northern People, who had pass'd the Danube, and assaulted *Illyricum*, and *Thracia*; so that *Totila* reduc'd almost all Italy under his Obedience.

BUT the Goths did not long enjoy the Fruit of so many Victories, for *Justinian* had no sooner vanquish'd the *Sclavonians*, than he sent *NarSES* the Eunuch, a Man of great Experience in War, who increas'd his Armies even with Foreigners, such as the *Heruli*, the *Hunni*, and the *Gepidæ*; he likewise employ'd the *Longobards*, whom he brought out of *Pannonia*, who afterwards knew so well how to improve the Knowledge they had of such a fine Country, and the Occasion which offer'd to them, that from Auxiliaries they became Conquerors, as shall be related by and by. *NarSES* had not as yet disengaged himself from the Expedition of *Thracia* in order to go into Italy, when the Governor of *Tarentum* quitting the Party and Service of *Totila*, delivered up the Place to some Imperialists, who had landed at *Cortona*; *Totila* being surpriz'd at so many Losses, and amazed at the Greatness of the Preparations for War, which were noised Abroad, and magnified every where, that *NarSES* was making against him, sent *Teja* a most valiant Captain to stop *NarSES* at a Pass; but *Teja* not being able to hinder his Progress, *NarSES* removed all Obstacles, and over-run the Country with a powerful Army, so that a Field Battle could not be avoided, in which *Totila* gave the utmost Proofs of his Valour, and not being able to withstand the Forces of his Enemy, far superior to his own, was defeated, and killed, and his Goths put to the Rout, and subdu'd; whereupon the unlucky Goths retired to *Pavia* the best Way they could after such a cruel Battle, where they made *Teja* their King, in whose Valour and Boldness they had plac'd all their Hopes of restoring

restoring *Italy* to their Dominion. On the other hand, *Narses* after this Victory took *Rome*, and the other Cities surrendered to him.

THIS Defeat so dishearten'd the *Gotbifh* Troops in *Italy*, that they were never after able to re-establish themselves there: but the Loss of their gallant King *Totila*, was a much greater Detriment to them: A Prince, who by his Valour, and much more by his Prudence and Goodness, had been able to repair in such a manner the Condition of his *Gotbs*, that he had almost brought them to the same State in which *Theodorick* had left them. He in little less than ten Years that he reign'd, left so many Monuments of his Valour, his Goodness, and his other great Virtues with which he was adorn'd, that there's not a Writer who does not commend, and for his so many good Qualities extol him to the Skies: He, altho' a *Gotb*, says *Paul Warnefride*, lived with the *Romans*, like a Father with his Children, changing nothing of their Laws and Institutions. He continued the same Administration, the same Form in the Provinces, and the same Government: A great Lover of Justice and Equity; and the Speech is truly wonderful<sup>1</sup>, which this Prince made to his Soldiers, in Praise of Justice, and the other Virtues, which we likewise read in *Procopius* after he took *Naples*. His Goodness and Mildness towards the Vanquish'd is often celebrated by the same Historian, tho' a *Greek*. He preserv'd *Rusticana* untouch'd and secure from all Contempt, Wife as she was of *Boetius*, a Woman odious to the *Gotbs*, with whom they had no reason to be satisfied.

NEITHER have the Historians pass'd over in Silence his Temperance: It was he, who often sav'd the Chastity, and the Liberty of the *Roman* Matrons, and having taken *Naples*, he was most zealous in preserving the Honour of the Women, and punish'd severely the Transgressors that way: He was contented with the most simple Food with his *Gotbs*, such as Bread, Milk, Cheese, Butter, the Flesh of wild Beasts, Venison, often raw, and sometimes salted: So that from the Example of this Prince the *Gotbs* could boast of being reputed Temperate, Just, and Mild; whereas the *Romans* themselves, as *Salvianus*<sup>2</sup> says, came short of the Virtue, the Justice, and the Temperance of the very *Gotbs*.

<sup>1</sup> In Goldast. tom. 1. Const. Imp. where we find many Speeches of *Totila*.

<sup>2</sup> Salvian. lib. 7. de Guber. Dei.

### S E C T. III.

#### Of T E J A the last King of the Goths in Italy.

THE unhappy *Gotbs*, after the dismal Defeat which *Narses* gave them, made use of all their Might and Industry to find out ready Expedients for repairing their past Losses; besides their having chosen for their King, *Teja*, a most gallant Prince, they tried to get the Assistance of the neighbouring Princes. They had recourse to the *French*, and sent Ambassadors to move them to come to their Assistance. The Oration of these Ambassadors deserves to be read and admired by every Body, it being full of so moving and most excellent Reasons, which they set forth to the *French*, and may be read as yet in *Agathias*<sup>1</sup>. If the *Gotbs* are destroyed, said they, then the *Romans* will be ready and prepared to renew their old Wars against you. Neither will their Covetousness fail to furnish them with specious Pretexes, and far-fetch'd Excuses. They will put you in mind of the *Marii*, the *Camilli*, and the many Emperors who made War with the *Germans*, and who extended the Bounds of their Empire beyond the *Rhine*. And by making use of these Pretexes, they will not have themselves to be reputed Robbers of other Peoples Dominions, but that they only have a Property in every Thing, and no Body else: They brag that what they do, is only recovering with their just and lawful Arms, what had been possessed by their Forefathers: Upon no other account have they made War so unjustly upon us; as if our

<sup>1</sup> Agath. lib. 1. Histor.

ever-glorious Prince, and Author of this Expedition, *Theodorick*, had wrongfully and unjustly taken *Italy* from them: therefore they have believ'd it lawful to take from us our Goods, to destroy the greatest Part of our People, and the most renown'd and eminent of our Captains, and cruelly to use our Wives and Children in carrying them into miserable Slavery; altho' *Theodorick* came not into *Italy* as an Enemy to them, but by the special Concession and Permission of their own Emperor *Zeno*, not to take it from the *Romans* who had lost it, but with his own Troops and his own Valour, having driven out *Odoacre* the foreign Invader, *Jure Belli* acquir'd what he had possess'd. But after the *Romans* found themselves re-instated, they regarded neither Justice nor Reason; at first they pretended to be offended at *Theodatus* on Account of the Death of *Amalasuntha*, and afterwards did not fail to make War against us unjustly and by Force to rob us of every Thing: And yet these are the People who boast of being the only Wise, the only Fearers of God, and who alone direct every Thing according to the Rules of Justice. To the End then, that what is our Fate now, may not be yours some time or other, and that ye may not repent too late when ye cannot help your selves, ye ought now to prevent the Enemy, and not to slip the present Opportunity in sending a competent Army, under the Command of one of your brave Captains, who by acting prudently and courageously against the *Romans*, may put a Stop to their Undertaking against *Italy*, and restore us to the Possession of it.

BUT this Embassy was unsuccessful, for the *French* would give no Ear to it, because *Theodibert*, after the War which he had made upon *Justinian*, a little before he died, in the Year 548, had made a firm and stable Peace with him, which was afterwards confirm'd by *Theodobald* his Son, who, mindful of the Conditions, could on no Account be induced to break the Peace; till at last they undertook not only to make War upon the *Goths* at the Instigation of *Justinian*, but likewise against the *Romans*, as the *Goths* had so earnestly desir'd it: And altho' after the Dominion of the *Goths* had been already extinct in *Italy*, in the Year 555, after the Death of King *Theobald*, *Leotarus*, and his Brother *Bucellinus* General of the Forces of *Austrasia*, with the *French* and *Germans*, had attempted the Conquest of *Italy*, the first having advanc'd into *Puglia* and *Calabria*, and the latter, besides his having laid waste *Samnium*, had gone over to *Sicily*; nevertheless, their Armies were soon after defeated; that of *Leotarus* by a cruel Sickness which in one Summer swept them all away, and the other of *Bucellinus* by *Narses* near *Casilinum*. And this was the first time that the *French* endeavour'd to subject these our Provinces to their Dominion; which was an unlucky Omen, and portended that their Arms were to be always unfortunate in their Undertakings against *Italy*, which Experience has demonstrated to us in the Ages less remote from us, and that their Lillies, tho' many times planted in our Soil, could never take deep Root.

THE *Goths* therefore being deny'd Assistance from the *French*, plac'd all their Hopes in the Valour of *Teja*, who made the most surprizing Attempts that could be desir'd in such a desperate Condition, for repairing the Fortune of the *Goths*. *Narses* and he met at the Foot of our *Vesuvius*, and *Teja* incamp'd his Army so, that the two Camps were only separated by the River *Sarno*; nevertheless, they continued Skirmishing for two Months, *Narses* not daring to pass the River before *Teja's* Army, which was Master of the Bridge, neither durst he retire, for fear that the *Goths* should have reinforc'd the Garrison of *Cuma*; but at last *Narses*, who was much superior in Forces, order'd Matters so, that he forc'd him to a Battle, who shewing the utmost Proofs of his Valour and Boldness, was unhappily kill'd; which put the *Goths* into such a Consternation, that seeing themselves depriv'd of so gallant a Captain, they resolv'd to surrender to *Narses*, who allow'd them to depart out of the Territories of the Empire with all the Money they had, and to live according to their own Laws. Thus the Conditions were faithfully perform'd on both Sides after Eighteen Years War, so that all the Towns were put into the Hands of the Commissaries of *Narses*, and the *Goths* marched out of *Italy* in the Year of our Lord 553, where they had reign'd Sixty-four Years, from *Theodorick* down to *Teja*.

THUS ended the Dominion of the *Goths* in *Italy*, and these our Provinces: A Nation most Illustrious and Warlike; which in the Heat of War never left off the Exercise of Justice, Temperance, Faith, and the other excellent Virtues with which they were adorn'd, not so barbarous and inhuman as some have reputed

them. They allow'd the conquer'd People to live after the *Roman* Laws, under which they had been born and bred up; for which Laws they had a very great Regard: neither did they alter the Disposition and Order of these our Provinces; did not change the Magistracy; retain'd the *Consulares*, the *Correctores*, and the *Præsides*, and kept up many other Customs and Institutions, after the same manner they had been in the Times of the *Roman* Emperors; though, that these our Provinces underwent another Form, and a new Administration, not while they were under the Dominion of the *Goths*, but when they passed under that of the Emperors of the East, who sent their Exarchs into *Italy*, and divided the Provinces into many Dukedoms, which so alter'd their Disposition, that it was quite different from what it formerly had been, as we shall see anon.

NEVERTHELESS those Disorders and Confusions, which so cruel and bloody Wars usually create in Discipline and Learning, could not be avoided. As for the Jurisprudence in these Times, it could not be expected that there should be so many famous Civilians in *Italy*, nor so eminent Professors and Advocates as could be able to restore it to its ancient Splendor in the Courts of Justice and the Academies: Therefore we ought not to look upon it as a trifling Affair, that in the Midst of so many and cruel Wars, the *Gothish* Kings could apply themselves, as *Athalarick* and *Theodatus* did, to maintain as much as possible the ancient Lustre of the *Roman* Senate, and the Academy of *Rome*, and to furnish it, as *Athalarick*<sup>1</sup> did, with Professors expert in the Laws, and with famous Grammarians, to prevent the *Latin* Tongue's being altogether lost amongst so many foreign and barbarous Languages; and certainly in these Times it would have been entirely lost, if it had not been re-establish'd in that Academy, and if *Theodatus*, who was a great Lover of it, had not given his Assistance. From these Times, *Rome* was commended for the Purity of the *Latin* Tongue, because in all the other Provinces, the barbarous Languages were at their height; and the Instruments, that passed the Hands of the *Tabelliones*, whom we now call Publick Notaries, were drawn up in no better Language than what is now spoke in *Italy*. *Fornerius*<sup>2</sup>, in *Cassiodore*, relates, that there is preserv'd in the King's Library in *Paris*, an ancient Instrument of a Transaction, conceived in no better Stile than what we use at this Time; in which one *Stephen*, Guardian to *Gratian* a Minor, transacted a certain Law-Plea with him, which was sign'd in *Ravenna* in the last Year of the Empire of *Justinian*, to wit, in the 38th, in the 12th Indiction, which fell out in the 564th Year of Christ: And therefore it was reckon'd in those Times a very great Qualification to be Master of the *Latin* Tongue, for which *Theodatus*, besides his other Learning, is particularly commended: And even in this Age, *Italy* could boast of some great Men, such as *Ennodius*, *Jornandes*, *Boetius Severinus*, *Symmachus*, *Cassiodore*, *Arator*, and some others, who were all Men of great Knowledge and Erudition.

*JUSTINIAN*, by the Means of *Narses*, having thus routed the *Goths* and retaken *Italy* from them, at the Request, as he says, of Pope *Vigilius*, publish'd in the last Year save one of his Empire, a Pragmatical Act<sup>3</sup> consisting of many Heads, by which he design'd to remedy the Disorders which *Italy* and the other Western Parts had lain under. It was directed to *Antiochus* Præfect of *Italy*, and dated in *Constantinople* in the 37th Year of his Empire: In which, as all the Acts and Donations made by *Athalarick* and *Amalasuntha* his Mother, and even those of *Theodatus*, are confirm'd; so on the other Hand, looking upon *Totila* as a Tyrant, he abolish'd, detested, and render'd null, all the Acts and Donations made by him during the Time of his Tyranny; and he order'd, that in the Prescriptions of 30 and 40 Years, the Time should not be computed, whilst *Italy* was under the Tyranny of *Totila*: That in Law-Suits amongst the *Romans*, the Military Judges should not concern themselves, but that the Civil were to decide them: He took Care of the *Superindictiones* laid on the Merchants of the Provinces of *Calabria* and *Puglia*; and put forth many other Laws concerning the State of *Italy*, and these our Provinces, which may be seen in that Pragmatical Act distinguish'd into many Heads, which is placed after the *Novellæ*. But we may observe a Thing very remarkable in it: Some by Conjectures and Arguments have written, that because the Publication of the *Pandects* and the Code was committed by *Justinian* to the Præfect of *Illyricum*,

<sup>1</sup> Cass. lib. 9. cap. 21.

<sup>2</sup> Forner. in Cass. lib. 10. var. c. 7.

<sup>3</sup> Pragm. Justin. Post. Nov.

therefore

therefore we ought to believe that they were likewise publish'd in *Italy*. There's no need of Arguments in a Thing so manifest: We read, in that Pragmatical Act, that *Justinian* by his particular Edict order'd, the Laws insert'd in his Books to be observ'd over all *Italy*; but because afterwards in the Reign of *Totila* the Affairs of the *Greeks* went all to wreck, and the *Goths* return'd to their former Dominion, in the midst of so many Revolutions, his Laws surely could not take Place. The Affairs of the *Greeks* being afterwards restor'd by *Narses*, and the *Goths* intirely subdued, by this Pragmatical Act he would not only have these Laws to be observ'd over all *Italy*, but also that his other Constitutions in the *Novellæ*, which he had publish'd afterwards, should be likewise obey'd; so that by God's Permission having formed one Commonwealth, the Authority of the Laws should be one and the same in every Part of it, as the Words of the Pragmatical Act import; and as they are remarkable for our Purpose, and, for what I know, have never been hitherto taken notice of by any other, it will not be improper to transcribe them; *Jura insuper, vel Leges Codicibus nostris insertas, quas jam sub Edictali Programme in Italiam dudum misimus, obtinere sancimus; sed & eas quas postea promulgavimus Constitutiones, jubemus sub Edictali propositione vulgari ex eo tempore, quo sub Edictali programme evulgata fuerint etiam per partes Italiae obtinente, ut una Deo volente facta Republica, Legum etiam nostrarum ubique prolatetur auctoritas.*

BUT altho' the Name of *Goth* was extinct in *Italy*, yet these Provinces did not continue long under the Dominion of the Emperors of the East, neither were the Books of *Justinian* of long Duration: After the Death of *Justinian* we return'd afresh, tho' not under the Dominion of the *Goths*, yet under that of the *Longobards*, who derive their Origin from the same *Goths*, and of whom they are Branches and Sprouts, as we shall see when we come to treat of them.

ALTHO' these Provinces came under the Empire of *Justinian*, yet he had not Time sufficient for establishing his Laws in them, or for his excellent Compilations getting Footing or Stability in them: If they reach'd us, their Memory and all Vestige of them was soon extinct; for *Justinian* had scarcely acquir'd the Glory of having freed *Italy* from the *Goths*, when he was diverted by the second *Persian* War, and the Invasion of the *Huns*, even to his Death, which fell out in the Year 565, in an advanced Age of Eighty-two Years, after having reign'd Thirty-eight Years and Nine Months. A Prince, who if he had not in the End of his Days obscured his Fame by the *Eutychian* Heresy<sup>1</sup>, which he would embrace, and never adjured, might have exceeded the Glory of many Emperors for Piety, Magnificence, many notable Exploits, and signal Victories, which both in Peace and War made him immortal, as all the most famous Historians of his Time represent him to us, and those likewise who flourish'd after him, such as *Theophilus* the Abbot his Master<sup>2</sup>, *Procopius*, *Agathias*, *Theophanes*, *Zonara*, *Martellinus*, *Evagrius*, and *Nicephorus* among the *Greeks*; and amongst the *Latins*, *Cassiodore*, *Warnifred*, and many others<sup>3</sup>; so that the Mistake of those is now inexcusable, who believed, from the Testimony of *Suidas*, that this Prince was so illiterate and unpolish'd, that he did not so much as know the A, B, C, when he himself testifies, that he had read and survey'd the Books of his Institutions. The Mistake proceeds from the Incorrectness of the Text of *Suidas*, which *Demetrius Calcondila* caus'd to be printed in *Milan*, where, instead of *Justin*, as we read in all the Copies of *Suidas* which are in the *Vatican*, we read *Justinian*<sup>4</sup>; whence that, which out of a Mistake is ascrib'd to *Justinian*, ought to be attributed to *Justin*, Uncle and adoptive Father of *Justinian*, as *Procopius* an Eye-witness declares, who affirms, That *Justin* from a Shepherd became a Soldier, afterwards a *Comes*, and lastly, by a wonderful Turn of Fortune, was rais'd to the Imperial Throne; and because he could not write, seal'd his Publick Acts with a certain Instrument or Signet made on purpose, as *Theodorick* likewise used to do; who, tho' he was so great a Prince as we have related, nevertheless was ignorant of Learning; and as in latter Times we read of *Witbred* King of *Kent*, and of *Theobald* Duke of *Bavaria*: And it was also said of *Charles the Great* by some, that he could not write, tho' he could read and was very learned.

<sup>1</sup> Anast. Bibliot. Paul. Diacon.

<sup>2</sup> Theophilus Abbas Justiniani Præceptor  
extat apud Photium.

<sup>3</sup> Giphanius, Contius, Alemannus in Notis  
ad Procopium.

<sup>4</sup> Nicol. Aleman. ad Procop. p. 28.





## C H A P. V.

*Of the Emperor Justin II. and of the new Polity introduced into Italy, and these our Provinces by Longinus his first Exarch.*



**A**FTER *Justinian* died, all his Designs were broken, and the Fortune of the Emperors of the East began to decline as formerly ; for he was succeeded in the Empire by *Justin the Younger*, Son of *Vigilantius* the Brother of *Justinian*, very unlike him ; who, by his Stupidity, suffer'd himself to be intirely ruled by his Wife *Sophia*, by whose Advice he recall'd *Narses* out of *Italy*, and in the Year 568<sup>1</sup>, sent *Longinus* to succeed him.

**L**ONGINUS being arriv'd in *Italy* with an absolute Power and Command, given him by *Justin* himself, attempted Innovations, and altered the State of it. He was the first who gave a new Form to *Italy*, and who introduc'd a new Disposition and a new Government into it, which facilitated its Ruin ; altho' he had fixed his Residence in *Ravenna*, as the Western Emperors, and *Theodorick* with his *Goths* had done, nevertheless he would put *Italy* in another Shape<sup>2</sup>. He took away from the Provinces the *Consulares*, the *Correctores*, and the *Præsides*, contrary to what the *Romans* and the *Goths* had done, and in all the Cities and Towns of any Moment made Heads, whom he call'd Dukes, and appointed Judges in each of them for the Administration of Justice. In which Distribution he honoured *Rome* no more than any of the other Cities<sup>3</sup>, because having taken away the Consuls and the Senate, which Names hitherto had been kept up, he put it under a Duke, whom he sent every Year thither from *Ravenna* ; whence arose the Name of the *Roman Dukedom* : And to him who resided in *Ravenna*, and govern'd *Italy* for the Emperor, he gave the Title not of Duke, but *Exarch*, in Imitation of the *Exarchs* of *Africa*. With the *Greeks*, he was called *Exarch* who presided over a *Diocesis*, that is to say, many Provinces of which the *Diocesis* was compos'd : So we see in the Hierarchy of the Church, that the Bishop who was put over a *Diocesis*, and consequently many Provinces, of which it was compos'd, was not called *Metropolitan*, who had only one single Province, but *Exarch*. Thus *Italy* suffer'd greater Changes under the Empire of *Justin* Emperor of the East, than under the *Goths*, who had maintain'd it in the same Form and Appearance, in which it had been govern'd and manag'd.

THE Provinces, with respect to Government, were chang'd and divided ; and as formerly every one had its *Consularis*, or *Corrector*, or *Præses*, to whom the Management and Government of them was intrusted ; so by this new Division, every City or Castle had its Duke and Judge, each of whom intermeddled with the Government of them separately, and were only subject to the *Exarch*, who, in *Ravenna* govern'd all *Italy*, at whose Disposition they were, and to whom the People had recourse in Matters of Moment. Whence it was, that in these our Provinces the so many Dukedoms, which we shall see in the Reign of the *Longobards*, took their Rise ; some of them under the Dominion of the *Greeks*, such as

<sup>1</sup> Marquard. Ercher. in *Chronologia Exarc.* Raven. apud *Leunclavium*.

<sup>2</sup> Sigon. de *Reb. Ital.* lib. 1.

<sup>3</sup> Biond. *Hist.* lib. 8. decad. ult. Jo. Sleidan. de *Quatuor Sum.* Imp. lib. 2.

the Dukedom of *Naples*, *Surrentum*, *Amalphis*, *Gaeta*, and *Bari*; and some under the *Longobard* Dukes, who having retaken from the *Greeks* almost all *Italy*, and a great Part of these our Provinces, retain'd the same Titles of Dukedoms; whence, above all the rest, the Dukedom of *Beneventum*, those of *Spoletum*, and *Friuli* rais'd themselves, as we shall shew more fully in the following Book of this History.

BUT the Empire of the *Greeks* was of no long Duration in *Italy*, neither could *Longinus* boast much of this new Form which he gave it; since this minute Division of the Provinces into so many Parts, and more Dukedoms, made the Ruin of *Italy* the more easy, and gave occasion to the *Longobards* to make themselves Masters of it the sooner; forasmuch as *Narses* being highly offended at the Emperor, for having taken from him the Government of that Province which he had acquir'd by his Virtue and Bravery, and *Sophia* not content with having got him to be recall'd, but she must needs likewise give him injurious and disdainful Language, telling him, that she would cause him to be put to Spin with the other Eunuchs and Women of her Palace, carried his Wrath so far, that, not able to smother his bitter Displeasure, he answer'd, That he would warp her such a Web that neither she nor her Husband should ever be able to unravel it; and having disbanded his Army, he went from *Rome* to *Naples*, from whence he began to treat with *Alboinus*, King of the *Longobards*, his great Friend, who at that Time reign'd in *Pannonia*; upon whom he wrought so much, that at last he persuaded him to come and take Possession of *Italy* with his *Longobards*. But seeing that by the coming of the *Longobards* into *Italy*, the Affairs of *Italy* took another Turn; and as there were new Laws and a new Polity introduc'd into it, so likewise these our Provinces were divided after another manner, and by taking new Names, were dispos'd of and govern'd under other *Dynastæ*; and at the same time subjected to the Dominion not of one single Prince, but of divers Nations, such as *Greeks*, *Longobards*, and sometimes even *Saracens*; it will be necessary on Account of the Novelty of the Subject, and the Importance and Variety of the Events, that after we have related the Ecclesiastical Polity of this Century, in the following Book we treat of it particularly.



## CHAP. VI.

### *Of the Exterior Ecclesiastical Polity.*



ALTHOUGH the Church, in the Reigns of *Arcadius* and *Honorius*, most religious Princes, who in a manner destroy'd Idolatry in the *Roman* Empire, was, on that Score, in a flourishing and peaceable State, nevertheless she was invaded with so many and so various Heresies, that neither the numerous and frequent Councils, nor the many Constitutions of the Emperors publish'd against Hereticks, were sufficient to keep her in Peace. Tho' the Heathen Religion, under the Christian Emperors, by the Subjects imitating their Sovereigns, was very much decay'd, nevertheless it was not thought proper to extinguish it altogether by Force: On the contrary, the aforesaid Emperors for a long time tolerated the Heathen Temples, and many *Pagan* Superstitions; and the Worship of the Gods was profess'd by many, tho' the Number of the Christians was much

<sup>1</sup> L. 10. C. Th. de Pagan. lib. 1. & 2. C. Th. de Malefic.

greater than that of the Heathens. But under the Emperors *Arcadius* and *Honorius*, the Heathen Worship was almost quite wore out in all the Cities of the Empire; it was only in the Castles, the *Pagi*, and in *Campania*, that the Exercise of that Religion was kept up; whence comes the Word *Pagani*, which we so often meet with in the *Theodosian Code* <sup>1</sup>, to signify Idolaters; a Name which at this time is commonly given them by Christians, instead of that of *Gentiles*. The Emperors *Theodosius the Younger* and *Valentinian III.* depressed the *Pagans* in such sort, that, by discharging them from being admitted into Military or other Offices, he brought them to that pass, that the Emperor *Theodosius* himself question'd, if in his Time there was so much as one remaining; *Paganos qui supersunt, quamquam jam nullos esse credamus* <sup>2</sup>. At last he condemn'd and proscrib'd them, and ordain'd, That if there were still any of their Temples or Chapels remaining, they should be destroy'd and converted into Churches <sup>3</sup>.

BUT notwithstanding all the Power of these Emperors, there remain'd in *Campania*, in *Pagis*, many ancient Temples, in which the Worship of the Gods was kept up; and it continued much longer there, because the Inhabitants were the last in parting with their ancient Ways and Customs; insomuch, that in our *Campania* 'tis said, *St. Benedict*, in the Time of King *Totila*, threw down the Remains of *Paganism*, which had also remain'd amongst the *Goths*, and in the Place thereof erected a Church. There was a vast Number of barbarous Nations that continued as yet in the Darknes of Idolatry; but above all, what disturb'd the Church most in these times, was the Irruption of the *Barbarians*, and the new Dominions of Foreign Princes establish'd in the Empire: These, if not altogether *Pagans*, were for the most part *Arians*, and confounded and abused her; and if *Italy* and these our Provinces did not undergo such strange Revolutions, all is owing to the Piety and Moderation of King *Theodorick*, who, tho' an *Arian*, suffer'd our Churches to continue in Peace; and as he did not alter the Polity of the Civil and Temporal State, so likewise he maintain'd in *Italy* the same Form and Polity in the Ecclesiastical and Spiritual State.

THE same Thing happen'd, but upon another Account, to *Gallia*, which was owing to the Conversion of the famous *Clowis* King of the *French*, who, in the Year 496, receiv'd the Christian Religion intirely pure and bright, no ways stain'd with the pestilent Heresy of *Arius*. *Spain*, before *Reccarede*, had not the same good Fortune; nor *Africa* after it was set at Liberty from the *Vandals*; nor *Germany* after it was subdued by the *Alemanni*, and other more rude and barbarous Nations; nor *Britain* after the Invasion of the *Saxons*; and finally, not all the other Provinces of the Western Empire. There were greater Revolutions and Confusions in the Eastern Provinces: The *Huns*, under their famous King *Attila*; the *Alani*, the *Gepidæ*, the *Ostrogoths*, and lastly the *Saracens* not only, overturn'd the State of the Empire, but also that of the Church.

TO all these Misfortunes, the Ambition of the Bishops of the greater Sees was added, and the bad Use the Emperors of the East made of their Power, who reduced the Priesthood to such a State, that at last they subjected Religion intirely to the Will of the Prince. These were the Occasions of that Change, which we shall take Notice of from the Death of *Valentinian III.* to the Empire of *Justinian*. We shall see three Patriarchatès in a manner sunk and extinct, to wit, that of *Alexandria*, of *Antioch*, and of *Jerusalem*; and that of *Rome* in the West, and the other of *Constantinople* in the East sprung up, whose Churches jarring among themselves, occasion'd an implacable and obstinate Division betwixt the *Greeks* and the *Latins*; and how that of *Constantinople*, whose Ambition had no Bounds, endeavoured to invade the Patriarchate of *Rome*, and these our Provinces, tho' as being *Suburbicariæ* they belong'd to that of *Rome*.

<sup>1</sup> L. 18. C. Th. de Episc. L. 46. C. Th. de Hæret. Gentiles, quos vulgo Paganos appellant. S. August. lib. 2. Retract. 43. Deorum falsorum, mutorumque cultores, quos usitato

nomine Paganos appellamus. V. Goth. in Notis ad Tit. C. Th. de Paganis.

<sup>2</sup> L. 22. C. Th. de Paganis.

<sup>3</sup> L. 21, 23, 25. C. Th. de Pagan.

## S E C T. I.

## Of the Patriarch of the W E S T.

THE Pope, who at this Time began to be call'd Patriarch, as well by the *Greeks* as the *Latins*, very justly obtain'd the first Place among all the Patriarchs, as well because his Chair was fix'd in *Rome*, a City once the Head of the World; as for his being the Successor of *St. Peter*, who was Head of the Apostles. Therefore the Prerogatives of Primate over all the Churches of the Catholick World were united in his Person, it belonging to him, as Head of all the Churches, to have the Care and Inspection of them, and to watch that the Faith might be preserv'd pure and unspotted, and the Discipline conformable to the Canons, and that these should be exactly observ'd<sup>1</sup>. His usual Power, as we have seen in the preceding Book, did not extend further than the *Suburbicarian* Provinces, that is to say, those that obey'd the Vicar of *Rome*, among which were all our four Provinces, of which our Kingdom is now made up; and to which Limits it was confin'd till the Reign of *Valentinian*.

IN process of Time, because the Prerogatives of Primate were also lodged in his Person, it was very easy to extend them over the other Provinces. By reason of his Primacy it likewise belong'd to him to have a Care and Inspection over them; whence he began to send his Vicars into some Provinces, where he thought there was occasion. The first that were appointed, were those, that were sent to *Illyricum*: After *Thessaly*, the Head of the Diocess of *Macedonia*, in which the Bishop exercis'd Exarchal Power, acknowledg'd the Vicars sent by the Pope, it became subject to the Patriarch of *Rome*, who by his Vicars, exercised not only the Power of Primate, but likewise that of Patriarch; and thus besides *Macedonia*, it also fared with the rest of the Provinces of *Illyrium*. In progress of Time he not only subjected all *Italy* to his Patriarchal Authority, but likewise the *Gallia* and *Spain*; whence it was, that not only the *Latins*, but the *Greeks* themselves in later Times look'd upon the Pope to be Patriarch of all the West, as on the other hand, they would have the Patriarch of *Constantinople* to be of all the East. Besides the Popes were always ready, and made haste to send Prelates to govern the many Provinces and Nations that embrac'd the Faith of the Catholick Religion, and by that means subjected them to their Patriarchate; as it happened to *Bulgaria*, which being brought to embrace the Faith of Christ, immediately got an Archbishop sent to it; whence arose the so many Disputes about this Province with the Patriarch of *Constantinople*, who pretended to it as his Right. Thus by Degrees did the Popes extend the Bounds of their Patriarchate over all the West; whence it came to pass (not without great wrangling) that they arrogated to themselves a Power to ordain the Bishops over all the West, and consequently to suppress and overthrow the Rights of all the Metropolitans; besides, they assum'd to themselves the Ordination of the very Metropolitans. Thus, tho' formerly the Archbishops of *Milan*, who were Exarchs of all the *Vicariate of Italy*, were ordain'd by the Bishops of *Italy* only, as we read in *Theodoritus*<sup>2</sup> of the Ordination of *S. Ambrose*; yet in process of Time the Popes would have them to come and ask their Consent to their Ordination, as *S. Gregory* relates in his Letters<sup>3</sup>. They likewise took upon themselves all the Privileges of the Metropolitans with respect to Ordinations, by granting the Pall, which they sent them; for by that the Popes gave full Power to the Metropolitans of ordaining Bishops in their Province; so that consequently the Power was given them jointly with the Pall: Whence by a new Law, the Metropolitans were forbid the Exercise of all Episcopal Functions, till they had first receiv'd the Pall; and it was also ordain'd that they were to take the Oath of Fidelity to the Pope. And in process of Time, it was determin'd likewise, that Appeals from the

<sup>1</sup> Du Pin, de vet. Eccl. Discip. Dissert. 1.<sup>2</sup> Theod. lib. 4. Hist. c. 7.<sup>3</sup> Greg. lib. 2. Ep. 31.

Sentences pronounc'd by Metropolitans concerning Disputes about Elections, should devolve to the Pope, in case the Electors were negligent, or if the Elected was not a fit Person; that it should be in his Power alone to admit of Resignations of Bishopricks, and to determine the Translations, the Coadjutorship, and the Succession: And finally, that the Confirmation of the Elections of all the Bishops of the Provinces should belong to him.

BUT all these Incroachments, which were made upon the other Provinces of the West, made no Alteration in these of which the Kingdom is now made up; for they being *Suburbicarian*, and over which the Pope from the Beginning always exercis'd his Patriarchal Authority, were as formerly subject to him; he took no Power from the Metropolitans, because there were none; neither as to the Ordination of Bishops, was the Discipline of the preceding Ages chang'd. Our Churches were not as yet rais'd to be Metropolitan; neither were the Privileges of Metropolitans granted to their Bishops, by the sending them the Pall, as was afterwards done: Neither hitherto had they been usurped by the Patriarch of *Constantinople*; for what is related of *Peter* Bishop of *Bari*<sup>1</sup>, who in the Year 530, under the Pontificate of *Felix IV.* had got the Title of Archbishop, and the Authority of Metropolitan from the Patriarch of *Constantinople*, with Power to consecrate twelve Bishops in his Province of *Puglia*, ought not to be carried back to that Year, when these Provinces had not as yet been invaded by the *Greeks*, and were under the Dominion of *Athalarick* King of the *Goths*, but to the following Times, when Part of *Puglia*, and *Calabria*, of *Lucania*, and the *Bruttii*, and many other maritime Cities of the other Provinces, remain'd in the Hands of the Emperors of the East, 'twas then that the Patriarchs of *Constantinople*, by the Favour of the Emperors, usurped the Patriarchal Authority over them, as we shall relate in the following Books.

<sup>1</sup> Ughel. de Ep. Bar. Beatillo Hist. di Bari, pag. 9.

## S E C T. II.

### Of the Patriarch of the E A S T.

IF the Usurpations of the Patriarchs of *Rome* were great over the Western Provinces, greater and more bold, without doubt, were those of the Patriarch of *Constantinople*, over those of the East: He not only subjected to his Patriarchate the three *Autcephale* Diocesses, to wit, that of *Asia*, of *Pontus*, and of *Thrace*; but in process of Time, he in a manner extinguish'd the three famous Patriarchates of the East, the *Alexandrine*, the *Antiochian*; and lastly, that of *Jerusalem*. These Bounds not having satisfied his Ambition, he also invaded many of the Western Provinces; neither did he spare those of our Country, which in Justice belong'd to the Patriarchate of *Rome*.

FROM what mean and slender Beginnings the Patriarchate of *Constantinople* had its Rise, may be seen in the preceding Book. The Bishop of *Byzantium*, at first, was only a simple Suffragan of the Bishop of *Heraclea*, who presided as Exarch in *Thrace*<sup>1</sup>. Of all the Patriarchates of the East, those of *Alexandria* and *Antioch* were the most famous and eminent. That of *Alexandria* was in the second Place next to the Patriarch of *Rome*, perhaps, because *Alexandria* was reputed, after *Rome*, the second City in the World: The other of *Antioch* had the third Place, also venerable on account of *St. Peter's* having had his Chair first there. Thus the three Parts of the World owned three Churches superior to all the rest: The West that of *Rome*; the East that of *Antioch*; and the South that of *Alexandria*. However, the Church of *Rome* did not exercise her Patriarchal Authority over all *Europe*, nor that of *Antioch* over all *Asia*, nor that of *Alexandria* over all *Africa*; each of

<sup>1</sup> Gelas. Epist. 1.

them,

them, as we have seen in the Second Book, did not extend their Authority further than their own Diocesis: The others obey'd their own Exarchs; and many other Places had their own *Autocephali* Bishops, that is to say, were subject to no other. Such were the Bishops of *Carthage* and *Cyprus* in the East. Such were once the Bishops of *Gallia*, *Spain*, and *Germany*, and other more remote Countries in the West. The Churches of *Barbary* were certainly not subject to any Patriarch, but were govern'd by their own Bishops. Thus the Churches of *Ethiopia*, *Persia*, and the *Indies*, and other Countries not subject to the Roman Empire, were govern'd by their own Priests.

THERE was yet another Patriarch in the East, to wit, that of *Jerusalem*. If we consider the Disposition of the Empire, the Bishop of *Jerusalem* deserv'd that Prerogative no less than the Bishop of *Byzantium*; and as the one was a Suffragan to the Metropolitan of *Heraclea* in *Thrace*, so the other was a Suffragan to the Bishop of *Cæsarea*, Metropolis of *Palestine*: But even with great Reason the Honour of Patriarch was given to the Bishop of *Jerusalem*: From the Times of the Apostles it being esteem'd a great Honour to sit in the Chair placed in the holy City, where our Saviour instituted his Church, and from which the Gospel was spread over all the World: and where the Author of Life conversed amongst us, and where he left the Land sprinkled with his Blood:

*Where his Life he spent, his Life he sacrific'd,  
His Body here entomb'd, to Life he rais'd.*

But tho' we may see in a thousand Examples, that the Polity of the Church kept pace with that of the Empire; and as the one chang'd its Form and Disposition, so likewise did the other, yet surely nothing can convince us more of the Truth of this, than the raising of *Constantinople* to a Patriarchate. After that *Constantine the Great* had made that City so illustrious and magnificent, by making it the Seat of the Empire of the East, with a Design to render it equal to *Rome*, and next to which it might be reputed the second City of the World; its Bishop began likewise to exalt himself, and shake off the Yoke of his Metropolitan. Because *Constantinople* was esteem'd another *Rome*, we see that in the Council of *Constantinople*<sup>1</sup>, the first Honours were allow'd to its Bishop next to that of *Rome*, *et quod sit Nova Roma*. Thus tho' formerly next to the *Roman*, the first Honours were due to the Patriarchate of *Alexandria*, yet now that of *Constantinople* came into its Place. 'Tis true, as *Du Pin* well proves<sup>2</sup>, that the Honours only were granted its Bishop by the Council, and not any Patriarchal Jurisdiction over the three *Autocephala* Diocesses: But it was enough, that by the specious Pretexes of these Honours, he might begin his In-croachments; it was not long before he invaded *Thrace*, and exercising there his Exarchal Power, made himself Exarch of that Diocesis, and eclips'd the Rights of the Bishop of *Heraclea*.

AFTER having establish'd himself in *Thrace*, his Ambition push'd him to extend his Bounds further; he invaded the neighbouring Diocesses, to wit, of *Asia* and *Pontus*, and at last subjected them to his Patriarchate. He did not snatch them at once, but from time to time by the Favour of Councils, and more by that of the Emperors. S. *John Chrysostome* pav'd the Way more than all the other Bishops of *Constantinople*, for getting full Possession of them: at last he came to usurp not only the Power of Ordaining the Metropolitans of *Asia* and *Pontus*, but he obtain'd a Law from the Emperor, that none could be ordain'd Bishops without the Authority of the Patriarch of *Constantinople*; so that, being supported by this Law, he took upon him afterwards to ordain simple Bishops. Thus did the Patriarchs of *Constantinople* possess themselves of *Asia* and *Pontus*; which afterwards, in order to render their Conquest the more sure, they got confirm'd by the Council of *Chalcedon*, and by the Edicts of the Emperors<sup>3</sup>. The Popes oppos'd their aggrandizing themselves so much: S. *Leo* disputed it with them, as did also his Successors, but especially *Gelasius*<sup>4</sup>, who held the See of *Rome* from the Year 492. to 496. But all their Endeavours were in vain, because the Patriarchs of *Constantinople* were all favour'd by the Emperors, so that not only the second Rank of Honour, next to the Patriarch

<sup>1</sup> Conc. Constantin. c. 3.

<sup>2</sup> Du Pin, loc. cit. Dissert. 1.

<sup>3</sup> Liberat. in. Breviar. c. 13.

<sup>4</sup> Gelas. Epist. 4. & Ep. 13. ad Episcopos.



of Rome, was confirm'd, but also the Jurisdiction of Pontus, of Asia, and of Thrace. The Emperor *Basilicus* in one of his Edicts quoted by *Evagrius* <sup>1</sup>, ratified it to them: The Emperor *Zeno* by one of his Constitutions, which we yet read in our Code, did the same <sup>2</sup>; and lastly, our *Justinian* by his *Novellæ* <sup>3</sup>, to back what had been ordain'd by the Canons of the Council of *Chalcedon*, ordered the same, which afterwards was approved of by the Consent of the Universal Church; for the Canons of the Councils of *Constantinople* and *Chalcedon*, having been inserted in the Codes of the Canons of the Church, in the following Centuries it was taken for granted, that the Patriarchate of *Constantinople* held the second Rank of Honour and Jurisdiction over all those three Diocesses.

THUS did this Patriarch out-strip the three others which were in the East: These three Sees lost their ancient Lustre and Splendor, not only by the aggrandizing of the other, and by the frequent IncurSIONS of the Barbarians, who invaded their Diocesses, but much more by the Factions and Disputes which often arose amongst them, about Elections, and concerning Doctrine and Discipline; and from that Time forward, the Patriarchal Sees were rank'd after this manner; the *Roman*, the *Constantinopolitan*, the *Alexandrine*, the *Antiochian*, and that of *Jerusalem*. The Council of *Constantinople* which was celebrated in the Year 536, observ'd this Order. And *Justinian*, both in his Code <sup>4</sup>, and in his *Novellæ* <sup>5</sup> did the same, as also all the other Writers, as well *Greek* as *Latin*. However, the Title of Patriarch was not restricted to these five only, sometimes it was given to eminent Metropolitans; so in the above cited Council of *Constantinople*, it was given to *Epiphanius* Bishop of *Tyre*; and *Justinian* both in his Code, and his *Novellæ*, generally gives this Title to Exarchs, who had the Government of some Diocesses: But not long after this Title was restricted to the above five only.

BUT in the West it continued, as formerly, to be given to other Bishops and Metropolitans. In *Italy* our King *Athalarick*, as we read in *Cassiodore* <sup>6</sup>, called the Bishops of *Italy* Patriarchs, and the Pope their Head, as such, Bishop of the Patriarchs. The Bishops of *Aquileja* and *Grado*, are likewise call'd Patriarchs by *Paul Warnefride* <sup>7</sup>. In *France* this Title was also given to the most eminent Metropolitans and Primates. *Gregory* of *Tours* <sup>8</sup> calls *Nicetius*, Patriarch of *Lyons*. The Council of *Mascon*, which was held in the Year 585, likewise calls *Priscus* Bishop of that City Patriarch <sup>9</sup>. *Desiderius* of *Cabors* call'd *Sulpitius* Bishop of *Bourges* also Patriarch; and *Hincmarus* of *Rheims* does not distinguish betwixt the Patriarchs, and the Primates <sup>10</sup>. So likewise in *Africa* the first Bishop of the *Vandals* assum'd the Title of Patriarch, at which the Catholick Bishops laugh'd; and in process of Time, the first Bishop of those Nations that embrac'd the Faith of Christ, was call'd Patriarch. *Bulgaria* being converted to the Faith, the first Archbishop and his Successors took the Name of Patriarch. At this Time the Christians of the East have such Patriarchs, where; excepting those, which are properly call'd *Greeks*, who still retain the four Patriarchs, of *Constantinople*, of *Alexandria*, of *Antioch*, and of *Jerusalem*, tho' the Popes use likewise to create Titulars: There are as many Patriarchs as Sects; the *Jacobites* have their Patriarch; the *Maronites* theirs; and both take the Title of Patriarch of *Antioch*. The *Copti* have likewise theirs, who calls himself Patriarch of *Alexandria*, and keeps his See there. The *Abyssinians* have theirs, who governs all *Ethiopia*, tho' it be in a manner subject to the Patriarch of the *Copti*. The *Georgians* have an *Autocephale* Archbishop subject to none. The *Armenians* have two general Patriarchs: The first resides in *Arad* a City of *Armenia*; the other in *Cis* a City of *Caramania*.

WE have seen how much the Patriarch of *Constantinople* raised himself above the other Patriarchs of the East, and how much he enlarg'd the Bounds of his Patriarchate in this Century, to the Empire of *Justin*. In the two following Centuries we shall see him, being grown much greater, incroach upon other Provinces and Nations; for those Limits being too narrow for his Ambition, in the Time of *Leo*

<sup>1</sup> Evagr. lib. 3. cap. 2.

<sup>2</sup> L. Decernimus 16. C. de Sacros. Eccl.

<sup>3</sup> Nov. 131. cap. 1.

<sup>4</sup> Cod. lib. 1. tit. 3. c. 47. & tit. 46. c. 34.

<sup>5</sup> Nov. 3. c. 2. Nov. 6. c. 3. Epilog. Nov. 7. & 123. c. 22, 23.

<sup>6</sup> Cas. lib. 9. c. 15.

<sup>7</sup> Paul Wornefr. lib. 3. c. 7. & lib. 6. c. 11. & lib. 4. c. 10.

<sup>8</sup> Greg. Turon. lib. 3. Hist. c. 20.

<sup>9</sup> Tom. 5. Concil. col. 980.

<sup>10</sup> Hincmar. in lib. Capit. 55. c. 17.

<sup>11</sup> Du Pin, loc. cit. Differ. 1.

*Isauricus,*

*Ifauricus*, we shall see him take Possession of *Illyricum*, *Epirus*, *Achaia*, and *Macedonia*: We shall likewise see him subject *Sicily*, and many Churches of these our Provinces to his Patriarchate, and in the end dispute with the Pope for *Bulgaria*, and other Countries.

## S E C T. III.

*The Ecclesiastical Polity of these our Provinces under the Goths, and under the Greeks, to the Reign of Justin II.*

**T**H E O D O R I C K, and the other Kings of the *Ostrogoths* his Successors; tho' *Arians*, suffer'd, as is said, our Churches to continue in Peace; and the same Polity that they found, was by them maintain'd inviolate and untouch'd. The Pope was supported in them, and, as formerly, exercised his Patriarchal Authority over these our Provinces as Suburbicarian, so that he was acknowledg'd both as Patriarch and Metropolitan; for hitherto our Metropolis's, in what concern'd Ecclesiastical Polity, had neither Archbishop nor Metropolitan: In the Cities as formerly, there were simple Bishops, who own'd the Pope for their Metropolitan; whence *Athalarick*<sup>1</sup>, who us'd to give the Title of Patriarch likewise to the Bishops, call'd him the Bishop of the Patriarchs. And in some Cities of *Italy*, in the Reign of the *Goths*, as also of the *Longobards*, who were likewise *Arians*, there were seen in the same City two Chairs, possess'd by two Bishops, the one Catholick, and the other Arian; in these our Provinces, which were always stedfast, and never polluted with the Errors of *Arius*, all the Bishops profess'd the Faith of *Nice*, and kept their Churches pure and unspotted, and maintain'd the ancient Doctrine, and the same Discipline, which the Church of *Rome* their Mistress and Guide observ'd. The Bishops govern'd their Churches by the common Advice of the Presbytery. There was no other Hierarchy observ'd in them, than of Priests, Deacons, Sub-Deacons, Acolyts, Exorcists, Readers, and Door-Keepers.

THE Bishops were likewise elected by the Clergy and People, and ordain'd by the Pope, as formerly, altho' the Favour of the Princes began to have Weight: *Grotius*<sup>2</sup> is of Opinion, that the *Gothish* Kings, whether Arian or Catholick, *semper Episcoporum Electiones in sua potestate habuere*, and says, that the same was also observ'd by *Joannes Garta*; but it will not hold true of our *Gothish* Kings, who made use of no other Power but what had been exercised by the Emperors, both of the West and the East. They, as Guardians and Protectors of the Church, and who look'd upon her Government and outward Polity also to belong to them, believ'd it was in their Power, and incumbent upon them to regulate the Elections by their Laws, to crush Ambition, and to remedy Disorders and seditious Tumults; and often to prevent them; to make up Discords, which often happen'd by the Factions of Parties, and to decide Controversies which arose about these Elections; but they left the Election to the Clergy and the People, as they did the Ordination to the Provincial Bishops, or the Metropolitans. *Odoacre* King of the *Heruli*, the more immediate Successor in *Italy*, to the Rights of the Emperors of the West, than *Theodorick*; in the Election of the Bishop of *Rome*, and the other Bishop of *Italy*, would exercise the same Power: *Basilius* his *Præfectus Prætorio*, always had a watchful Eye upon that, and even, as he said, by the Advice of Pope *Simplicius*, who on his Death-bed gave it him in Charge, to see that no Election was made without his Advice and Direction<sup>3</sup>.

IT was observ'd, that *Theodorick* made use of the same Authority in putting an end to the Schism which arose in the Church of *Rome* in his Time, betwixt *Laurentius* and *Symmachus*, as the Emperor *Honorius* had done, in that betwixt *Boniface* and *Eulalius*; by the Death of Pope *Anastasius*, which fell out in the End of the

<sup>1</sup> Cas. lib. 9. c. 15.<sup>2</sup> Grot. in Prolegom. ad hist. Got.<sup>3</sup> Conc. Roman. sub Symmac. cap. bene 1. Dist. 96.

Year 493, they both pretended to be advanc'd to that See: *Symmachus* Deacon of that Church was chosen by the greatest Number, and Ordain'd; but *Festus* a Senator of *Rome*, who had promised the Emperor *Anastasius* to get a Pope chosen, who should be obsequious to his Will, caus'd *Laurentius* to be elected and ordain'd. The two Parties went to *Ravenna* to be judg'd by King *Theodorick*, who determin'd, that he who had been first elected, and had had the greatest Number of Votes, should be Bishop of *Rome*: *Symmachus* had both these Advantages over *Laurentius*; whereupon he was confirm'd in that See, and in the first Year of his Pontificate held a Council, wherein there were some new Canons made in order to prevent Competitions in such Elections for the future. Those, who had oppos'd the Ordination of *Symmachus*, seeing him in Possession in spite of them, did all they could to get him turn'd out; therefore they accus'd him of many Crimes, stirr'd up a great Part of the People and Senate against him, and demanded a Visitor of King *Theodorick*, who might take Cognizance of these Accusations: *Theodorick* nam'd *Peter* Bishop of *Altino*, who rashly, and contrary to Justice, immediately depriv'd the Pope of the Administration of his Diocess, and of all Power over the Church: This precipitate Action rais'd great Disorders, and pernicious Tumults in *Rome*; for quieting of which, *Theodorick* in the Year 501, caus'd a Council to be call'd in *Rome*, to which he invited all the Bishops of *Italy*. Almost all the Bishops of our *Campania* went to it, as also the Bishops of *Capua*, *Naples*, *Nola*, *Cuma*, *Misenum*, *Pozzuolo*, *Surrentum*, *Stabia*, *Venafro*, *Sessa*, *Alife*, *Avellino*, and some others of the other Cities of this Province. From *Samnium*, the Bishops of *Beneventum*, *Isernia*, *Bojanum*, *Altina*, *Chieti*, *Amiternum*, and others went.

FROM these two Provinces, as being nearest to *Rome*, there went a great many: From the other two of *Puglia* and *Calabria*, of *Lucania* and *Brutium*, as being more remote from *Rome*, and nearer the Greeks, very few went. The Bishops of *Emilia*, of *Liguria*, and of *Venice*, likewise went; who in passing thro' *Ravenna*, spoke to *Theodorick* in favour of *Symmachus*; and being arriv'd at *Rome*, without so much as examining the Accusations laid against *Symmachus*, they declar'd him Innocent to the People, and absolv'd him; and they managed it so with King *Theodorick*, that he was satisfied with the Sentence; and the People and Senate, who had been much incens'd against the Pope, were pleas'd, and acknowledg'd him for true Pontiff. Nevertheless there were still some Malecontents, which occasion'd some Writings against that Synod; but the Bishop of *Pavia* answer'd them, which was approved of in another Council held in *Rome* in the Year 503, in which the Sentence of the first Synod was confirm'd. The Calumnies invented against *Symmachus* were carried to the East, and the Emperor *Anastasius*, who had left the Communion of the *Roman* Church, upbraided him with them; *Symmachus* in an *Apologetick* Writing justify'd himself sufficiently, and in spite of his Enemies continu'd peaceable Possessor of that See to the Year 514, in which he died.

IN those Times it was reckon'd the peculiar Right of Princes to regulate these Elections, in order to prevent Caballing and Seditions. And *Athalarick* being mov'd by the preceding Schisms which fell out in *Rome* about the Election of their Bishop, and desirous to make a Rule for the Time to come, to prevent the like Disorders, in imitation of the Emperors *Leo* and *Antemius*, made a rigorous Edict, which he directed to Pope *John* II. who, in the Year 532, had succeeded to *Boniface* in the See of *Rome*, by which he regulated the Elections not only of the *Roman* Pontiffs, but likewise of all the Metropolitans and Bishops, by imposing severe Penalties on those, who out of Ambition, or by Money, should aspire to possess the Sees, declaring them Sacrilegious and Infamous; and that besides the Restitution of the Money, and other heavy Fines, which were to be employ'd in the Reparation of the Fabricks of the Churches, and in maintaining the Ministers of them, they were to be severely punish'd by their Judges, and their Elections as *Simoniackal* made void and invalid: By this Edict he provided against Contentions and Debates about Elections, which when complain'd of to him by the People, he immediately caus'd them to be examin'd and decided; declaring, That what he had establish'd by this his Edict, did not only concern the Election of the Bishop of *Rome*, *Sed etiam ad universos Patriarchas, atque Metropolitanas Ecclesias*. This Edict was drawn up by *Cassiodore*<sup>2</sup>, who, though he was a Catholick, and most

<sup>1</sup> Paul Warnifrid. Zonaras Grot. in Proleg. ad Hist. Got.

<sup>2</sup> Cas. lib. 9. c. 15.

converſant in Eccleſiaſtical Matters, ſo much that at preſent he is eſteem'd none of the meaneſt Writers of the Church, and by ſome reputed a Saint, perhaps becauſe he died a Monk of *Cafino* <sup>1</sup>, not only made no Difficulty in drawing it up, but even advis'd it, as a Thing very convenient for his Prince; neither was it thought, according to the Maxims of this Age, ſtrange or foreign to his Royal Authority. It was directed to Pope *John II.* who receiv'd it with a great deal of Reſpect and Eſteem, neither did he ever complain of it; on the contrary, if 'tis true, that that Letter was his, which we read among the Laws of the Code <sup>2</sup> written to the Emperor *Juſtinian*, wherein he ſo much commends his Care about the Eccleſiaſtical Diſcipline (for *Hottomanus* <sup>3</sup> and others <sup>4</sup> doubt of it, tho' it be aſſerted by *Fachineus* <sup>5</sup>) we ſee that this Pope never diſputed that Power which the Princes claim'd in the Diſcipline of the Church. And beſides *Athalarick* ordered *Salvantius* <sup>6</sup>, who was at this Time Præſect of *Rome*, that without delay he ſhould publiſh it to the Senate and People of *Rome*; and in order to perpetuate the Memory of it to future Ages, ordain'd him to cauſe it to be engraven on Tables of Marble, which he was to place before the Porch of *St. Peter* the Apoſtle for a publick Teſtimony <sup>7</sup>.

THE *Gothiſh* Kings, as Succeſſors of the Emperors of the Weſt, would keep up all theſe Prerogatives, which theſe had exerciſed in the exterior Eccleſiaſtical Polity, to which their ſo many Conſtitutions which are regiſtred in the laſt Book of the *Theodoſian* Code, bear Witneſs. Thus it belonging to them to ſettle the Degrees, within which Marriages could be contracted <sup>8</sup>, and to forbid Marriages within the neareſt Degrees, and to diſpenſe with them by their Reſcripts <sup>9</sup>, and their taking Cognizance in matrimonial Caſes, it ought not to ſeem ſtrange, that amongſt the Formularies related by *Caffiodore* <sup>10</sup>, we likewise read that of our *Gothiſh* Kings made about Diſpenſations, which were wont to be granted in Degrees prohibited by the Laws. So likewise that the *Goths* imitated what the Emperors of the Weſt and Eaſt did, in not allowing their Subjects without their Conſent, to dedicate themſelves to the Church, or Monafteries, of which we have many Evidences remaining in the *Theodoſian* Code: *Grotius* writes <sup>11</sup>, *Non minus laudanda cautio, quod ſubditorum ſuorum neminem permiſere ſe Eccleſiis, aut Monafteriis mancipare, ſuo impermiſſu.*

THE ſame Polity concerning this Matter was kept up in theſe our Provinces, when they paſſed from the *Goths* to the Emperors of the Eaſt, and much more under the Emperor *Juſtinian*. The Emperors of the Eaſt follow'd the ſame Footſteps; and we read many Edicts concerning the outward Polity of the Church, of the Emperor *Martianus*, who was the moſt moderate of them all, as *Facundus* <sup>12</sup> Biſhop of *Hermania* in *Africa* wrote. The Emperor *Leo*, follow'd afterwards by *Athalarick*, likewise diſcharg'd the Election of Biſhops by Ambition, or Simony; and beſides the Penalty of Degradation impoſed by the Council of *Chalcedon*, he added that of Infamy; and *Antemius* did the ſame <sup>13</sup>. But above all the other Emperors of the Eaſt, *Juſtinian* was he, who took the greateſt Care, and concern'd himſelf the moſt about Eccleſiaſtical Diſcipline; whence it came to paſs, that the laſt Emperors of the Eaſt, not knowing how to keep themſelves within Bounds, went ſo far, that at laſt they intirely ſubjected the Prieſthood to the Authority of the Prince. His *Novellæ* for the moſt part are ſtuffed with ſo many Edicts about the Diſcipline of the Church, that on that account he is reckon'd amongſt the Number of the Eccleſiaſtical Authors: He made many Laws concerning the Ordination of Biſhops, their Age, what was requir'd of them in order to qualify them for being elected and promoted to a Biſhoprick, their Reſidence, their Learning, and Privileges, and a Multitude of other Things belonging thereto. He regulated the Convocation of Synods and Councils, and preſcrib'd their Time. He made various Rules about the

<sup>1</sup> P. Garet. in vita Caffiod.

<sup>2</sup> L. inter. claras, Cod. de ſumma Trinit. & Fid. Cath.

<sup>3</sup> Hot. 1. obſ. 7. c. 2.

<sup>4</sup> V. Alciat. lib. 5. par. cap. 23. Cujac. obſ. 32. c. 26.

<sup>5</sup> Fachin. Controv. lib. 8. cap. 1.

<sup>6</sup> Caf. lib. 9. c. 15.

<sup>7</sup> Leges olim in atriis Eccleſiæ locabantur, Cujac. lib. 1. Feud. tit. 17. Juret. ad Caffiod. lib. 9. c. 16.

<sup>8</sup> L. 3. l. 16. C. Th. de inceſt. nupt. Ambr. Epiſt. 66. ad Patern. lib. 8. l. Si quis C. de inceſtis nupt. l. in celebrandis, C. de nupt.

<sup>9</sup> L. 1. C. ſi nuptiæ ex reſcripto petantur. V. Launojo in Tract. Regia in Matrimon. poſteſtas par. 3. art. 1.

<sup>10</sup> Caffiod. lib. 7. c. 46.

<sup>11</sup> Grot. in Proleg. ad Hiſt. Got.

<sup>12</sup> Facund. lib. 12. c. 3.

<sup>13</sup> Jacob. Got. in Cod. Th. tom. 6. Anthem. l. ſi quemquam, C. de Epiſc. & Clericis.

Manners and Conduct of Priests, Deacons, Sub-Deacons, their Immunities and Personal Functions. He made many Edicts touching the Degrading of the Clergy, and the Regularity and Profession of Monks. By his Laws he gave more Strength and Vigour to the Canons, which had been establish'd in divers Councils, injoyning the Observance of them by the Metropolitans, Bishops, and all the other Ecclesiasticks; adding severe Penalties on those who should transgress them, by being deposed and degraded from their Orders; and he put forth many other Edicts concerning Ecclesiastical Matters, which may be seen in his *Novellæ*, and his Code.

IT belong'd likewise to the Oeconomy of the Prince to prevent the Abuse of the Keys in Bishops: So that when they excommunicated any Person wrongfully, he immediately opposed them; and *Justinian* himself, by a Law<sup>1</sup>, discharg'd the Bishops from Excommunicating, until the Reason should be first verified: And in the *Basilici* we see yet a particular Law<sup>2</sup>, inhibiting Bishops from Excommunicating without a just Cause, and when what is required by the Canons did not concur; whence it came to pass, that the Princes in their Kingdoms, which they establish'd in *Europe* after the Decay of the *Roman* Empire, would maintain this Right, as the *Spaniards* and *French* practise, and as we likewise see every Day in our Kingdom; of which we shall have occasion elsewhere to discourse at large. Neither were those Laws in these Times thought to exceed the Imperial Authority, but were commonly receiv'd by *Justinian*, as well in the East as the West, as *Joannes Scholasticus* Patriarch of *Constantinople*, *S. Gregory the Great*<sup>3</sup>, *Hincmarus*<sup>4</sup>, and others testify: And if the Epistle be not Apocryphal, which we read in our Code<sup>5</sup>, the same Pope *John* II. commends him and is his Panegyrist, for the Care and Concern which he shew'd for the Ecclesiastical Discipline.

*JUSTIN* his Successor follow'd his Footsteps, under whose Empire we now see these our Provinces; so that hitherto the Ecclesiastical Polity of them has not been alter'd, but the same retain'd both by the *Goths* and the *Greeks*, which had been observ'd in the preceding Centuries under the Successors of *Constantine* down to *Valentinian* III. Emperor of the East.

<sup>1</sup> Novel. 123.

<sup>2</sup> Basil. l. 30. C. de Episcopis & Clericis.

<sup>3</sup> Greg. lib. 2. epist. 54.

<sup>4</sup> Hincmar. Opusc. cap. 17.

<sup>5</sup> L. inter claras, C. de Summa Trinit. & Fid. Cath.

### S E C T. III.

#### Of M O N K S.

HOWEVER these our Provinces in this Century began to be sensible of some Change with respect to Monachism, which was now in its Perfection, and establish'd in them. Neither the *Solitarii* nor *Canobitæ* were establish'd in our Parts, before the Reign of *Valentinian*, as we have seen in the preceding Book; but no sooner was the Monastick Order compleated in the East, as well by the Laws of the Emperors, as the various Ascetick Treatises, than the Order of *St. Basil* became, above all the rest, so famous and numerous, that in our two most Neighbouring Provinces to the *Greeks*, to wit, *Puglia* and *Calabria*, *Lucania* and *Brutium*, they began to found Monasteries of that Order in some Cities of them, which they call'd *Basilians*.

IN the two other, which, as they were more distant from the *Greeks*, so were nearer to *Rome*, to wit, *Campania* and *Samnium*, Monachism was establish'd under many Rules, but especially that of *St. Benedict*, which Order was so successful, that being establish'd in our *Campania*, it spread it self in a short time, not only over all *Italy*, but likewise over *France* and *England*.

*St. Benedict* was born in *Norcia*, a City in the Diocess of *Spoletum*, about the Year 480. He was sent to *Rome* when he was young to Study<sup>1</sup>, but being wearied

<sup>1</sup> S. Greg. in Vita S. Benedict.

of the World, he retir'd to *Subiaco* Forty Miles distant from *Rome*, and shut himself up in a Grotto, where he remain'd for the Space of three Years, without being known to any body, except to *Romanus* a Monk, who supplied him with Food from his Neighbouring Monastery. Being afterwards known, the Monks of a Monastery in the Neighbourhood, by the Death of their Superior, elected him for their Abbot; but their Ways not suiting with those of *Benedict*, he retir'd again to his Solitude, where being visited by many People, he built twelve Monasteries, of which the Abbot of *Nuce* gives us the Names, and the Places where they were founded<sup>1</sup>. From thence, in the Year 529, he came to our *Campania*<sup>2</sup>, and settled himself on the Hill which takes its Name from *Cassinum*, an ancient Roman Colony, situated on the Side of it, about Fifty Miles distant from *Subiaco*, and Seventy from *Rome*. Hard by, he threw down a Relick of *Gentilism*, which had continued in that Corner in the Time of the *Goths*, and in its Place erected a Church, which he dedicated to SS. *Martin* and *John*. The prodigious Things he did there, and the Sanctity of his Life, drew People to that Place, and many remain'd with him under his Rules. He became much more famous, by the Opinion and Esteem which *Totila* King of *Italy*, and a great many noble *Romans* had of him: On which Account, the Number of his Monks encreas'd, and Personages of the greatest Note enroll'd themselves there; whence he extended his Rule, and laid the Foundation of a great Order.

THE Devotion of the People, and the Fame of his Sanctity, drew likewise the Piety of many Nobles to enrich him with Lands and Goods. *Tertullus* a Roman Patrician, while St. *Benedict* was still alive, gave him all that Tract of Land which lies round the Monastery<sup>3</sup>; whence *Zacharias* in his *Diploma*, said, that this Monastery was built in *solo Tertulli*<sup>4</sup>: He likewise gave him many other Possessions which he had in *Sicily*; and *Gordonius*, Father of St. *Gregory the Great*, gave him a Village which he possessed in the Neighbourhood of *Aquinum*. Thus, by degrees, *Benedict* being still alive, this Monastery began to grow very numerous and famous for the Quality of its Monks, and rich by the many Donations which were daily made. Its Fame could not be confin'd to *Campania* only; Monks of known Probity and Learning were sent to found other Monasteries in the other Provinces. *Cassiodore*, one of the most famous Men of this Age, when he was Seventy Years old, retired from the Court and turn'd Monk; and being entic'd by the Fame of St. *Benedict*, who was yet alive, he would build a Monastery in *Brutium*, particularly in *Squillace* the Place of his Birth, and according to P. *Garetius*<sup>5</sup> and *Du Pin*<sup>6</sup>, he put it under the Rule of St. *Benedict*, under which he liv'd; and afterwards govern'd it himself, and spent the remaining Twenty-five Years of his Life there: He died very old, at the Age of more than Ninety-five Years, about the Year 565 of our Salvation, whence *Bacon* of *Verulam* makes him about an Hundred<sup>7</sup>.

THIS is the *Virvariesian* or *Castelleian* Monastery of which P. *Garetius*, a *Benedictine* Monk of the Congregation of St. *Maur*, treats at large<sup>8</sup>; founded by *Cassiodore* its Abbot, not far from *Squillace*, at the Foot of the Mountain commonly call'd *Moscio* or *Castellese*, from a Village of that Name in the Neighbourhood, the Foot of which is wash'd by the River *Pelena* now call'd *Squillace*. It was named *Virvariesis*, because *Cassiodore*, while he enjoy'd the highest Honours at the Court of the *Gothish* Kings, used to go often for his Recreation to *Squillace*, the Place of his Nativity, and on account of the Conveniency, and the Abundance of the Water of that River which wash'd the Foot of the Hill, he caus'd many Ponds to be made<sup>9</sup>. Having afterwards, by reason of the declining State of the *Goths*, abandon'd the Court, and become Monk, he retir'd to this Place where he had made his Ponds, and where likewise his Estate was, and built this Monastery, where he compos'd the greatest Part of his Works, and in which he had for a Companion *Dionysius Exiguus*<sup>10</sup>. He enrich'd it with his Estate and a Library, and made it famous and numerous in Monks; causing many Cells to be

<sup>1</sup> Ab. de Nuce in Not. ad Vit. S. Bened.

<sup>2</sup> V. Camil. Peregrin. in serie Ab. Cas. in princ.

<sup>3</sup> Leo Ost. in Chron. lib. 1. c. 1.

<sup>4</sup> Ab. de Nuc. ad Chr. Cass. loco cit.

<sup>5</sup> P. Garet. in Dissert. de Vita Monast. Cass.

<sup>6</sup> Du Pin,

<sup>7</sup> Bacon. Hist. Vitæ & Mortis, pag. 534.

<sup>8</sup> P. Garet. in Vita Cassiod. par. 2. §. 6, 7, 8, 9, 10, 11, 12.

<sup>9</sup> Cass. lib. 12. var. ep. 15.

<sup>10</sup> Cass. lib. Divin. Lect. cap. 29. S. Greg. ad Jo. Episc. Scyllaceum, ep. 33. lib. 7. Regist. Indict. 11.

built



built on the Top of the Hill, for those who were willing to leave the Monastick Life and become Hermits, and from *Cænobitæ*, to become *Anchoritæ* and *Solitarii* <sup>1</sup>. Before he died, he left *Calcedonius* and *Gerontius* Abbots, the one to govern the Hermits, who were retir'd to the Top of the Hill *Castellese*, the other the *Cænobitæ* of the *Vivarietan* Monastery. *P. Garetius* <sup>2</sup> also relates, that after he died, the *Benedictine* Monks kept it many Years; but afterwards the *Basilians* intruded themselves into their Place, who possessed it a long time, until it was intirely destroy'd and ruin'd by the subsequent Irruptions of the *Saracens*. Thus not only in the neighbouring *Samnium* and in *Puglia*, were Monasteries of this Order begun to be built in these Days, but likewise in the Provinces more remote and distant.

St. *BENEDICT* in the last Year of his Life, sent *Placidus* his Disciple to found Monasteries of his Order in *Sicily*, where, by the Donations of *Tertullus*, and the Devotion of these People, it was propagated over the whole Island. At the same time he sent other Missions into *France*, where St. *Maurus*, *Faustus*, and their Companions made wonderful Progress. According to *Leo of Ostia*, and others, St. *Benedict* died in the Year 543, or according to some others, in the Year 547, the precise Day and Year in which he died not being in any of the Writers made clear, about which the Abbot of *Nuce* <sup>3</sup> has toiled and fatigued himself so much, as if it was a very important Point of History; but the Prosperity of his Order was rather greater after his Death: Forasmuch as the Monasteries multiplied much more, and spread themselves not only in *Italy*, *Sicily*, and *France*, but likewise in *England*, and other more remote Provinces of *Europe*.

THUS these our two Provinces of *Campania* and *Samnium* had a much greater Number of Monasteries of this Order, than the other two, because of their greater Distance; but on the contrary, those founded under the Rule of St. *Basil* were more numerous in *Puglia* and *Calabria*. In *Brutium* and *Lucania*, and the Maritime Cities of *Campania*, such as *Naples*, *Gaeta*, *Amalphis*, and some others, which for the most part continued a long time under the Emperors of the East, as being near to the *Greeks*, and with whom they had much more frequent Commerce, those Institutions were embraced more readily, and the Rule of St. *Basil* was so very famous and renown'd in the East, that all, or the most Part of the Monasteries which were founded there, were establish'd under that Order. In *Naples*, St. *Agnellus* was the first, for what we know, who establish'd a Monastery there, first begun by St. *Gaudiosus*, who was Abbot of it. Some believ'd <sup>4</sup> that St. *Agnellus* follow'd the Rule of St. *Benedict*; but *P. Caracciolus* <sup>5</sup> proves very clearly, that he was a *Basilian* Monk, who, finding that St. *Gaudiosus*, when he retir'd to *Naples*, where he died in the Year 453, before St. *Benedict* was born, had erected a Monastery there, establish'd the Rule of St. *Basil*; an Order which in those Times was become very famous and renown'd. Neither was it subject to the Rule of St. *Benedict*, till after the Year 590, when *Agnellus* was dead; then the *Benedictines* began to be in greater Esteem, and made themselves more renown'd. A long time after, in an Age less distant from us, about the Year 1517, it was possess'd by the Canons Regular of the Congregation of our Saviour <sup>6</sup>, who remain in it to this Day. And so in the Sixth Century, as also in the following, many of these Monasteries were seen in *Naples* under the Rule of St. *Basil*; such as the Monastery of *Gazares* on the Sea-shore; of SS. *Nicander* and *Martian*; of St. *Sebastian*, of SS. *Basil* and *Anastafius* in the Ward of *Amelia*; of St. *Demetrius* in the Ward of *Albina*; of St. *Spirito*, or *Spirido*; of St. *Gregory Armenus* in the Ward of *Noftriana*; of St. *Mary of Agno*; of St. *Samona*; of SS. *Quiricus* and *Fulitta*, and others, both in *Naples* and elsewhere <sup>7</sup>.

THUS were Monasteries introduc'd into these our Provinces. The first that appear'd were under the Rules of St. *Basil* and St. *Benedict*, whence it was (the Societies of Women being already begun, who made a Vow of Virginity, and after a certain time receiv'd the Veil with Solemnity) that there were likewise seen Monasteries of Women under the Rule of St. *Benedict*, who had for their Head

<sup>1</sup> Cass. lib. Divin. Lect. cap. 32.

<sup>2</sup> Garet. loc. cit. §. 12.

<sup>3</sup> Ab. de Nuce pag. 92.

<sup>4</sup> Bzov. in Hist. Trithem.

<sup>5</sup> Carac. Monum. Sacr. Neap. de S. Agnello. Abbate. Ughel. de Episcop. Neap. tom. 6. pag. 75.

<sup>6</sup> Ugh. loc. cit. pag. 80.

<sup>7</sup> P. Carac. loc. cit. Ughel. loc. cit.

*Scolastica* his Sister; and also under that of *Basil*, which are the most ancient that are found in these our Provinces. Thus was the Monastick Order establish'd with us, which however had not made that wonderful Progress which it did afterwards. Neither had the Abbots and Monks as yet been withdrawn from the Jurisdiction of the Bishops, nor had the Popes granted them so many Privileges, which they afterwards did, in order to have them at their Devotion, and to be their Vassals. Nevertheless *Monte Casino* became one of the two most famous Sanctuaries, which our Provinces had in this Age, whither Pilgrims flock'd from all Parts of the World. At the same time another was sprung up in *Puglia* in *Monte Gargano*, on Account of *St. Michael's* having appear'd, as 'tis said, in that Grotto in the Time of Pope *Gelasius*, while *Laurentius* was Bishop of *Sipontum*. Sanctuaries, which in the Reign of the *Longobards* and *Normans*, became so conspicuous and renown'd, that by their wonderful Fame they drew to them not only Pilgrims from the remotest Parts of the World, but likewise the greatest Kings and Monarchs of *Europe*, and the most mighty Princes of the Earth.

## S E C T. V.

## Ecclesiastical Statutes and new Collections.

THE Ecclesiastical Statutes in these Times, as well concerning Doctrine as Discipline, were very ample and numerous. As there were many Occasions for calling many Synods and Councils, so consequently very many Canons were establish'd. They began likewise to establish some of those which belong'd to the Authority of Princes. The Degrees of Kindred, which were formerly regulated according to the Civil Law, were now regulated by the Canons; and the Prohibition of Marriage was extended to Cousins, and the Children of Cousins. *Theodosius the Great* had formerly forbidden Marriage betwixt Cousins, which *Arcadius* and *Honorius* his Sons confirm'd, as *St. Ambrose* declares<sup>1</sup>: *Justinian* afterwards allow'd it<sup>2</sup>; whence *Tribonianus* being to insert this Law of *Theodosius*<sup>3</sup> in his Code, mangled it indiscreetly, that it might not clash with what *Justinian* had alter'd in it<sup>4</sup>. The Canons now forbid it, not only betwixt Cousins, as *Theodosius* had done, but likewise betwixt their Children; and introduced a new Method of reckoning the Degrees, which *Cujacius*<sup>5</sup> thinks not to be older than *St. Gregory the Great* and Pope *Zachary*. There were as yet no Regulations made about the Goods of the Church, but they being at this Time increas'd, and squander'd away by the Ecclesiasticks, they began to make Canons to prevent the Wasting and Alienation of them. It belong'd to the Prince to forbid servile Works on the Lord's-day, and the Emperors practis'd it, as may be seen by the Laws of *Leo* and *Antemius*<sup>6</sup>; but now we see Canons made likewise concerning that. It belong'd to the Emperors to declare Churches to be Sanctuaries<sup>7</sup>, concerning which we read many Constitutions in the *Theodosian Code*; but now this Right is also determin'd by the Canons. There were moreover many Constitutions made concerning Usury and Divorces, and other Matters, the Care and Regulating of which belong'd to, and was in the Power of the Princes: Whence it is, that their Number has grown immense; which occasion'd other Codes, and new Compilations.

WE have seen in the foregoing Book, that before the Reign of *Valentinian III.* neither the Western nor the Eastern Churches knew any other Statutes, but those which were collected in the *Code of the Canons of the Universal Church*, compiled by *Stephen* Bishop of *Ephesus*. But afterwards, in the first Year of the Empire of *Justinian* 527, the *Collection of Dionysius Exiguus* appear'd. This was a *Scythian* Monk who lived in *Rome*, and was the first that introduc'd the Custom

<sup>1</sup> S. Ambr. ep. 66. ad Paternum.<sup>2</sup> §. duorum Instit. de Nuptiis.<sup>3</sup> L. si quis, c. 5. C. de Incest. Nupt.<sup>4</sup> L. in Celebrandis C. de Nuptiis.<sup>5</sup> Cujac. tit. Decretal. de Consang. & Affin.<sup>6</sup> L. ult. C. de Feriis.<sup>7</sup> V. P. Sarp. de Jur. Asylor.

of numbering the Years from the Birth of Christ our Lord, as we continue to do<sup>1</sup>; for formerly they computed, either after the ancient manner of *Rome* by the Consuls; or from the first Establishment of the *Greek* Princes, Successors of *Alexander*; or from the Times of the Martyrs, who suffered Martyrdom under *Dioclesian*; and in *Spain*, from the *Æra* of the Emperor *Augustus*, which was Thirty-eight Years before the Birth of Christ. He was in great Esteem with *Cassiodore*, who courted him, for instructing his Monks of the *Virvariesian* Monastery in Learning, and particularly Philosophy<sup>2</sup>: He read Logick there with *Cassiodore*, and remain'd many Years his Companion in that Magistry. The Encomiums which *Cassiodore* gave him are to be read in his Works<sup>3</sup>. He enrich'd the *Latin* Church with many faithful Translations of the Works of the *Greeks*; and at the Request of *Stephen* Bishop of *Salona*<sup>4</sup> in *Dalmatia*, he translated the Collection of the *Greek* Canons very faithfully into *Latin*, which was more than could be said of the ancient *Latin* Translation made use of in the West: To this he added all that was in the *Greek* Code, to wit, Fifty Apostolical Canons, those of the Council of *Chalcedon*, *Sardica*, *Carthage*, and other *African* Councils.

HE likewise added the Decretal Epistles of Pope *Syricius*, who died in the Year 398, (an Argument, that the Epistles formerly related of *Syricius* are Apocryphal). Those are called Decretal Letters, which the Popes wrote upon their being consulted by the Bishops for deciding Points of Discipline, and which were put amongst the Canons. So the *Greeks* put the three Letters of St. *Basil* to *Amphilochus*, and some others of the most famous Bishops of the greater Sees<sup>5</sup>, amongst the Canons. To these afterwards, after the Death of *Dionysius*, were added the Decrees of *Gregory II.* contain'd in Seventeen Chapters, as has been observ'd by *Peter de Marca* Archbishop of *Paris*<sup>6</sup>: What is surprizing is, that tho' the *Greek* Code, which *Dionysius* made use of, ends with the first *Constantinopolitan* Council, to which he annex'd the Canons of the Council of *Chalcedon*, (as *Dionysius* himself affirms in the Preface to *Stephen* Bishop of *Salona*) as he did the *African* Canons, and those of *Sardica*; yet, tho' his Subject seem'd to require it, he makes not the least mention of the *Ephesian* Council, or of its Canons made in the Year 431, tho' these Canons are in the *Greek* Code publish'd by *Justellus* in the Year 1610; so that their Opinion is confuted, who believ'd, that *Justinian* in his 131st *Novella* made in the Year 541, did confirm and give the Force of Laws to the Code of the Canons compil'd by *Dionysius*; for *Justinian* in that *Novella* likewise confirms the Canons made in the *Ephesian* Council, where he says; *Sancimus vicem legum obtinere Sanctas Ecclesiasticas Regulas, &c. in Ephesina prima, in qua Nestorius est damnatus, &c.* *Doviat*<sup>7</sup> therefore says, That *Dionysius* makes no mention of it, because that Council made no Canons concerning Discipline, but only concerning the Execution of the Condemnation of *Nestorius*, and his Adherents.

THIS Collection of *Dionysius* had all Authority and Force in the West and in these our Provinces<sup>8</sup>; and by Pope *Nicholas I.*<sup>9</sup> it is call'd, by way of Pre-eminency, *Codex Canonum*, and by the Canon Law *Corpus Canonum*<sup>10</sup>: And in subsequent Times it had so much Force, that in the Year 787, it being sent in a Present by *Adrian I.* to *Charles the Great*<sup>11</sup>, this Prince order'd the Bishops of *France* to take care to see the Canons contain'd in it observ'd; and caus'd these Decrees to be inserted in his *Capitularia* of *Aix la Chapelle*, which he order'd to be compos'd in the Year 789, as *Justellus* says<sup>12</sup>.

ABOUT the same time, in the Year 547, *Fulgentius Ferrandus* Dean of *Carthage* made another Collection of Canons<sup>13</sup>, but after a different manner, rather quoting than relating them, and under each Head he recapitulates the Canons of different Councils, of which *Gratian* in his Decree makes mention<sup>14</sup>.

<sup>1</sup> *Doviat. Hist. du Droit Can. par. 1. c. 17.*

<sup>2</sup> *P. Garet. in Vita Cas. par. 2. §. 20 & 21.*

<sup>3</sup> *Cass. lib. Divin. Lect. cap. 22.*

<sup>4</sup> *Cass. loc. cit. Doviat. Hist. Droit Can. par. 1. cap. 17.*

<sup>5</sup> *Fleury in Just. Jur. Can. in Princ.*

<sup>6</sup> *P. de Marca de Concord. lib. 3. cap. 3.*

<sup>7</sup> *Dov. loc. cit. n. 2. & par. 1. c. 7. p. 4.*

<sup>8</sup> *Cass. lib. Div. Lect. cap. 22.*

<sup>9</sup> *Can. 1. digest. 19.*

<sup>10</sup> *In inscript. cap. 3. de Præbend.*

<sup>11</sup> *Sirmond. tom. 2. Conc. Gall. ad An. 787.*

<sup>12</sup> *V. Justel. in Præf. ad Cod. Eccles. Univ.*

<sup>13</sup> *Doviat. Hist. Droit Can. par. 1. cap. 22.*

<sup>14</sup> *Grat. Can. Sacrorum 34. dist. 63.*

CARDINAL BARONIUS<sup>1</sup> reckons, that about the same time the Collections of *Martin of Braga* and of *Cresconius* were made. Others believe<sup>2</sup>, that that of *Martin's* was made about the Year 572, and that of *Cresconius's* about the Year 670. *Martin*, a *Hungarian* by Nation, and a *Benedictine* Monk, was Bishop of *Braga* in *Portugal*. He made his Collection for the Use of the Churches of *Spain*, by translating the *Greek Synods*, and adding other Canons of the *Latin Councils*, and especially those of the Council of *Toledo*; therefore that Collection was not made use of but in *Spain*, excepting for Illustration<sup>3</sup>.

CRESCONIUS a Bishop of *Africa* compos'd his Collection of Canons, of which we have a Compendium; the Title of which, according to a Manuscript which *Baronius* relates, was this; *Concordia Canonum a Cresconio Africano Episcopo digesta sub capitibus trecentis*: And because he likewise makes mention there of a Poem in Hexameter Verse, compos'd by *Cresconius* himself for celebrating the Wars, and the Victories gain'd by *Joannes Patricius* over the *Saracens* of *Africa*, *Baronius* concludes, that he liv'd about the Time of *Justinian* the Emperor.

JOANNES SCHOLASTICUS, after *Eutichius* had been banish'd, was advanced to the Patriarchate of *Constantinople* by the Emperor *Justinian*<sup>4</sup>, and surviv'd him, and was the first who made a Collection in the East, wherein he join'd the Canons with the Laws, especially the *Novellæ* of *Justinian*, which kind of Book was afterwards, by the subsequent Writers, call'd *Nomocanon*; and tho' this Collection divided into fifty Titles, was of some use at first, nevertheless *Theodore Balsamon* in his Supplement observes, that in his time, to wit, about the End of the twelfth Century, it was in no Esteem, as having been eclips'd by the *Nomocanon* of *Photius*, which was more useful, and more full<sup>5</sup>.

THESE were the Collections of Canons, which, after the Code of the Canons of the Universal Church, appear'd in the subsequent Times, down to the Empire of *Justin*, Successor of *Justinian*<sup>6</sup>; they had not the Force of Laws, but when it was given them by the Emperors and Princes. The Church had not as yet acquir'd compleat Jurisdiction, so as to make her Statutes have the Authority of Laws, and thereby oblige the Faithful to observe them by Secular Force, or to punish the Transgressors with Temporal Penalties; their Souls were only bound by the meer Dint of Religion, and the Pains and Punishments only Spiritual by Censures, Penitence, and Deposition. The Princes, by the Means of their Constitutions, gave them the Force of Laws, by obliging their Subjects to the Observance of them by Temporal Force, as the *Novellæ* of *Justinian* in the East, the Collection of *Joannes Scholasticus*, the *Nomocanones* of *Photius*, and *Balsamo* testify; in *France* the *Capitularia* of *Charles the Great*; in *Spain* the Laws of those Kings, by which, the Canons establish'd in the Councils held in *Toledo*, or elsewhere, gave them all Force and Authority; and in *Italy*, the so many Edicts of *Theodorick* and *Athalarick*, which we read in *Cassiodore*.

<sup>1</sup> Baron. ad Ann. 527. num. 76.

<sup>2</sup> Doviat. loc. cit. num. 2 & 3.

<sup>3</sup> V. Ant. Augustin. par. 2. epitom. Juris Pontific. cap. 25. & in Graf. Dialog. 10, 11, & 12.

<sup>4</sup> V. Nic. Aleman. ad Hist. Arcan. Procop. Justel. loc. cit.

<sup>5</sup> V. Franc. Florent. de Orig. Jur. Can. par. 3. §. 3. Justel. loc. cit. P. de Marca de Conc. lib. 3. cap. 3. §. 8.

<sup>6</sup> V. Fleury in Instit. Jur. Can.

## SECT. VI.

### *Of the Cognizance of CAUSES.*

THE Ecclesiastical State, during the Dominion of the *Goths* in these our Provinces, acquired no greater Power of Cognizance, or of trying of Causes in Judgment, than what it had in the preceding Centuries under the Successors of *Constantine* down to the Empire of *Valentinian III.* It was still confin'd to the Cognizance of Matters of Faith and Religion, of which it judg'd in Form of Polity;

Polity ; to the Correction of Manners, of which it cognosced by way of Censure ; and to Differences that arose amongst Christians, which it decided by way of Arbitration and friendly Composition : It had not as yet acquir'd compleat Jurisdiction ; neither had it a Court of Justice, nor Territory ; neither were its Judges become Magistrates. *Theodorick*, and the other Kings his Successors, kept it within its Bounds, nor did its Cognizance exceed the Limits of its Spiritual Power, excepting in those three Emergencies already related ; in all other Things, the Ecclesiasticks observ'd the Civil Laws, and, as Members of the Civil Society, obey'd the Secular Magistrate, as all others did, as well in Criminal as Civil Cases, by whom they were judg'd and punish'd. The Accusations were reported to the Prince, that he might either judge them, or appoint others to hear the Cause, and they were often banish'd for their Faults, or depos'd from their Charges. We have seen how the People of *Rome* carried the Accusations which they had invented against *Symmachus* to *Ravenna* to King *Theodorick*, that he might take Cognizance of them, demanding a Visitor from him, which he gave them, in order to try him ; the Bishops of *Italy* did the same against *Damasus*, having had their recourse unto the Emperors *Gratian* and *Valentinian*, intreating them to judge that Pope whom they had accus'd. 'Twas no strange thing in these Times, for Kings to send the Bishops, as their Subjects, and the Pope himself, to sundry Parts, as Business requir'd, and to call them at their Pleasure, and they were always ready and most obedient. Pope *John I.* was sent by King *Theodorick* to *Constantinople*, for obtaining from the Emperor *Justin I.* the Revocation of one of his Edicts, whereby he had ordain'd, That the Churches of the *Arians* should be given to the Catholics : And this Embassy not having had that Success which *Theodorick* expected, he imputed it to the Want of Fidelity in Pope *John*, and his Ill-conduct ; so that as he was returning through *Italy*, he caus'd him to be arrested in *Ravenna*, where he died the 27th Day of *March* in the Year 526 : And *Theodatus* sent Pope *Agapitus* to *Constantinople* for treating with *Justinian* about the Peace which he so much long'd for.

KING *ATHALARICK* ordain'd by his Edict drawn up by *Cassiodore*\*, that those, who by Simony and Ambition had been elected, should be accus'd before his Judges, and severely punish'd, and appointed Rewards for the Accusers, by giving them the third Part of what they should be condemned in, and the rest to be employ'd upon the Fabricks of the Churches, and the Maintenance of their Ministers.

AS for their Civil Causes, the same Jurisdiction was continued to the Secular Magistrates as they had formerly ; they behov'd to lay their Case before them, propose their Actions, and, being summoned, give Bail *Judicio Sisti*. Only King *Athalarick* favour'd the Church of *Rome* in that, by approving of a Custom which had been introduc'd among her Clergy, of her Priests being first to be brought or accus'd before their Bishop. The Secular Magistrates, which had been appointed in *Rome* by that Prince for the Administration of Justice, and which was practis'd in all the other Provinces, forced a Deacon of that Church, at the Suit of his Creditor, to satisfy a Debt ; and were so hard upon him, that they deliver'd him up to the Creditor himself to keep him in Custody. Another Priest of that same Church being accused on a slight Occasion, they us'd him very severely, and handled him very roughly. The Clergy of *Rome*, with mournful Lamentations and Prayers, had recourse to *Athalarick*, setting forth to him, that in their Church, by a long Custom, to the end their Priests by being involv'd in Law-Suits, and the Affairs of the World, might not be diverted from Divine Worship, it had been usual to cite them before their Bishop ; notwithstanding which, one of their Priests and a Deacon had been roughly and reproachfully used ; therefore they intreated the Clemency of that Prince to put a Stop to such Proceedings for the future. The King, at their Entreaty, answer'd, That out of the Reverence and Honour which was due to that Apostolical See†, from that time forward he ordain'd, That if any Person had occasion to summon any Priest of the Clergy of *Rome*, on whatsoever Account it might be, he was first to have recourse to the Judgment of the Bishop of that See, who, either himself was to enquire more *Sua*

\* Cass. lib. 9. cap. 15.

† Cass. lib. 8. cap. 24. Considerantes Apostolicæ sedis honorem.

*Sanctitatis* into the Merits of the Cause, or to delegate it, *æquitatis Studio terminandum*; but if the Plaintiff or Accuser, after using that Respect, should find himself amused and delay'd, *tunc ad Sæcularia fora jurgaturus occurrat*: If contrary to this his Ordinance, he first had recourse to the Secular Tribunals, he should be oblig'd to pay a Fine of Ten Pounds of Gold, which was to be immediately receiv'd by his Treasurers, and by the Hands of the Bishop distributed amongst the Poor, and besides to lose his Cause, and thus be doubly punish'd. But at the same time, *Athalarick* did not neglect to admonish them to live suitably to their State, telling them; *Magnum scelus est crimen admittere, quos nec conversationem decet habere sæcularem; professio vestra vita cælestis est. Nolite ad mortalium vota humilia, & errores descendere. Mundani coarceantur humano jure, vos sanctis moribus obedite.*

WE see then that in these Times, in all the other Churches, the Secular Magistrates had the Cognizance and Jurisdiction of the Causes of Ecclesiasticks as well Civil as Criminal, and that they were subject to their Judgment and Fines; and tho' *Athalarick* gave this Indulgence to the Clergy of *Rome* only, out of respect to that See, yet nevertheless he gave no manner of Jurisdiction to the Bishop or his Delegates; but only, that they were to determine them *more suæ Sanctitatis, & æquitatis Studio*, by way of Arbitration and charitable Composition, not by way of Judgment and litigious Justice.

*JUSTINIAN* then was the first who began to enlarge the Cognizance of the Bishops in Ecclesiastical Causes, and granted them the Privilege of not pleading before Laick Judges. As this Prince was both Pious and Religious, so he enlarg'd the Cognizance of the Bishops, ordaining, by his *Novellæ* <sup>1</sup>, That in Civil Actions the Monks and Clerks should be first conven'd before the Bishop who was to decide their Differences immediately without Process, without any Noise, or judicial Dispute; upon condition however, that if one of the Parties should declare within ten Days that he would not acquiesce to his Sentence, the ordinary Magistrate should take Cognizance of the Cause, not by Way of Appeal, as some have believ'd, and as superior to the Bishop in that, but begin anew; and if he gave the same Judgment with the Bishop, there was no Appeal from him; but if otherwise, there was room for Appealing. And as for Criminal Causes, it was allow'd to pursue the Clergy either before the Bishop or the ordinary Judge, except in Ecclesiastical Crimes, such as Heresy, Simony, Disobedience to the Bishop, and all other Things concerning their Quality, the Cognizance of which belong'd to the Bishop only; as did also the Differences concerning Religion and Ecclesiastical Polity even against Laicks. Moreover he ordain'd, That if in Criminal Causes any of the Clergy should be condemn'd by the Laick Judge, his Sentence could not be put in Execution, nor a Priest degraded, without the Approbation of the Bishop; and if he refus'd, Application was made to the Emperor. And as for the Bishops, he granted them this Privilege, of not being oblig'd to plead before the Laick Magistrates, which Privilege he likewise allow'd the Nuns by his *Novella* 79, which Interpreters have wrongfully extended to the Monks. And that Regulation of *Justinian* contain'd in his 123d *Novellæ* is almost intirely repeated in the Constitutions of the Emperor *Constantine* III. Son of *Heraclius*, and of *Alexius Comnenus*, related by *Balsamon* in the Sixth Title of his *Nomocanon*. Thus, by the Privilege of the Prince, the Cognizance of the Bishops began to be enlarg'd; nevertheless, they did not at this Time acquire compleat Justice, which the Law calls Jurisdiction, over the Priests, they not having in those Days *Jus Terrendi*, nor any coercive Power; therefore they could not, by their own Authority, imprison Ecclesiastical Persons, neither had they any Prisons: They could not inflict Corporal Punishments, Banishment, and much less Mutilation of Members or Death, even for the greatest Crimes; nor condemn in Pecuniary Mulcts.

THE Punishments which they inflict were Depositions, Suspension of Orders, Fastings, and Penance; which Form of Discipline continu'd throughout all the Eighth Century; which *Gregory* II. excellently well observes in that fine Epistle which he directed to *Leo Isauricus* <sup>2</sup>, wherein he shews the great Difference there was betwixt the Imperial Punishments and those of the Church: The Emperors

<sup>1</sup> Novel. 83 & 123.

<sup>2</sup> Greg. II. epist. 13. ad Leon. Isaur. Richer. in Apol. Jo. Gerson. par. 3. ax. 36.  
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condemn'd to Death, Imprison'd, and Banish'd the Guilty, and confin'd them to a certain Place ; none of which the Popes could do : *Sed ubi*, as his Words are, *peccavit quis, & confessus fuerit, suspendii, vel amputationis capitis loco, Evangelium, & Crucem ejus cervicibus circumponunt, eumque tanquam in carcerem, in Secretaria, Sacrorumque vasorum æraria conjiciunt, in Ecclesiæ Diaconia, & in Catecumena obligant, ac visceribus eorum jejunium, oculisque vigiliis, & laudationem ori ejus inducunt. Cumque probe castigarint, probeque fame afflixerint, tum pretiosum illi Domini Corpus impartiunt, & Sancto illum sanguine potant : & cum illum vas Electionis restituerint, ac immunem peccati, sic ad Deum, purum infontemque transmittunt. Vides, Imperator, Ecclesiarum, Imperiorumque discrimen, &c.*

HOWEVER the Ecclesiasticks had begun in these Times, to usurp the Power of burning the Books of Hereticks, because in the Year 443. St. Leo the Pope burnt many Books of the *Manichei* in Rome, whereas at first Censure belong'd only to the Church, but Prohibition and Burning to the Prince', concerning which we shall have occasion to discourse more at large.

<sup>1</sup> Feuret. lib. 1. cap. 2. num. 7.

## S E C T. VII.

### Of T E M P O R A L I T I E S.

THE Cognizance of Causes did not keep pace with the Increase of the Temporalities in our Churches ; the last out-stripp'd the first very much. The Princes did not much mind the Acquisitions which were daily made ; they not only neglected to put a Stop to their excessive Growth, as *Theodosius the Great* and his Successors did, but they even contributed to them by Donations and Privileges<sup>1</sup> ; whereas formerly, Purchases were made by the Churches only : but now that the Monasteries began to be founded in these our Provinces, they had likewise their Share, and the Monasteries of St. *Benedict*, from their first Institution, gave many good Prefages of their future Riches.

BESIDES new Sources were discover'd, from whence sprung greater Riches. In these Times Sanctuaries had their Beginning ; and the Veneration for the Relics of the Saints began to be much greater than it had formerly been. The many Miracles which were publish'd ; the Apparitions of Angels ; the particular Devotions to Saints ; and the Exhortations of Monks, drew the People, out of Devotion, to offer abundance of Riches to their Monasteries. The giving or leaving by Will to the Churches, was, in these Times, look'd upon as a most powerful Means for obtaining the Remission of Sins. *Salvianus*<sup>2</sup>, who flourish'd in the Reign of *Anastasius*, exhorted many godly People to relieve their Souls, *ultima rerum suarum oblatione* : Whence it is that we often read in the Donations made to Churches this Clause ; *Pro Redemptione animarum, &c.*

THERE was likewise a new Fund much more stable than the former, from which they drew good Profits. Tythes, which in the three first Centuries were free and voluntary : In the fourth and fifth, by reason of the Lukewarmness of the Faithful in giving them, were recommended by the Preachings and Exhortations of the Priests, to the end that they might not be left off : In this sixth Century they became due and necessary. Seeing at this time Preachings and Exhortations did not avail, it was necessary to have recourse to more powerful and vigorous Assistance ; so they began to think of establishing them by the Way of Precepts and Canons. Thus by many Councils of the West, and many Decretals of the Popes, the Use of paying them became a Law. By these and other Means, the Riches of the Churches began to increase and be very considerable, and they were in Possession of particular Inheritances. The Church of Rome, above all the rest, became the

<sup>1</sup> Caf. lib. 12. cap. 13.

<sup>2</sup> Salvian. lib. 2. & seq. adver. avarit. Ant.

Matth. manud. ad Jus Can. lib. 2. tit. 1.

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richest, and in such a degree, that *Paulus Warnefridus* <sup>1</sup> relates, when *Trafimondus* King of the *Vandals* in *Africa* had banish'd 220 Bishops, *Symmachus*, who was then Bishop of *Rome*, caus'd them all to be furnish'd with every Thing necessary for their Sustainance. They not only contriv'd ways for acquiring of Riches, but likewise means by which to preserve them; for with Riches were join'd Looseness of Discipline and Manners: The Ecclesiasticks appropriated them to themselves as their own Goods, whereas formerly they were look'd upon only as the Patrimony of the Poor, consequently they were ill employ'd and worse distributed; whence it was that many Councils (although before this Time there had not any Regulation been made concerning this Matter) were mov'd to establish a great many Canons, discharging Alienations, regulating the Method of distributing them, and especially for taking care to preserve and secure them. However 'tis likewise true, that the Princes notwithstanding that, did not fail to make Laws concerning the Goods of the Church, by regulating the Acquisitions, and sometimes also the Manner of distributing them, and by discharging their being put to wrong Uses; and *Justinian* assures us, that by his own Prerogative he establish'd many Laws concerning them <sup>2</sup>.

THE Division of the Fruits of these Goods into four Parts; one to the Administrator or Incumbent, the second to the Church, the third to the Poor, and the fourth to the Clergy; which is attributed to Pope *Simplicius*, who was chosen in the Year 468, was not always fix'd, nor the same over all the Provinces of the West. In *France*, in the first Council of *Orleans* <sup>3</sup> assembled in the Year 511, the one half was assign'd to the Bishop, and the other to the Clergy. In *Spain*, from the first Council of *Braga* <sup>4</sup> held in the Year 563, the Division of the Oblations was reserv'd for the Clergy all in common. But afterwards in the fourth Council of *Toledo* conven'd under King *Sisenandus* in the Year 633, it was ordain'd, that the Bishops should have the third Part of the Rents <sup>5</sup>. Thus, as *Gratian* <sup>6</sup> very much to the purpose observes, according to the Diversity of Places, and the Customs of Countries, in some a third, and in others a fourth Part was reserv'd for the Bishop; such Divisions were not always unalterable and perpetual.

HOW great soever the Increase of the Temporalities of our Churches and Monasteries were in this sixth Century, nevertheless, in respect of the immense and excessive Acquisitions, which were afterwards in the Times of the *Longobards* and *Normans*, it was tolerable; no great Alteration happen'd to the Civil State on account of it: We shall see it greater under the *Longobards*, of whose Kingdom we are now going to treat.

<sup>1</sup> Fr. de Roye Instit. Canon. lib. 2. de decim.

<sup>2</sup> P. de Marca de Concor. Sac. & Imp. lib. 2. cap. 11. num. 3.

<sup>3</sup> Ibid. cap. 16.

<sup>4</sup> Ibid. cap. 21.

<sup>5</sup> Can. Constitutum 62. caus. 16. qu. 1.

<sup>6</sup> Grat. post Can. possessiones ead. caus. & qu.



THE





T H E

# CIVIL HISTORY

Of the KINGDOM of

# N A P L E S.

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B O O K IV.

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THE *Longobards* acknowledge their Origin from none other but the *Goths*, and the *Peninsula* of *Scandinavia* was the common Mother of both: A Country, which by *Jornandes* was rightly call'd *Vagina gentium*, and which justly may boast of having produc'd all those Princes, who for a long time were Lords and Masters of *Spain*, of a good part of the *Gallia*, and especially of *Italy*, which, tho' recover'd from the *Goths*, yet soon fell under the Dominion of the *Longobards*; and these having afterwards fail'd, under that of the *Normans*, who likewise boast of the same Origin<sup>1</sup>. The *Gepidæ* descended of the Stock of the *Goths*, and who came out of the same *Peninsula*, together with the *Goths*, stopp'd at the *Vistula*<sup>2</sup>: From thence, after having overcome the *Burgundians*, they advanc'd, as *Procopius* relates, to both the Banks of the *Danube*; from whence, as *Vopiscus* writes, they infested the *Romans* by the many Incursions and Robberies which they committed in that Country. Lastly, while the Emperor *Martian* reign'd in the East, having driven the *Huns* out of *Pannonia*, they fix'd their Residence

<sup>1</sup> *Jornandes Hist. Got.*

<sup>2</sup> *Grot. in Proleg. ad Hist. Got.*  
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there. Moreover, grave Writers affirm it for certain, that the *Gepidæ* having fallen out amongst themselves, the *Longobards* sprung from this Division; whence *Salmafius*<sup>1</sup> declares, that he had read in some ancient Greek Books, not as yet printed, that the *Gepidæ* were call'd *Longobards*: *Gepidæ qui dicuntur Longobardi*; and *Constantinus Porphyrogenitus*, Emperor of *Constantinople*, from the History of *Theophanes* (who is honoured by the *Greeks* as a Saint) likewise writes that the *Longobards* sprung from the Division of the *Gepidæ*<sup>2</sup>.

*PROSPER AQUITANIUS* Bishop of *Rbergium*, who wrote before *Paul Warnefride* Deacon of *Aquileja*, is the first that mentions the *Longobards*, whom he brings from *Scandinavia* to the Banks of the Ocean, in quest of new Habitations, first under *Ibo* and *Ajo* their Captains, they overcame the *Vandals*, and were call'd *Winili*, that is to say, Wanderers, because at this Time they had no fix'd Residence; but afterwards having elected *Agilmondus* for their King, and over-run diverse Countries, at last they settled themselves in *Pannonia*. After *Agilmondus* they had for their Kings successively, *Lamiscus*, *Leta*, *Ildeock*, *Gudeock*, *Claffus*, *Tatus*<sup>3</sup>, and after these *Waltau*; of which Prince none other make mention, as having reign'd but a short time, and in continual Wars. Afterwards *Wacus* and *Audoinus* succeeded, and lastly *Alboinus*; who having made a settled and strict Peace and Friendship with *Narfes*, was reserv'd for the future Conquest of *Italy*.

HOW this People took the Name of *Longobards*, we need no other Voucher than *Paul Warnefride*<sup>4</sup>, who writes, that these *Winili* were call'd *Longobards* from the Length of their Beards, which they kept very carefully from being touch'd with Iron; because in their Language, *Lang* signifies Long, and *Baert*, Beard: In which *Constantinus Porphyrogenitus*<sup>5</sup>, *Otho Frisingensis*<sup>6</sup>, *Gunterus*<sup>7</sup>, and *Grotius* agree.

I KNOW that some modern Writers, not contented with what so ancient and grave Authors have reported, have gone to other Countries to find out the Origin of this People, and have derived the Name of *Longobards*, not from the Length of their Beards, but as the Abbot *de Nuce*<sup>8</sup> believ'd, from that of their Halbards, and others from something else.

SOME have deny'd that they came out of *Scandinavia*, but from the inner Parts of *Germany*; they say, that long before the Time mention'd of their coming out of that *Peninsula*, *Strabo*, *Tacitus*, *Ptolemeus*, and *Paterculus*<sup>9</sup>, make mention of the *Longobards*, as a People who liv'd in the Heart of *Germany*; therefore their Name being more ancient, we must not take it from their Beards, as *Paul Warnefride* has asserted, but it must be deriv'd from something else. The Difficulty was easily solv'd by the incomparable *Hugo Grotius*<sup>10</sup>; for this Name signifies nothing else but Men with long Beards, as all the *Germans*, and *Warnefride* himself acknowledge: Now Names of this Kind which are deriv'd from different Habits and Aspects, arise and spread themselves, sometimes among one People, sometimes among another, in different Places, and likewise in most distant Times, according as the Novelty and Oddness appear. Among the *Germans*, as *Tacitus* relates, it was a most common Custom to let their Hair and Beards grow, and they never used to cut their Hair, but when they had overcome their Enemies; but when it happen'd, that a great Knot of Men appear'd in another Country, with a very new and strange Aspect, certainly the People of that Country gave them their Name from that new and strange Aspect which had astonish'd them; therefore 'tis no wonder, if that Novelty, sometimes in one Place, sometimes in another, was the Occasion of new Names: Whence had *Domitius Enobarbus*, *Fredericus Barbarossa*, and some other famous Pyrates of that Name their Denominations? The Name was common to them only, from the Similitude of their Aspects. 'Tis reasonable then, that in such Matters we should give Credit to ancient Writers, and especially to *Paul Warnefride* in what concerns the *Longobards*, who though he was born in *Italy*, was originally a *Longobard*, and

<sup>1</sup> *Salmaf. apud Grot. loc. cit.*

<sup>2</sup> *Constant. Porphy. de Admin. Imperio cap. 25. ex Historia S. Theophan. Et Gepides quidem, ex quibus postea Longobardi, atque Avars per Successionem oriundi sunt.*

<sup>3</sup> *Grot. in Proleg. ad Hist. Got.*

<sup>4</sup> *Paul Warn. lib. 1. cap. 9.*

<sup>5</sup> *Const. Porph. de Them. XI. Longobardi a promissa barba incolarum dicta est.*

<sup>6</sup> *Otho Frising. lib. 2. c. 13. degeff. Frid. Imp.*

<sup>7</sup> *Gunther. lib. 2. Grot. loc. cit.*

<sup>8</sup> *Ab. de Nuce in notis ad Chronicon. Leon. Offiens, pag. 95.*

<sup>9</sup> *Tacit. l. 2. Annal. Vel. Patere. l. 2. Hist.*

<sup>10</sup> *Grot. in Proleg. ad Hist. Got. p. 28.*

he is the only and proper Writer of their Actions. Wherein this Writer fails, we may have recourse to *Erchempertus*, and after him to other contemporary Writers, of which there are many<sup>1</sup>; so that *Grotius* advises us to believe the Ancients, when these new Writers produce nothing that's more credible or certain; and to hold with the first, that the *Vandals*, the *Ostrogoths* and *Westrogoths*, the *Gepidæ* and *Longobards*, all of them owe their Origin to *Scandinavia*.

BUT be that as it will, 'tis manifest to every Body, that the *Longobards* after having roam'd about in many Countries of *Europe*, at last fix'd themselves in *Pannonia*, in which Province they rul'd Forty-two Years, and they reckon from *Agil-moldus* to *Alboinus*, ten Kings under whom they liv'd. In the Reign of *Alboinus*, *Narses* having been sent into *Italy* by *Justinian*, in order to drive out the *Goths*, who under *Totila* had regain'd that Province, and being long before in Confederacy with the *Longobards*, sent Ambassadors to *Alboinus* to demand Assistance against the *Goths*. 'Twas then that *Alboinus* sent a choice Band of Warriors, who assisted the *Romans* against the *Goths*<sup>2</sup>. They went into *Italy* by the Gulf of the *Adriatick* Sea; and it was the first Time that this People had seen this beautiful Country, and in one Day they landed in these our Provinces, to wit, at *Samnium*, as we shall relate. In the mean time, having join'd the *Romans*, they engag'd with the *Goths*, and having successfully beaten them in that Battle wherein *Totila* was kill'd, loaded with many Presents, and Victorious, they return'd to their own Habitations; and all the Time that the *Longobards* possessed *Pannonia*, they assisted the *Romans* against their Enemies, and *Narses* maintain'd and kept up a strict and faithful Friendship with *Alboinus*; whence 'twas no difficult Matter to allure him (in order to revenge himself of the Affront done him by *Sophia* Wife of the Emperor *Justin*) to come to the Conquest of *Italy*; besides he well knew the Riches of this Province, and the many other Advantages which it yielded. In the mean time this Prince resolv'd, at the Invitation of *Narses*, to go in Person at the Head of his Army, and having likewise solicited the Assistance of the *Saxons* for this Undertaking, he left *Pannonia* to the *Huns* (from whom this Province afterwards took the Name of *Hungary*) on Condition, that if by some cross Accident, the Undertaking which he was going about should not succeed, and that he should be oblig'd to return, they were to restore him what he left them: He began his march with his *Longobards* and their Families, the *Saxons* and other People, and in the Month of *April* in the Year 568, while *Justin* the Emperor reign'd in the East, they enter'd *Italy*<sup>3</sup>. At this Time this Province was so destitute of all Assistance, and divided into so many Parties by the new Form which *Longinus* the Exarch of *Ravenna* had given it; that *Alboinus* was enabled at once to possess himself of *Aquileja*, and many of the Towns of the *Venetian* Province; and this same Year 568, he likewise took *Friuli* the chief City of this Province, where he remain'd during the Winter, and having reduc'd it to the Form of a Dukedom, he created *Gisulphus* his Nephew, Duke of it. Such was the Origin of the Title of the *Ducatus Forojulienfis*, which was the first that was made by the *Longobards* in the Province of *Venice*.

*ALBOINUS* having taken this Province from the *Greeks*, the next Year 569, he took Possession of *Trivigi* and *Oderzo*; from thence, leaving *Padua* behind him, he took *Monte Selice*, *Mantua*, and *Cremona*; he surpriz'd *Vicenza*, *Verona*, and *Trent*, and other Towns of that Province; and as these Cities fell under his Power, besides leaving a strong Garrison of *Longobards* in them, he created a Duke to govern each of them. These Dukes at their Beginning, after the Manner of the Dukes of *France*, which *Paulus Emilias*<sup>4</sup> describes to us, were nothing but simple Officers or Governors of Cities, and their Duration depended on the Pleasure of the Prince who created them.

<sup>1</sup> These are the *Anonymus Salernitanus*, and other Collections by *Camillus Pellegrinus*, in *Hist. Princ. Longob.*

<sup>2</sup> *Paul Warnefr.* lib. 2. cap. 1.

<sup>3</sup> *Historiola ignoti Monaci Cassinen.* apud *Camil. Pel. Historia Princ. Longob.* *Paul Warn.* lib. 2. cap. 12. Certum est autem, tunc *Alboin.*

*multos secum ex diversis, quas vel alii Reges, vel ipse ceperat gentibus ad Italiam adduxisse; unde usque hodie eorum, in quibus habitant vicos Gepidos, Bulgaros, Sarmatas, Pannonios, Suevos, Noricos, sive aliis hujusmodi nominibus appellamus.*

<sup>4</sup> *Paul. Emil. de reb. Francorum.*





## C H A P. I.

*Of Alboinus I. King of Italy, who fix'd his Royal Seat in Pavia;  
and of the other Kings his Successors.*



**A**LBOINUS was no less successful in his Conquests the following Year 570. in *Liguria*, having pass'd the River *Adda*, he immediately took *Brescia*, *Bergamo*, *Lodi*, *Como*, and all the other Castles of *Liguria*, as far as the *Alps*; from thence he prepared to take *Milan* the Head City of the Province, which after a short Siege surrender'd to his Arms. As soon as he had subjected this City to his Dominion, the *Longobards* proclaim'd him King of *Italy*, and with joyful Acclamations saluted him as such, by giving him a Launce, which at this Time was the Ensign of Royalty. The Rites and Ceremonies which were practis'd by this Nation in creating their Kings, were only the raising up the Elected upon a Shield in the Midst of the Army, and with Acclamations, proclaiming and saluting him King, by giving him a Launce in his Hand, as a Token of the Royal Dignity. This was the Beginning of the Kingdom of the *Longobards* in *Italy*, under *Alboinus* I. King of *Italy*; but if we also reckon *Waltan*, who reign'd but a short time, and whose Empire was much contraverted, among the Series of their Princes who reign'd in *Pannonia*, there were Eleven Kings of the *Longobards*. As 'tis of no Service to us to keep account of the Kings of *Pannonia*, we shall reckon *Alboinus* the first King of *Italy* in this History, and according to this Order we shall name his other Successors; and from the Month of *January* of this Year 570, we shall reckon the Beginning of his Reign, and of the *Longobards* in *Italy*, not from their coming in the Year 568, as others have done. The Abbot *Bachini* in his Dissertations upon the Pontifical Book of *Agnellus Ravennate*, observes, that in order to shun all Confusion, there ought to be two *Epochas* settled; the one taken from the Entry of the *Longobards* into *Italy*, in the Year 568. on the second Day of *April*; the other from the Beginning of the Reign of *Alboinus* in *Italy*, which answers to the 29th of *December* in the Year 568: By these two *Epochas*, he shews us how *Baronius* was mistaken, who makes *Alboinus* die in the Year 571, after having reign'd three Years and a half according to *Paulus Diaconus*, and defends the bright *Sigonius*, who was censured by *Camillus Pellegrinus* concerning this Particular, by exactly comparing the Computations of the one with the other, from the said first Year of the Reign of the *Longobards*, to the Death of *Rotaris*, which fell out in 671, according to *Paulus Diaconus* and *Sigonius*, who agree wonderfully.

BUT be that as it will, it not being to our Purpose to enter into so nice an Examination of Time, *Alboinus* having subdued *Liguria* to his Dominion, with the same Success extended his Power over the neighbouring Provinces. He besieg'd *Pavia*, but by reason of the Difficulty of its Situation, could not take it, therefore he left a Part of his Army to continue the Siege, and with the rest invaded *Emilia*, *Tuscany*, and *Umbria*. He took many Citties of *Emilia*, *Tortona*, *Placentia*, *Parma*, *Brissello*, *Reggio*, and *Modena*. *Tuscany* being almost all in his Possession, he march'd into *Umbria*, and took *Spoletto*, a City once as noble as ancient; which, tho' ruin'd by the *Goths*, nevertheless had been restor'd to its former State by *Narfes*, and not

<sup>1</sup> V. Patric. in Marte Gallico, cap.

only preserv'd by *Alboinus*, but likewise adorn'd with new Privileges, and made the Metropolis of *Umbria*, which he turn'd into the Form of a Dukedom, and subjected to *Spoleto*, of which he constituted *Faroaldus* first Duke<sup>1</sup>; and from this Time forward the *Ducatus Spoletanus* began to be famous, and was conspicuous above the rest, therefore it was reckon'd amongst the three famous Dukedoms of the *Longobards*; and thus *Alboinus* likewise appointed Dukes for governing the other Cities, as he had done in the Provinces of *Venice* and *Liguria*. But this Prince being dissuag'd from the Conquest of these Cities immediately return'd to the Siege of *Pavia*, and at last, after the third Year, reduc'd it to his Obedience; and though he was highly incens'd against the Citizens, because of their obstinate Resistance, and design'd to have put them all to the Sword, nevertheless, being persuaded to the contrary by the very *Longobards*, he spared them, and enter'd the City, and was proclaimed and saluted King by all. And there, as in a strong and convenient City, did he fix his Royal Seat; whence afterwards it came to pass, that during the Dominion of the *Longobards* in *Italy*, *Pavia* was exalted above all the other Cities, as the Head and Metropolis of all the Kingdom of *Italy*.

*ALBOINUS* by these so many and sudden Conquests, believing that he had already reduc'd *Italy* under his Power, went to *Verona*, where he made a solemn Feast. This Prince had married *Rosmunda* Daughter of *Comundus* King of the *Gepidae*; from whom in a Battle, together with his Life, he had taken *Pannonia*, and being spur'd on by his cruel Nature, had order'd a drinking Cup to be made of *Comundus*'s Scull, out of which, in Memory of that Victory, he was wont to drink<sup>2</sup>: *Alboinus* being grown a little merry at this Feast, and having *Comundus*'s Scull full of Wine, caus'd it to be presented to his Queen *Rosmunda*, who was sitting over-against him, saying with a loud Voice, that he would have her drink with her Father at so great a Merry-making: Which Words struck the Lady to the very Heart; whereupon she resolv'd to be reveng'd, and knowing that *Almachildes*, a noble *Longobard*, and a bold Youth, lov'd one of her Maids, she manag'd Matters so with her, that *Almachildes* was to be convey'd privately to lie with herself in Place of the Maid; and *Almachildes*, according to the Appointment of the Maid, being come to the dark Place agreed on, lay unknowingly with *Rosmunda*, who after it was over, discover'd herself to him, and said, that he had it in his Power to chuse whether he would murder *Alboinus*, and always enjoy her and the Kingdom, or be put to Death by the King as a Ravisher of his Wife. *Almachildes* consented to kill *Alboinus*; but after he had kill'd him, there was no appearance of their getting Possession of the Kingdom; on the contrary, they were afraid of being murder'd by the *Longobards*, who lov'd *Alboinus*, therefore they fled to *Longinus* in *Ravenna*, with all the Royal Treasure, who receiv'd them honourably. But *Longinus* judging it was now a proper Time, by the Means of *Rosmunda* and her Treasure, to make himself King of the *Longobards*, and of all *Italy*, imparted his Design to her, and persuaded her to murder *Almachildes*, and then to take himself for her Husband; which she agreed to, and prepar'd a Cup of poison'd Wine, which she gave with her own Hand to *Almachildes* as he was coming thirsty out of the Bath, who after he had drunk the half of it, finding a Commotion in his Bowels, and remembering who he had to do with, oblig'd *Rosmunda* to drink the rest: And thus in a few Hours they both died, and *Longinus* was disappointed of being King.

<sup>1</sup> Paul Warmfr. lib. 3. cap. 7.<sup>2</sup> Ibid. lib. 2. cap. 14.

## S E C T. I.

## Of CLEPHIS II. King of ITALY.

IN the mean time the *Longobards*, on the Death of *Alboinus*, who had reign'd three Years and six Months, after having bitterly lamented the Loss of him, assembled in *Pavia* the principal Seat of their Kingdom, and made *Clephis* their  
 E c c King;

King<sup>1</sup>; a Man as noble as he was high and cruel minded, who rebuilt *Imola* near *Ravenna*, which had been ruined by *Narses*, took Possession of *Rimini*, and all other Places almost as far as *Rome*; but in the Career of his Victories died by the Hands of one of his own Creatures, after he had reign'd only eighteen Months. *Clephis* was very cruel, not only to Strangers, but likewise to his own *Longobards*, who were so terrified at Royal Power, that they did not incline to chuse another King in haste, but rather chose to be subject to Dukes; each of which kept the Government of his own City and his Dukedom, with full Power and Dominion, and did not, as formerly, acknowledge Royal Authority, or any other Supreme Dominion. This Resolution was the Cause that hindred the *Longobards* from taking Possession at that Time of all *Italy*; and that some of the following Cities made a Defence for some Time, and others were never conquer'd by them; to wit, *Rome*, *Ravenna*, *Cremona*, *Mantua*, *Padua*, *Monfelic*, *Parma*, *Bologna*, *Faenza*, *Forli*, and *Cesena*: Forasmuch as their want of a King made them less capable of carrying on their Conquests; and afterwards when they did create one, they became (by their having been free for some time) less obedient, and more liable to quarrel amongst themselves; which put a Stop to their Conquests, and at last was the Occasion of their being driven out of *Italy*.

WE ought not to pass over this Place, without observing with *Camillus Pellegrinus*<sup>2</sup>, the Errors long since common amongst modern Writers, who by following *Sigonius*, or some other Writer more ancient than he, believ'd that the *Longobards*, abominating Royal Power, chang'd the Form of Government, and at *Clephis*'s Death created thirty Dukes, among whom they divided their Kingdom; because whoever will but attentively consider the Words of *Paul Warnefride*<sup>3</sup>, who speaks of that Change, will perceive, that the *Longobards* after the Death of *Clephis* neglected to chuse a King, terrified, perhaps, at the Cruelty of that Prince, and frighted at the unhappy Deaths of *Alboinus* and *Clephis*, but chose to live under their Dukes; who were not then first instituted for giving a new Form to their Kingdom, and changing the Ancient, but had been chosen from the Times of the Kings *Alboinus* and *Clephis*, according to the Custom of the *Longobards* taken from the *Greeks*, who after the Conquest of Cities, appointed a Duke to govern them, as indeed the same *Warnefride* assures us, that at the Death of *Clephis*, the Dukes who were Governors of the following Towns were, *Zaban* of *Pavia*, *Alboinus* of *Milan*, *Walaris* of *Bergamo*, *Alachis* of *Brescia*, *Evin* of *Trent*, *Gisulphus* of *Friuli*; and besides these, in the other Cities subject to the *Longobards* there were thirty Dukes, to whom the Government of them was committed. Notwithstanding their delaying to chuse a King, no other Innovation happen'd; but this, that as formerly, the Dukes were in every Thing subordinate to the Kings, and as their Ministers depended on their Becks; now every one of them govern'd his Dukedom with absolute Power for the Space of ten Years, during which Time there was no King, which was the Occasion of many Disorders, and at last made them think of chusing, with common Consent, *Autaris* Son of *Clephis*, that he might shelter them from the constant Dangers they were in, and give them Relief. Besides we ought not to forget, that, as the same *Warnefride* assures us, the Number of Dukes was not thirty, as is commonly believ'd, but they amounted to 36; and that 30 were appointed for the Government of the other Cities, besides the six he had mention'd, to wit, the Dukes of *Pavia*, *Milan*, *Bergamo*, *Brescia*, *Trent*, and *Friuli*. There is no mention of the Dukedom of *Beneventum*, as not being yet instituted, for our Provinces were still subject to the *Greeks* under *Tiberius* who succeeded *Justin*, who after a Reign of twelve Years, died with excessive Torment, and in his Place *Tiberius* being chosen, was so engag'd in the War against the *Parthians*, that he could not relieve *Italy*, nor hinder the Progress of the *Longobards*.

ALTHO' their Affairs, during this Inter-reign, were somewhat prosperous with respect to the Wars they had with the *Greeks*, for in the Year 579, by the Conquest of *Sutri*, *Bommarzo*, *Orta*, *Todi*, *Amelia*, *Peruggia*, *Luceoli*, and other Cities, they had enlarged their State; nevertheless they soon perceiv'd, that their Realm thus divided could not last long; forasmuch as by some Disagreement amongst themselves, they had afforded an easy and ready Opportunity of being attack'd by foreign

<sup>1</sup> Paul. Warnefr. lib. 1. cap. 14.

<sup>2</sup> Cam. Pelleg. in Diss. de Duc. Bene. dis. 1.

<sup>3</sup> Paul. Warnefr. lib. 2. cap. ult.

Nations, and knew by their manifest Danger, what Mischiefs their Divisions would involve them in; for in their Conflicts with the *French*, they had come off with Loss; and besides, at the Instigation of the King of *France*, three Dukes had rebell'd. Moreover in the Year 584. *Tiberius* died, who had govern'd the Empire seven Years, more commendable for his Christian Piety, than his Skill in Military Affairs, and was succeeded by *Mauritius* of *Cappadocia*, one of his Captains, to whom he had given one of his Daughters in Marriage; a Prince for Valour and Prudence much superior to his Predecessors *Justin* and *Tiberius*; he considering seriously the great Damage he had suffer'd by the *Longobards* in *Italy*, thought of using all possible Means for driving them out of it; but finding that it was an Undertaking that requir'd a better Head than that of *Longinus* (whose Fidelity was also suspected) he recall'd him, and in his Place sent *Smaragdo* a most prudent Man, and well experienc'd in warlike Affairs, with a new Army the same Year 584, to be Exarch of *Ravenna*<sup>2</sup>, and made a certain *Gregory* Duke of *Rome*, to whom that Dukedom was committed, and at the same time made *Castorius* Commander of the Soldiers in *Rome*, because the *Greeks* were wont likewise to have such an Officer to oversee the Soldiers, besides the Duke; whence it is, that in *Naples*, which was a long time under the Empire of the *Greeks*, besides the Duke, we read also of this other Officer.

*SMARAGDO* being arriv'd in *Ravenna*, was not long before he put his Designs in Execution; he made *Doctrulfus* a skilful Warrior to rebel against the *Longobards*, and come over to his Side; and not long after he took *Brissello*, and subjected it to the *Grecian* Empire. And while *Smaragdo* was so successful in *Italy*, *Mauritius* did not fail to take other Measures in order to drive the *Longobards* from this Province; he used all his Industry to draw the *French* to his Side, and at last, by Money, prevail'd with *Childebert* King of *France*, to make War against the *Longobards*, who justly fearing the great Damage such a Confederacy and Preparation from the other Side of the *Alps* would bring upon them, and considering that they had no other way to ward off so great a Mischief, and to resist the Power of the *French* and *Romans*, but by submitting again to the Authority of one single Person, assembled themselves, and with unanimous Consent created *Autaris* Son of *Clepbis*, their King, in the Year 585.

<sup>1</sup> Paul. Æmil. de Reb. Franc.

<sup>2</sup> Marquar. Fræther. in Chronolog. Exarch. Raven. apud Leunclavium.

## S E C T. II.

### Of AUTARIS III. King of ITALY.

**A**UTARIS was a Prince of so great Valour and Prudence, that he much exceeded *Alboinus*, and his Progress in *Italy* was so great, that the Duration of the Kingdom of the *Longobards* for the Space of Two hundred Years was owing to him; for he had no sooner mounted the Throne, than he closely besieg'd *Brissello*, and in order to inflict a signal Punishment upon *Doctrulfus* for his Felony, he used all Methods possible to get hold of him; forasmuch as that Treachery had made him so suspicious, that during all his Reign he was afraid the other Dukes would imitate him, so that he was more perplex'd how to reduce them to their Obedience, than to resist the Power of his Enemies. He was so wise and prudent a Prince, that above all Things he studied Means for giving his Kingdom a more lovely Aspect, and a more settled Form of Government. In the first Place he ordain'd, that the Kings of the *Longobards*, in Imitation of the *Roman* Emperors, should be called *Flavii*, and he would be so nam'd himself, that his Successors, after his Example might retain that Surname, which afterwards all the succeeding Kings of the *Longobards* happily made use of<sup>1</sup>. And considering that the Dukes

<sup>1</sup> Paul. Warnefrid. lib. 3. cap. 8.

being

being accustom'd for the Space of ten Years to rule with an absolute Command and Power over their Dukedoms, would bear it impatiently to have all Authority and Dominion taken from them, and be reduc'd to their former Condition; in order to shun greater Disorders, and to prevent an Insurrection, with much Prudence he compounded Matters thus<sup>1</sup>; that each of them should give to the King and his Successors, the Half of the Tax and Subsidies for maintaining the Royal Grandeur and Kingly Majesty, and come to Court; the other half they were to keep to be employ'd in the Government of their Dukedoms, and the Administration of their Cities, of which they had been appointed Dukes, reserving to himself the Dominion and Supreme Right and Royal Authority; and that in case of Necessity, they should be immediately ready to assist him with their Might and Arms against his Enemies; and albeit he could deprive them of their Dukedoms at his Pleasure, nevertheless *Autaris* never put others in their Places, except either when their Male-Issue fail'd, or when they became unworthy by some great Felony committed by them<sup>2</sup>.

<sup>1</sup> Regin. lib. 1. A. 517. Paul. Warnefr. lib. 3. c. 8. Sigon. de Reg. Italiz, lib. 1.  
<sup>2</sup> Sigon. de R. Ital. lib. 1. Guido Pancirol. Thesaur. var. lect. lib. 1. c. 90. is Ducibus

urbes, Dominio Supremo sibi reservato, concessit, quas ad stirpem virilem tantem transmitti voluit.

### S E C T. III.

#### *The Origin of Fiefs or Feodal Holdings in ITALY.*

WE come now to the Origin of Fiefs in *Italy*, which like the *Nile*, had their Head so hidden, and their Origin so concealed, that among the Writers of the Ages by past, it was reputed so difficult and desperate a Task to find it out, and their Accounts were so different and inconsistent, that the Thing in question was render'd more obscure and dark, than clear and evident. However, we must not take upon us to say that the *Longobards* were the first who introduc'd them, and that in Imitation of them, other Nations afterwards receiv'd them into their Dominions; for in the History of *France*, as *Charles Molineus*, the *French Papinian* relates<sup>1</sup>, there is mention of Fiefs since the Reign of *Childebert I.*; and in their Annals, and in *Aimoinus*<sup>2</sup>, and *Gregory of Tours*<sup>3</sup>, we likewise read the same. We read also, that about the same time of King *Autaris*, but eleven Years sooner, in the Reign of *Chilperick I.* and properly in the Year 574, King *Guntrannus* depriv'd *Erpon* of his Dukedom, and created one in his Place<sup>4</sup>; and *Paulus Emilius*<sup>5</sup>, and *Jacobus Cujacius*<sup>6</sup> assure us, that the Kings of *France* had likewise the same Custom of creating Dukes and Counts in the Cities; and as at the Beginning when it was introduc'd, it was in the King's Power to turn them out at his Pleasure; so afterwards there was a Custom brought in, that they could not be depriv'd of their Estate unless it could be proved that they had committed some great Felony. And at last the same Kings with an Oath confirm'd them in these Estates, of which by their Courtesy they had made them Lords. 'Tis true, at first, as is said, these Dukes and Counts were only Governors of Cities, but afterwards they held these Cities as Lordships<sup>7</sup>.

AND indeed, neither the *Romans* nor the *Grecians*, nor any other ancient People ever acknowledg'd any other Dignity but that of Orders and Offices: 'Twas the ancient *French*, and these Northern People, who settling themselves in other Peoples Countries, invented Fiefs, and consequently the third Order of Dignity, which is the Lordship. Not but that in some sort this Invention owes its Beginning

<sup>1</sup> Molin. in Consuet. Paris tit. 1. de Fiefs, num. 13.

<sup>2</sup> Aimoin. lib. 1. c. 14.

<sup>3</sup> Greg. Turon. Hist. Franc. lib. 4. cap. 45.  
<sup>4</sup> V. Altefer. Orig. Feud. cap. 1.

<sup>5</sup> Greg. Turon. lib. 7. c. 22. & lib. 10. §. 19.

<sup>6</sup> P. Emil. de Reb. Franc. lib. 1.

<sup>7</sup> Cujac. de Feud. in Princ.

<sup>8</sup> Loyseau des Offices, lib. 1. cap. 3.

to the *Roman* Emperors<sup>1</sup>, who for the greater Security of the Frontiers of the Empire, were wont to grant to the Captains and Soldiers, who had signaliz'd themselves in the Conquests, some Lands situated on these Frontiers, as a Reward for their Bravery, of which they had all the Profits, so that this Grant was called *Beneficium*; which was in order to oblige them to continue in the Military Profession with the greater Courage, by defending their own Lands; *ut attentius militarent, propria rura defendentes*, as *Lampridius* says<sup>2</sup>.

BUT this is certain, that much about the same time, the Northern People, viz. the *French* in *Gallia*, and the *Longobards* in *Italy*, introduc'd the Fiefs<sup>3</sup>, both of them perhaps in Imitation of the *Goths*, who according to *Horatius Montanus*<sup>4</sup>, were the first who laid the Foundations of them. *Charles Molineus*<sup>5</sup> asserts, That the *French* were the first who introduced them into *Gallia*, from whom the *Longobards* took them, who brought them into *Italy* afterwards, and properly into *Lombardy*, from whence they spread into *Sicily* and our *Puglia*; and, 'tis believ'd, that the first who brought them into these our Provinces, were the *Normans* who came hither from *Neustria*, which is now call'd *Normandy*; but our Predecessors were acquainted with Fiefs long before the Coming of the *Normans*; and the first who introduc'd them into the Provinces of *Samnium* and *Campania* were the *Longobards*, who conquer'd these Provinces first; and *Puglia* and *Calabria* receiv'd them later from the *Normans*, who entirely drove out the *Greeks*, amongst whom the Use of Fiefs was not known, as shall be shewn in the Progress of this present History.

HOWEVER 'tis likewise true, that all their Growth, and all the Customs and Laws which afterwards were introduc'd and publish'd concerning them, are owing to the *Longobards*, who gave them a certain and regular Form<sup>6</sup>; and they so gain'd Ground, that amongst all other Nations Successions, Acquisitions, Investitures, and all other Matters relating to Fiefs, were regulated by no other Laws and Customs but those of the *Longobards*; whereupon, a new Body of Laws sprung up, which we call Feudal: But we shall discourse of that in a more proper Place, when we shall have occasion to reason more at large about their Books, which make up one of the principal Parts of the Jurisprudence of our Kingdom.

AFTER that *Autaris* had in this manner pleas'd his Dukes, he did not neglect to provide what his Kingdom stood in need of, and, above all, he had a special Regard for Justice and Religion<sup>7</sup>. He order'd that Theft, Robbery, Homicide, Adultery, and all other Crimes should be severely punish'd. He demolish'd Paganism, and embrac'd Christianity, which had not been receiv'd before by the *Longobards*, who for the most part, after the Example of their King, embrac'd his Religion. But the Circumstances of these Times, and the fresh Example of the *Goths*, occasion'd their not receiving it pure and uncorrupted, but polluted with *Arianism*; which was the Occasion (their Bishops being *Arians*) of many Disorders and Strifes which arose betwixt them and the Catholick Bishops that were in the Cities subject to them.

THE Progress of *Autaris* was no less in Military Valour, than his Prudence in Civil Matters: He soon regain'd *Brissello*; and that it might not, in time to come, be a Receptacle for his Enemies, demolish'd the strong Walls which surrounded it. But especially his Wisdom and Bravery appear'd, when *Childebert* King of *France* pass'd the *Alps* with a powerful Army, for knowing himself to be inferior in Forces, and not able to withstand him in the Field, he order'd his Dukes to provide their Cities with strong Garrisons, and not to go out of their Fortifications, but expect the Enemy upon the Walls; which Conduct had such prosperous Success, that *Childebert* considering it would be a very tedious and difficult Undertaking to lay Siege to so many Cities, immediately yielded to the Allurements of *Autaris*, who had sent Ambassadors to him with rich Presents, in order to divert him from his Enterprize, and to desire Peace of him, which succeeded to his Wish; so that the Emperor *Mauritius* made heavy Complaints, and was so much displeas'd at *Childebert's*

<sup>1</sup> Molin. in Consuet. Paris. tit. 1. de Fiefs, num. 11.

<sup>2</sup> Lamprid. apud Loyseau, des Off. lib. 1. cap. 1. num. 104. in fin.

<sup>3</sup> Th. Cragius, lib. 1. dieg. 5. Jo. Schilterus Com. ad Rubr. Jur. Feud. Alem. §. 8.

<sup>4</sup> Montan. in Præl. Feud.

<sup>5</sup> Molin. in Consuet. Paris. tit. de Fiefs, num. 13.

<sup>6</sup> Hornius in Jurispr. Feudal. cap. 1. §. 8.

<sup>7</sup> Sigon. de R. Ital. lib. 1.



Breach of Faith, that he demanded either to have the vast Sum of Money which he had taken for making War upon the *Longobards* return'd, or that he should perform his Promise in returning to *Italy* to fight them; and these Complaints and Reproaches were so continual and frequent, that at last *Childebert*, spurr'd on by the Punctilio of Honour, resolv'd to return into *Italy* with a more powerful Army than the first. 'Twas then that *Autaris* gave the utmost Proofs of his Valour; for he consider'd seriously that he ought to employ all his Might and utmost Efforts, in order to crush this powerful Enemy; that for the future the *French* might never more come to disturb his Kingdom, and that by their Example other Nations might likewise be deterr'd, he resolv'd to dispose his Army after another Manner than at first he had done; for he design'd to prevent the Enemy, and meet them in the open Field. And having conven'd his Armies from all Parts of the Kingdom, he encourag'd them to the Undertaking, which was as hard and difficult as glorious, and, if successful, would procure a perpetual Peace and Tranquility to his Kingdom; he stirr'd up his *Longobards* to give the utmost Proof of their Bravery; he put them in Mind of the many Victories they had obtain'd over the *Gepidæ* in *Pannonia*; that by their Prowess they had subjected *Italy*; and lastly, that their Business was not now, as formerly, to fight for Empire, or the enlarging it, but for their Liberty and Safety. These Words were such a Spur to the *Longobards*, that it touch'd their very Hearts, so that the Signal for Battle was given. At the first Attack, they behav'd with so much Valour and Intrepidity, that immediately the Enemies Wing began to give way; and taking more Courage from so prosperous a Beginning, they pursued them so briskly, that the *French* were oblig'd to abandon the Field, and save themselves by Flight. The Enemy thus fled and dispers'd, many were taken, and as many kill'd, and Multitudes, in order to be shelter'd from the Fury of the *Longobards*, hid themselves, where they died of Hunger and Cold. By so famous and notable a Victory, the Name of *Autaris* became illustrious and bright over all *Europe*: And now seeing himself freed from the Incursions of Foreign Nations, he thought of subjecting the rest of *Italy*, which was yet in the Possession of the *Greeks*.



## C H A P. II.

### *Of the Dukedom of Beneventum; and of Zoro its first Duke.*



**U**TARIS had done what his Predecessors had not, to wit, subjected almost all the hither *Italy*, excepting the *Roman* Dukedom, and the Exarchate of *Ravenna*, which was at this time govern'd by *Romanus*<sup>1</sup>; for the Emperor *Mauritius* a little before had recall'd *Smaragdus*, but he had not as yet conquer'd the most beautiful and famous Part of *Italy*, viz. that Part and these Provinces which now make up this Kingdom of *Naples*. Hitherto these Provinces had been maintain'd under the Empire of the Emperors of the East, who had govern'd them according to the Form that had been introduc'd by *Longinus*; almost all the principal Cities had their Dukes: *Naples*, *Surrentum*, *Amalphis*, *Taranto*, *Gasta*, and almost all the rest which now belong to this Kingdom, were governed by their Dukes; however they

<sup>1</sup> Marq. Frether. in Chronologia, *Smaragdus*, A. 584. *Romanus*, A. 587.

were

were all immediately under the Exarch of *Ravenna*, and consequently subject to the Emperors of the East: And tho' their Form of Government appeared to be Republican, nevertheless 'tis the Height of Folly to believe they were so free, that they did not acknowledge the Emperor of the East, under whose Dominion they liv'd, for their Sovereign; yet by the Weakness of the Exarchs of *Ravenna*, and the Distance of the Imperial Seat, the Government of the Dukes became a little more absolute, insomuch that they often proceeded to open Rebellion against their Prince, which the Dukes of *Naples* frequently attempted to do, as we shall relate in its own Place.

THESE Provinces, as being the most distant from *Pavia*, the Seat of the *Longobards*, and which could have been soon assisted by Sea, with which they are all very near surrounded, in case they had been attack'd, were maintain'd with very small Garrisons by the *Greeks*; so that *Autaris*, a most experienc'd Prince, design'd to begin his Conquests by the inland Provinces: He left *Rome* and *Ravenna* behind him, which he could not have easily subdu'd; and in the Spring of the Year 589. join'd his Army in the Dukedom of *Spoletium*, and pretending to direct his March to other Places, turn'd upon a sudden, and threw himself into *Samnium*. The *Greeks* being thus surpriz'd, were so stunn'd and astonish'd, that without much Dispute, *Autaris* in an instant conquer'd all this Province, and at last *Beneventum*, a City, which, as *Sigonius* believ'd, has ever since been Metropolis of *Samnium*. From whence 'tis said, that this Prince, flush'd with the Success of so remarkable a Conquest, push'd forward, and over-run all *Calabria*, as far as *Rhegium*, a City situated upon the furthest Point of *Italy*, on the Sea-shore; where, being still on Horse-back, he struck a Pillar that was posted on the Shore, and said: *Thus far shall the Bounds of the Longobards reach*; whence *Ariosto*, singing of the Actions of this glorious Prince, said, That

————— his Standard be bore,  
From the Foot of the Alps, to th' Aprutian Shore.

'Tis also said, that when he return'd to *Beneventum*, he reduced that Province into a Dukedom, and made *Zotto* Duke of it; and so to the two famous Dukedom of *Friuli* and *Spoletium*, he added a Third, which in process of Time, became as much superior to the other two, as they exceeded the lesser Dukedom of *Italy*.

BUT seeing about the Beginning and Institution of the Dukedom of *Beneventum*, Opinions are different; and that this Dukedom is to take up a great Part of our History, for the Space of more than 500 Years; which was not only of great Duration, but so large, that it extended itself so far, as to comprehend almost all that which is now the Kingdom of *Naples*; therefore it ought not to be reputed beside the Purpose, if we shall reason more particularly about it. 'Tis commonly believ'd, that the Dukedom of *Beneventum* was first instituted by *Autaris* in the Year 589, and that *Zoto* was created first Duke of it by the same Prince. It passes for an undoubted Truth amongst all Historians, that this *Zoto* was the first Duke of *Beneventum*; but who made him such, and at what Time, Sentiments are various. *Carolus Sigonius*<sup>1</sup>, and *Wolfgangus Latius*<sup>2</sup>, not having well examined the Words and Phrases used by *Paul Warnefride*<sup>3</sup>, when he speaks of this Institution, contend, that he was instituted by *Autaris* the same Year in which he conquered *Samnium* and *Beneventum*, which at this Time they took to be the Head of this Province; but the very manner in which *Warnefride* mentions it, solves the Difficulty; he does not affirm it for certain, but with a *putatur, refertur, fama est*; and also what he subjoins, that *Zoto* held the Dukedom of *Beneventum* twenty Years, would not agree with the Series of Things that happened since, nor the Chronology of the Times of the other Dukes who succeeded him; if from this Year 589. they will begin to reckon the twenty Years of the Dukedom of *Zoto*: Wherefore some others, amongst whom *Scipio Ammiratus*, in his Dissertations on the Dukes and Princes of *Beneventum*; and *Ant. Caracciolus*<sup>4</sup> doubted if the *Epocha* of this Dukedom ought not to be fixed in more ancient Times. But what made them afterwards reject the

<sup>1</sup> P. Warnefr. lib. 3. cap. 16.

<sup>2</sup> Sigon. de R. Ital. lib. 1.

<sup>3</sup> Wolf. Lat. lib. 12. de Migrat. gent.

<sup>4</sup> P. Warnefr. lib. 3. c. 16.

<sup>5</sup> Ant. Carac. n. Propyleo ad quatuor Chron.

Opinions of *Sigonius* and *Latius*, was the Authority of *Leo Ostiensis*<sup>1</sup>, who tho' he flourish'd Three hundred Years after *Warnesfride*, writes not doubtfully, but with great Assurance, in his Chronicle of the *Neapolitan* Edition, that the *Greeks* retook *Beneventum* from the *Longobards*, in the Year 891, Three hundred and twenty Years after *Zoto* had been Duke of it; whence, according to *Ostiensis*, the Beginning of the Government of *Zoto* should be carry'd back to the Year 571; or, as *Ammiratus* will have it, to the Year 573; who in order to make it agree with the Things fallen out since, and with the Chronology of the other Dukes, own'd by the same *Warnesfride*, corrects the Place of *Ostiensis*, and will have it read, not Three hundred and twenty; but Three hundred and eighteen: So that according to their Opinions, the Dukedom of *Beneventum* had its Beginning before *Autaris* conquer'd *Samnium*, and some Years after the coming of *Alboinus* into *Italy*. Others have found out the Origin of this Dukedom to be of an older Date, to wit, in the same Year 568, when *Alboinus* left *Pannonia*, in order to come and conquer *Italy*; and that besides the Province of *Venice*, a Band of *Longobards* went as far as *Beneventum*, and having fix'd themselves there, elected *Zoto* for their Duke; which they prove from an ancient Register of the Dukes and Princes of *Beneventum*, made by an unknown Monk of the Monastery of *S. Sophia* in *Beneventum*, which goes further back than the History of the *Anonymus Salernitanus*, who says<sup>2</sup>: *Anno ab incarnatione Domini Quingentesimo Sexagesimo Octavo, Principes caperunt principari in Principatu Beneventano, quorum primus vocabatur Zoto*, to whom he assigns Twenty-two Years Government, and not twenty, according to *Warnesfride*.

BUT the Difference in Opinions does not end here, neither are the most careful Inquirers satisfied with this Beginning, but they search for one further back in more distant Times; which *Leo Ostiensis* shews us in his Chronicle, in which, tho' we read in the *Neapolitan* Edition, that there were Three hundred and twenty Years from the Creation of Duke *Zoto*, to the Year 891, in which *Beneventum* was retaken by the *Greeks*; nevertheless the Original, which is preserv'd in the Archives of *Casino*, differs very much from the *Neapolitan* Edition; since we read there, that from *Zoto* to the Year 891, not 320, or 318, but 330 Years interven'd: According to this Reading are the Editions of *Venice* and *Paris*, and the last publish'd by the Abbot *de Nuce*; both the one and the other are more correct than that of *Naples* as to the Number of Years, so that according to this Reckoning it must be acknowledg'd, that the Dukedom of *Beneventum* had its Beginning from *Zoto* in the Year 561. But certainly it will seem a very strange and new Thing, to alledge that this Dukedom had been instituted this Year, which would make it commence seven Years before the *Longobards* came out of *Pannonia* in order to conquer *Italy*; and when the *Greeks* bore absolute Sway over all the Provinces of it.

IN so great Variety, we chuse to follow the Opinion of the most exact *Camillus Pellegrinus*<sup>3</sup>, who treats of this Subject with more Care, and to better Purpose than all the rest; whose Opinion is supported by what *Constantinus Porphyrogenitus* has left us in Writing concerning the coming of the *Longobards* to *Beneventum*: Though he be an Author somewhat Fabulous in what he writes about the coming of the *Longobards* into *Italy*, nevertheless in the midst of his Fables some Glimpses of Truth likewise appear, which in so difficult and doubtful a Matter, may point out the Way by which we may find out the Beginning and Institution of this Dukedom. This Writer relates<sup>4</sup>, that the *Longobards* being invited into *Italy* by *Narses*, came with their Families to *Beneventum*, but not being admitted within the City by the *Beneventans*, they built their Habitations without the Walls, which became a small City, and which even to his Time retain'd the Name of *Citta Nova*; and having settled themselves there, some time after by Fraud they enter'd arm'd into *Beneventum*; and having turn'd every Thing topsy-turvy, kill'd all the Citizens, and afterwards over-run the whole Province, and subjected it to the Dominion of the *Longobards*, and extended their Empire from *Calabria* to *Pavia*, excepting the Cities of *Otranto*, *Gallipoli*, *Rossano*, *Naples*, *Gaeta*, *Surrentum*, and *Amalphis*.

ALTHO' what this Author relates of the *Longobards* having come out of *Beneventum*, and extended their Empire over all *Italy*, be Fabulous, and contrary to all

<sup>1</sup> Leo Ostien. Chron. lib. 1. cap. 48.

<sup>2</sup> We have it in Camil. Pelleg. in Hist. Princ. Long.

<sup>3</sup> Cam. Pel. in Dis. de Duc. Ben. Dis. 1.

<sup>4</sup> Constant. Porphy. de Admin. Imp. c. 27.

History, which says, that after their marching out of *Pannonia* under *Alboinus*, their first Conquests were in the Province of *Venice*, and afterwards by degrees in *Liguria*, *Æmilia*, *Tuscany*, and the other Provinces: And what he says also of the *Citta Nova*, which near Two hundred Years after the coming of *Alboinus* into *Italy*, was built by *Arcbis* for fear of the *French*, be likewise a Fable, as we shall shew in its Place. Yet what he says of the *Longobards* having retired to *Beneventum* under *Narfes*, certainly is not fabulous; for, from what is above related, 'tis most certain, that *Narfes*, before he invited *Alboinus*, and before their general Transmigration, almost in all his Wars, was wont to make use of the *Longobards* in *Italy*; neither was this the first time they had been call'd by him; he had them in the War against *Totila*, and, as *Warnefride* says, tho' that after having gain'd that Victory, being loaded with many Presents, they had been ordered back to their own Habitations, nevertheless all the Time that they possess'd *Pannonia*, they were Auxiliaries to the *Romans*; whence 'tis very probable, that altho' *Narfes* had dismissed them, yet they did not all return Home: But that about the Year 552, or 553, many of them being taken with the Pleasantry of the Country, remain'd in *Italy*, and after the manner of Robbers, wander'd sometimes in one Place, sometimes in another, of which *Procopius* also gives Testimony; and that at last, either of their own Choice, or perhaps by the Command of *Narfes*, in order to keep them under, and to prevent Disorders which their going so dispers'd occasion'd, they had *Beneventum* assign'd them for a Place of Residence; and that afterwards in the Year 561, they had made themselves Masters of it, in which Action *Zoto* had had the principal Share as their Captain: So that from this Year, we may say with *Ostiensis*, the *Longobards* began to rule in *Beneventum* under *Zoto*; therefore to the Year 891. in which they were driven out by the *Greeks*, there were exactly Three hundred and thirty Years: But the Dukedom was not instituted in those Times; nor when the Dominion of the *Greeks* was powerful in that Province, could a Handful of *Longobards* reduce *Samnium* to the Form of a Dukedom, and establish *Zoto* Duke of it. In order then to make the Years of the Government, which *Warnefride* gives to *Zoto*, agree with the Facts and the Chronology of the other Dukes his Successors, own'd by the same Writer; we must reckon the Beginning of it from the Year 571, that is to say, when *Alboinus* had already enter'd *Italy*, and conquer'd many Provinces: Then those *Longobards* that were in *Beneventum* being become more bold, openly threw off the Yoke of the *Greeks*, and rebelling against them, possess'd themselves of the neighbouring Country; and afterwards, in the same Year 571, created *Zoto* Duke of their own People, who from such an obscure Beginning commenced his Government. Thereafter *Autaris* having come to invade our *Cisiberina Italia*, and having subdu'd the intire Province of *Samnium*, finding *Beneventum* possess'd by the *Longobards*, who were under this Government of *Zoto* their Duke, confirm'd him in it, and having made him Tributary, as all the succeeding Dukes of *Beneventum* were, to the Kings of *Lombardy*, he left that Dukedom under his Administration; whence it came, that by some Writers the Beginning of the Government of *Zoto* is taken, not from the Time that *Autaris* possess'd *Samnium*, and reduc'd it to the Form of a Dukedom, and put it under his Command, but from the Time that *Zoto* commenced from these obscure Beginnings, and that Order of Things, to have the Government of *Beneventum*, and of those *Longobards* who had possess'd themselves at first of it, as *Porphirogenitus* relates.

THE Dukedom of *Beneventum* then, from so mean and slender Beginnings, had its Rise: Such 'tis said, has been the Rise of the most famous Commonwealths, and the most renown'd Principalities in the World; thereafter in the Course of Years it not only equall'd those of *Spoletium* and *Friuli*, but by much overtopp'd them; and we shall see it at once possess'd almost of all the *Cisiberinan Italy*, but towards the North its Limits were further extended than at present those of our Kingdom are on that Side. It began from that Handful of *Longobards* who settled themselves in *Beneventum* under *Narfes*; and upon so slender a Foundation, by degrees, was built that Polity, and that Form of Government which was kept up for many Ages under the Dukes who succeeded *Zoto*. *Autaris* was the first who gave it the most stable and certain Form, and began to enlarge its Limits; forasmuch as he subjected the whole Province of *Samnium* to this Dukedom; and as we shall see, the Kings of the *Longobards*, his Successors, by the Means of the Dukes, augmented it wonderfully. *Beneventum* had the good Luck to be the Head and Metropolis of so great a Duke-

dom, not by Choice, perhaps neither because in the Reign of *Autaris* this City was eminent above all the other Cities of these Provinces which he then commanded: For there were other Cities in *Samnium* no less famous and ancient, such as *Ifernìa*, *Bojanum*, and others; and there were much more noted Cities in *Campania*: On the contrary, *Beneventum*, tho' in the Time of the *Romans* it had been one of the most famous Colonies of that Commonwealth; nevertheless by the Invasion of the *Goths* often suffered those Calamities which such strange Revolutions carry along with them; neither in their Time did it retain its ancient Dignity, but in the Reign of *Totila* who caus'd its Walls to be demolish'd<sup>1</sup>, it was reduc'd to a very lamentable Condition. *Beneventum* then by a certain Fate, and its own good Luck, was made the Seat of this Dukedom, and thereafter became the Head and Metropolis of its neighbouring Provinces; but it acquir'd this Honour a long time after. At the Time that *Warnefride* wrote, this City had rais'd itself above all the rest; but that was two Centuries after the Reign of *Autaris*. For which Cause, when this Author describing the seventeen Provinces of *Italy*, and placing *Beneventum* in *Samnium*, names this City as Head of the neighbouring Provinces, he did so with regard to the Time in which he wrote, when the Seat of this Dukedom was become very great and rich, and was advanc'd to be Head, not only of one, but of many Provinces, such as *Samnium*, *Campania*, *Puglia*, *Lucania*, and the *Bruttii*, either in whole or in part, as we shall shew hereafter. But elsewhere, when he places *Beneventum* in *Samnium*, he did it not with regard to the Times in which the *Longobards* govern'd, but had an Eye to the old Description of *Italy* in the Days of the ancient *Samnites*; for according to the later of *Augustus*, as *Pliny* assures us<sup>2</sup>, *Beneventum* was plac'd in *Puglia*, and not in *Samnium*; and in the other following Descriptions, we see this City posted on the Confines of *Campania*; whence it is, that in the Acts of *Januarius*, that holy Bishop of *Beneventum*, now the first Tutelar of *Naples*, we observe when he suffer'd Martyrdom under *Dioclesian*, such Affairs were committed to the *Præses* of *Campania*, whose Business it was. And we likewise find, that *Ausonius* speaking of those who have chang'd Sexes, and telling that in *Beneventum*, not long ago a pretty Youth became a Woman, calls *Beneventum* a City of *Campania*.

*Nec satis antiquum, quod Campana in Benevento,  
Unus epheborum virgo repente fuit.*

AND in the Itinerary which is attributed to *Antoninus*, the Bounds of *Campania* are fix'd at *Equo Tutico*, and according to the Observation of *Philippus Cluverius*<sup>3</sup>, that City which we now commonly call *Ariano*, is situated further in than *Beneventum*; the Words of the Itinerary are these: *A Capua Equo Tutico M.P. LIIII. ubi Campania limitem habet. Caudis M.P. XXI. Benevento M.P. XI. Equo Tutico M.P. XXI.*

AND it was for no other Reason that the Inhabitants of *Beneventum*, as we have said, set up many Marbles with Encomiums on the *Consulares* of *Campania*, as did also the *Campanians*, the *Neapolitans*, and the other Cities that were govern'd by the *Consulares* of *Campania*. By which Documents it manifestly appears, why the other *Januarius*, likewise Bishop of *Beneventum*, when he was at the Council of *Sardica*, which was held in the Year 347, the Custom being then, that the Bishops subscrib'd with the Name of their own City, and the Province in which it was situated, subscrib'd in this manner: *Januarius a Campania de Benevento*.

*WARNEFRIDE* did the same when he describ'd the seventeen Provinces of *Italy*, by representing them as he found them in the *Notitia* of the two Empires, made under *Theodosius the Younger*, about the Year of our Lord 440; for in his Time the Provinces of *Italy*, tho' they had the same Names given them by Writers, as we at this Time, in order to shew our Erudition when we write, not only have recourse to the Days of *Theodosius*, but go much higher, and name each of the twelve Provinces of which our Kingdom is compos'd at present, as they were under the Free-Commonwealth, by calling their People *Samnites*, *Lucani*, *Harpini*, *Salentini*, and the like; nevertheless there was a Difference in all their Administration

<sup>1</sup> Procop. lib. ult.

<sup>2</sup> Plin. lib. 3. cap. 11.

<sup>3</sup> Cluver. in antiq. Ital. lib. 4. cap. 8.

and *Italy* was divided into many Dukedoms, which were not formerly Provinces; whence it came, that what is now our Kingdom, and which formerly was only divided into four Provinces, was afterwards form'd into twelve, which got other Names, and other Bounds, as in the Sequel of this History we shall see.

TO return then to our Purpose, the Institution of this Dukedom, if we consider its mean Beginning, owes its being establish'd in *Beneventum* to Chance, and not Design, as not only the other lesser Dukedoms of the *Longobards* were instituted in diverse Cities, but also those of *Friuli* and *Spoletto*; and as it fares with all other Things of this World, that if we will look back to their Origin, being sprung from very small Beginnings, they rise to their Height, whither they are no sooner arriv'd, than they must return to their former State, according to the Rule of worldly Things; unavoidable Laws, which human Wisdom cannot withstand nor remedy. However, in Process of Time, the *Longobards* having fixed themselves in *Italy*, and their Kings having perceiv'd, that the perpetuating a long Series of so many Dukedoms, would be a Means to keep their Kingdom too much divided, had a mind to extinguish a great many of them, and to keep up only those that could best help to preserve the State. In effect, *Warnefride* himself assures us, that in his Time many of them were extinct, and in the Sequel of his History, he makes mention of no other Dukedoms but those of *Trent*, *Turin*, *Bergamo*, *Brescia*, and these other three which were exalted above all the rest, to wit, of *Spoletto*, *Friuli*, and this of *Beneventum*.

NEITHER is it unreasonable to believe, that these three last were exalted above all the rest on Account of their Situation, by which the Kingdom was enabled to keep it self more secure, and extend its Limits farther: Forasmuch as the Dukedom of *Friuli* being situated at the Entrance of *Italy*, from whence they could the more readily resist the Incursions of Foreign Nations that might endeavour to invade it; and *Spoletto* being placed in the Middle of *Italy*, they could easily suppress the Motions of the *Romans* and the *Greeks*, who being fortified in *Ravenna* and *Rome*, gave frequent Disturbance by their Excursions; and as for *Beneventum*, its Situation was such as to command the lower Part of *Italy*, from whence they could make a Stand both against the *Greeks* and the *Romans*, by whom they were often assaulted from the Maritime Places, and kept in continual War. Therefore *Mattheus Palmerius*<sup>1</sup> gives an exact Description of the Polity and Form of Government of the *Longobards*, when he says, That having fix'd their Seat in *Parvia*, they divided *Italy* into several Principalities, over which they set Dukes, amongst which the most conspicuous, and, in Process of Time, remarkable, were that of *Friuli* at the Entrance of *Italy*, that of *Spoletto* situate as it were in the Centre of it, and the third of *Beneventum* for commanding the lower Part thereof; seeing these three Dukedoms were always subject to the Kings, and govern'd with the same Spirit and by the same Laws, making but one Commonwealth; and being establish'd after this manner they became more famous, and by degrees extended their Limits (in which *Beneventum* made the greatest Progress of all the rest) and the *Longobards* were enabled to preserve their Dominion long in *Italy*.

IN recording the Exploits of the Dukes of *Beneventum*, we shall follow the Order of Time and Years observ'd by the most exact *Pellegrinus*, as the most accurate of all the rest, and even of more Credit than *Warnefride* himself; and by reckoning the Beginning of the Government of *Zotto* in the Year of God 571, and not in the Year 585, as *Warnefride* did, who nevertheless confesses that his Government lasted Twenty Years, which is certainly the most sure time, shall put an end to it in the Year 591, and not in 605 or 598 as *Sigonius* does: So that what this Writer relates of the Pillaging and Sacking of *Croton*, which happen'd certainly in the Year 596, not under *Zoto*, but *Arachis* his Successor; whence we clearly see the Mistakes that arise, and of which *Sigonius* himself was not aware, who fix'd the Beginning of the Government of *Zoto* in the Year 589, for he ought to have placed the End of his Government and his Death in the Year 609, after the Expiring of the twenty Years, and not as he did in 598, in which Year there would only have been nine Years of his Government past.

THE Deeds of *Zoto*, first Duke of *Beneventum*, deserve no Praise; for *Antaris* was no sooner return'd to *Verona*, after having subdued *Samnium* to his

<sup>1</sup> Mat. Palmer. in Chron. ad A. 776.



Dukedom, and left the Government of it to *Zoto*, than he gave evident Signs of his Rapacity, and likewise of his no regard to Religion, which may be understood by the following Fact. The Monastery of *Casino*, built Sixty Years before by St. *Benedict*, famous all the World over, as well on Account of its Founder, as for the Sanctity and Quality of its Monks, had been wonderfully enrich'd by the Donations of divers Princes; *Zoto*, a most avaricious Man, being covetous of these Riches, attack'd it unawares in the Night-time, and, not satisfied with the Booty and all that was valuable in it, destroyed and threw down the Edifice; and while the *Longobards* were all intent upon the Pillage, *Bonitus*, who was then Abbot, made his Escape with his Monks, and fled to *Rome*, where they were kindly receiv'd by Pope *Pelagius*, and had Lodgings appointed them near to the *Lateran*, where they built a Monastery, in which they remain'd a Hundred and thirty Years; during which Time the Monastery of *Casino* was forsaken, until *Petronax*, being exhorted by *Gregory II.* took Care of it; who having led back again many Monks and Nobles who chose him for their Abbot, rebuilt the Edifice, and restor'd it to its former Greatness.

THE Pillage of this Monastery was certainly committed by *Zoto* not long before his Death, towards the End of the Year 589, under Pope *Pelagius*, who died in the Year 590, not long before St. *Gregory the Great* wrote his Dialogues, who making mention of this Pillage, speaks of it as a Thing lately done<sup>1</sup>; and 'tis most certain, as *Baronius* carefully observes, that St. *Gregory* wrote his Dialogues in the Year 593, whence we clearly see the Error of *Warnefride*, who places this Fact in the Year 605, and that of *Sigebertus*, who will have it to have been in the Year 596, not adverting to the undoubted Testimony of St. *Gregory*, and what is gathered from the Chronicle of *Leo Ostiensis*. This deserves to be treated of more at large, but the Abbot *de Nuce*<sup>2</sup> supplies that Defect, who has examin'd this Point very carefully.

<sup>1</sup> S. Greg. M. lib. 2. Dialog. cap. 17. Noturno tempore nuper illic Longobardi ingressi sunt.

<sup>2</sup> Abb. de Nuce Chron. Caf. lib. 1. cap. 2. in Excur. Chronolog.



### C H A P. III.

*Of Agilulfus IV. King of the Longobards; and of Arechis II. Duke of Beneventum.*



WHILE these Things happen'd in our Provinces, *Autaris*, not able to obtain the Sister of *Cbildebert* King of *France* in Marriage, for she was given to *Recaredus* King of *Spain*, after he had embrac'd the Catholick Faith, and by a memorable Example driven *Arianism* out of his Kingdoms, demanded *Theodolinda*, Daughter of *Gari-baldus* King of the *Bojoari*; a most prudent Woman, whose transcendent Virtues deserve often to be remember'd in this History; and having married her in *Verona* in the Year 590, he was intangled in a new War with the *French*: For *Cbildebert* being desirous to recover the Honour he had lost by the Defeats of the preceding Years, return'd with a powerful Army into *Italy*, and the Terror of his Arms and his Promises were so great, that many of the *Longobard* Dukes rebell'd: *Minolphus* Duke of *Novara*, *Gandolphus* Duke of *Bergamo*, and *Valfarris*

*Valfaris* Duke of *Triviggi* went over to his Side. 'Tis said<sup>1</sup>, that in those Days *Pavia* being possessed by *Papius* Duke of the *Franconians*, this City took its Name from him, which it retains to this Day, and the ancient Name *Ticinum* was forgot. But this Expedition of the *French* was as unfortunate as the rest, their Army being afflicted with the Bloody Flux, while *Autaris* and his Dukes were well provided within their fortified Places. The *French*, tho' they roam'd up and down in *Italy* for the Space of three Months, yet at last the Disease growing more insupportable, were forced to return home; so that *Autaris* took this fit Opportunity of asking Peace of *Childebert*, by the Means of *Guntrandus* Uncle to *Childebert*, who mediated a Treaty; but *Autaris* died soon after, for having gone from *Verona* to *Pavia*, he got a poisonous Drink<sup>2</sup>, by which he ended his Days in *September*, the same Year 590, after having reign'd in *Italy* a little less than six Years. The *Longobards* hearing of the Death of their Prince, immediately conven'd in *Pavia* to elect a Successor, and in the mean time sent Ambassadors to *Guntrandus*, to notify to him what had happen'd, at the same time beseeching him to interpose his good Offices for procuring Peace with *Childebert* his Nephew; but when they were about electing a new Prince, finding they had none who was fit to support the Dignity, they resolv'd that *Theodolinda* should govern them, and that the Person she should chuse amongst the Dukes for a Husband, should be invested with the Regal Dignity. Amongst the *Longobard* Dukes at this Time, *Agilulfus* was Duke of *Turin*, a Prince near of Kin to *Autaris*, who, besides the Comeliness of his Person, had a Mind truly Royal and fitted for any Government. *Theodolinda*, out of so many, prefer'd him, who, to the general Satisfaction, was proclaimed King.

AMONGST the many and valuable Endowments of *Theodolinda*, her being most zealous for the Catholick Religion, in which she had been brought up and instructed, was not the least in those Times, on which Account she was much beloved by *St. Gregory the Great*, who sent her the four Books of the Lives of the Saints which he had compos'd, as knowing her to be most affectionate to the Faith of Christ, and well instructed and excelling in all human Knowledge; and tho' all her Endeavours for inducing *Autaris* her first Husband to renounce *Arianism* had been to no purpose, nevertheless she believ'd that she should not find the same Inflexibility in *Agilulfus*, not only on Account of his pliable and sweet Temper, but much more out of Gratitude for her having advanc'd him to the Throne: Therefore *Agilulfus* embrac'd the Catholick Religion, and the *Longobards*, following the Example of their Prince, many of them left Heathenism, others *Arianism*, with which they were infected, and turn'd Catholicks; and the Zeal of *Agilulfus* for this Religion prevail'd so far, that, by the Advice of *Theodolinda*, he repair'd many Monasteries, and rebuilt many Churches, which in the by-past Wars had been almost ruin'd; to which he gave many Possessions, and re-instated the Bishops in their Honour and Credit, who while the *Longobards* were in the Error of *Paganism*, had been slighted and despis'd<sup>3</sup>.

<sup>1</sup> Sigon. de Reb. Ital. lib.

<sup>2</sup> P. Warnefr. lib. 3. cap. 18.

<sup>3</sup> Paul Warnefr. lib. 6. cap. 2.

## S E C T. I.

### Of *ARECHIS II. Duke of Beneventum.*

IN the Reign of *Agilulphus*, according to the Computation of *Pellegrinus*, the Death of *Zoto* Duke of *Beneventum* happen'd in the Year 591; he was more famous for his Rapacity, and the remarkable Pillage of the Monastery of *Casino*, than any Thing else; so that by his Death *Arechis*, Cousin to *Gilulphus* Duke of

H h h

*Friuli*

*Friuli* was chosen Duke of *Beneventum* by King *Agilulfus*. According to the Polity introduc'd by *Autaris* into the Kingdom of the *Longobards* in *Italy*, these Dukes never lost their Dukedoms, but for Rebellion, or at their Death; and after their Death, it likewise became a Custom to prefer the Sons of the Deceased to any other, if the King thought them capable: So we see that after the long Government of this *Arechis*, which lasted 50 Years, *Ajo* his Son succeeded him; and if the Duke died without Sons, the King either chose another in his Place, or extinguish'd the Dukedom without appointing a Successor. Which is observ'd to have begun to be practis'd in the last Years of the Reign of this Prince; which he did for Reasons of State, push'd on by the Ambition of the Dukes, who often endeavour'd to shake off the Yoke of Dependancy, in order to make themselves Absolute; for which Cause they were oblig'd to suppress many of these Dukedoms when they could, so that by Degrees they reduc'd them to a small Number, reserving only those, as has been said, that could be helpful in the Security and Preservation of the Kingdom. So much the more, because the Kings of the *Longobards* were in continual Vexation and Trouble, not only by the Wars with foreign Nations, but likewise by those of their own Dukes, as we have seen in the Reign of *Autaris*, and which may be observ'd in that of *Agilulfus*, who in the Year 600, having made Peace with the *Romans*, and renew'd the Alliance with *Theodibert* the new King of *France*, had a War upon his Hands against his Dukes who had rebell'd, and having given them a notable Defeat, he put three of them to Death without Mercy, to wit, *Zangruiphus* in *Verona*, *Gandulphus* in *Bergamo*, and *Varecausus* in *Pavia*.

THEREFORE when any of them failed, either by Death or Rebellion, there were others appointed in their Place, of whose Fidelity and Affection they were very sure, as *Agilulfus*, who, when *Eoinus* Duke of *Trent* died, appointed Duke *Gondoldus* in his Room, who was a Catholick, and remarkable for his Piety: Or if they were not willing to continue the Succession; as in the Case of the Duke of *Crema*, who died without Sons, there was no Successor appointed.

THE Dukedom of *Beneventum* under the Government of *Arechis*, which was the longest of any that had ever been, having lasted fifty Years, from the Year 591. to 641, extended its Bounds very much; so that according to *Paulus Emilius*, and other Writers, its Limits on one side reach'd to *Naples*, and on the other to *Sipontum*, which City after the Pontificate of *Gregory the Great*, surrendered likewise to the *Longobards*, and was join'd to the Dukedom of *Beneventum*. Neither hitherto had it so far enlarg'd its Confines, as it afterwards luckily did in the subsequent Years, when it comprehended almost all that which is at present the Kingdom of *Naples*. Neither can it be said that from this Time its Bounds were extended to *Croton*, because the *Longobards* under the Duke of *Beneventum*, which according to the *Epocha* of *Pellegrinus* could not surely be *Zoto*, but *Arechis*, had taken and pillaged the City of *Croton*, and made many Prisoners there; for the Custom of the *Longobards* was, that when they did not succeed in conquering a Place, in which they could maintain themselves, and leave a Garrison, they over-run the Country after the Manner of Robbers, pillaging and carrying the People along with them Prisoners, from whom they exacted large Sums for their Ransom; as it happen'd to those of *Croton*, who were obliged to pay a great Sum of Money for their Redemption: And by a Letter of *S. Gregory the Great's*, wherein he laments their Captivity, we read of the Efforts he made to get them set at Liberty; we see clearly, that having taken the City, and pillag'd it, loaded with Booty, they carry'd off with them many of the Nobility, and not sparing either Age or Sex, left it, without putting a Garrison into it, as being at a great Distance from the Borders of their Dukedom, and surrounded with many Cities of the *Greeks* their Enemies. This was a Custom likewise practis'd by the Catholicks, who altho' they did not make Slaves of the Prisoners, nevertheless they kept them until they were ransom'd with Money; of which we have the Testimony of grave Authors. Therefore it ought not to be reputed Cruelty or Fury in the *Longobards* only, some of which were Heathens, others Arians, that they practic'd the same on their Enemies. Neither

<sup>1</sup> Sigon. de reb. Ital. An. 598.

<sup>2</sup> P. Warnefr. lib. 4. cap. 14.

<sup>3</sup> Sigon. de reb. Ital. An. 602.

<sup>4</sup> Paul. Emil. de reb. Franc. lib.

<sup>5</sup> Grot. de jure Belli & Pacis, lib. 3. cap. 7. num. 9. Vinn. Instit. lib. 1. tit. 3. §. Servi num. 4.

can it be said, that this Dukedom comprehended the Monastery of *M. Casino*, in the Time of *Zoto*, because it was then that they pillag'd it; and for the same reason it would be more ridiculous to alledge, that in the Reign of King *Autaris*, the Dukedom of *Beneventum* reach'd as far as *Rhegium*, because *Autaris* carried his Standard to this furthest Part; for 'tis manifestly known, that when this Prince struck the Pillar that stood there with his Spear, and said, So far would he extend the Limits of his Kingdom; then, and for a long time after, all these Parts were under the Dominion of the Emperors of the East.

THUS, what is now the Kingdom of *Naples*, was not at this Time under the Government of one single Lord or Prince, but of two. The Dukedom of *Beneventum* was immediately subject to its own Duke, and he to the King of the *Longobards*. *Puglia* and *Calabria*, *Lucania* and the *Bruttii*; the Dukedom of *Naples*; those of *Gaeta*, *Surrentum*, *Amalphis*, and the other lesser Dukedoms, were immediately under their Dukes, and they held of the Exarch of *Ravenna*, who was under the Emperors of the East.



## CHAP. IV.

### *Of the Dukedom of Naples, and its Dukes.*



BEING in the Dukedom of *Naples*, we find Dukes who govern'd it for a continu'd Tract of Time, and that it was the only one which was not under the Dominion of the *Longobards*, and which after the other lesser Dukedoms were extinct, comprehended many Cities which had been comprized in them, on which account it became the more conspicuous; It will not be amiss, that in treating of the Dukes of *Beneventum*, we at the same time discourse of those of *Naples*; because by so doing, we may perceive the Vicissitude of worldly Things, as by the continual Wars which the People of *Beneventum* had with the *Neapolitans*, the Dukedom of *Beneventum* always increased, so on the contrary that of *Naples*, and the Dominion of the *Greeks* over the other Provinces diminished; and as we now see, that there is scarcely any Vestige of the Dukedom of *Beneventum* remaining, so on the contrary *Naples* is rais'd to that Height, not only to be the Head of a small Dukedom, as it was, but Head and Metropolis of a great and most flourishing Kingdom.

THE Dukedom of *Naples*, which in its Infancy had very narrow Bounds, comprehending only the City of *Naples*, with its Dependencies, in the Time of *Mauritius* Emperor of the East made notable Acquisitions; for this Prince added to its Dominions the neighbouring Islands of *Ischia*, *Nisida*, and *Procida*, in the Possession of which he confirm'd the *Neapolitans*, as *S. Gregory the Great* writes. He likewise added afterwards *Cumæ*, *Stabia*, *Surrentum*, and *Amalphis*, which till the Times of Pope *Adrian*, and *Charles the Great*, belong'd to the Dukedom of *Naples*, as is evident from a Letter of that Pope's mention'd by *Pellegrinus*; so that this Dukedom being reduced in a manner into the Form of a Province, it came likewise to be call'd *Campania*; whence very often the Duke of *Naples* took the Title of *Dux Campaniæ*, as *S. Gregory*<sup>2</sup> call'd *Scholasticus*, *Dux Campaniæ*; and elsewhere<sup>3</sup> he gave *Gudiscalus* the same Title. This comprehending many Cities of that Coast, they were subject to the *Neapolitans* and their Duke; for which Cause the Bishops of the

<sup>1</sup> S. Greg. M. lib. 9. ind. 4. ep. 53. Cam. |  
Pel. dñ. de finib. Duc. Ben. ad merid. p. 32.

<sup>2</sup> Ibid. lib. 2. ind. 11. ep. 1, 2, & 15.

<sup>3</sup> Epist. 12. lib. 8. ind. 3.

Cities were wont to call themselves *Neapolitan* Bishops; whence it is, that very often we read in the Letters of that Pope: *Episcopis Neapolitanis*.

IT could not stretch its Borders further towards the West, North, or East; for the Dukedom of *Beneventum* being become powerful, extended its Authority over all these Parts: *Capua*, with its Territory, as far as *Cuma*, and the Coast which has no Harbour from *Minturno*, *Uturno*, and *Patria*, of old called *Linterno*, was already under the Dominion of the *Longobards*. Not long after the *Longobards* extended the Borders of the Dukedom of *Beneventum* as far as *Salernum*; and many other Cities towards the East, as far as *Cosenza*, with all the inland Towns were taken from the *Greeks*; and this Dukedom of *Naples* had likewise fallen under the Dominion of the *Longobards*, as in process of Time all the inland Cities of the Kingdom did, and afterwards the Maritime, excepting *Gaeta*, *Amalphis*, *Surrentum*, *Otranto*, *Gallipoli*, and *Rossano*, if two Causes had not hinder'd it; which were, that the *Longobards* had no naval Forces, neither were they expert in besieging Sea-Port Towns; and also, because the *Neapolitans*, by reason of their Situation, had well fortified *Naples*, and all the other Maritime Towns subject to them. So that *Naples* with its small Dukedom may justly boast, that tho' almost all the Cities of the Kingdom had been subdu'd by the *Longobards*, excepting those few abovemention'd, yet they never could wholly subdue the *Neapolitans*, tho' afterwards in latter times they were made tributary to the Princes of *Beneventum*, as in the Course of this History we shall relate: So that 'tis an unpardonable Error in *Blondus*<sup>1</sup>, who writes, that the *Longobards*, not long after the Government of 36 Dukes, subdued *Naples*.

IT was the Custom to send Dukes to govern the Dukedom of *Naples*, either directly from *Constantinople* by the Emperors of the East, or, when Necessity would not permit to wait their coming from so distant a Place, the Exarch of *Ravenna*, who was at this Time the first Magistrate of the Emperors of the East in *Italy*, was wont to send them.

DURING the Government of *Arechis*, of which we are now treating, while *Mauritius* reign'd in the East, *Naples* being without a Duke, and *Arechis*, together with *Arnulphus* Duke of *Spoletto* designing to attack it, *S. Gregory the Great*, who had the Defence of it much at Heart, and who took Care of the Interest of the Emperor against the *Longobards*, thinking that if they should conquer the rest of *Italy*, which was under the Dominion of the *Greeks*, they might at last subject *Rome* likewise, wrote<sup>2</sup> in the Year 592, very earnestly to *John* Bishop of *Ravenna*, to hasten the Exarch to send the Duke immediately to *Naples*, in order to defend it against the Treachery of *Arechis*, otherwise it would certainly be lost.

AND from another Letter<sup>3</sup> of the same Pope, dated in the Year 599, we observe, that not long after *Maurentius* was sent to be Duke of *Naples*, who was so careful of the Preservation of that City, that besides his having provided it with a strong Garrison, he oblig'd even the Monks to stand Centinels on the Walls, without so much as exempting *Theodosius* the Abbot, at which *Gregory* was much griev'd<sup>4</sup>; and the sending Soldiers to lodge in a Nunnery, and constraining the Abbess to receive them, afflicted him exceedingly.

BUT the Emperor *Mauritius* being driven from the Empire in the Year 602, by *Phocas*, who caus'd himself to be proclaim'd Emperor by the Army in *Pannonia*, and being arrived at *Constantinople*, was acknowledg'd there, and put *Mauritius* and his Sons to Death; and having sent his Picture to *Rome*, was there likewise proclaim'd Emperor, with the Consent also of *S. Gregory*, who acknowledg'd him in *Rome*, as the Patriarch *Ciriacus* had done in *Constantinople*. *Phocas* then having mounted the Throne, in the Room of *Callinicus*, who had been put in Place of *Romanus* by *Mauritius*, sent *Smaragdus* anew to be Exarch in *Ravenna*<sup>5</sup>, and *Gondoinus* to be Duke of *Naples*.

ON the Death of *Gondoinus*, *Phocas* sent *Joannes Composinus*, a *Constantinopolitan*, to be Duke of *Naples*, who, breaking his Faith to his Prince, endeavoured to make himself absolute Lord of the City committed to his Charge; *Phocas* was put to

<sup>1</sup> Blond. Decad. 1. hist. lib. 8.

<sup>2</sup> S. Greg. M. lib. 2. Ind. 10. epist. 32. Cam. | Pel. in Dissert. de Duc. Ben. pag. 32.

<sup>3</sup> Ep. 74. lib. 7. Ind. 2.

<sup>4</sup> Ep. 107. lib. 1. Ind. 2.

<sup>5</sup> Marq. Freher. in Cron. Exarch. Rav.

Death in the Year 616<sup>1</sup>, and *Heraclius* his Competitor succeeded in the Empire; and the People of *Ravenna*, not being able to bear the Pride and Oppression of *Joannes Lemigius*<sup>2</sup> the new Exarch, who had been sent to *Ravenna* by *Heraclius*, in the Year 612, took Arms, and tumultuously went to the Palace, where they kill'd him, together with his Judges. This Fact coming to the Knowledge of *Joannes Compositus*, Duke of *Naples*, he thought he could not have a more fit Opportunity for making himself Master of the City; whereupon he immediately possess'd himself of it, and provided it with a strong Garrison against the Forces which he was afraid the Emperor *Heraclius* would send against him, who in Effect, being appriz'd of the Mutiny in *Ravenna*, and of the Rebellion of *Compositus*, immediately sent *Eleutherius*<sup>3</sup>, a Patrician, and Gentleman of his Bedchamber, a gallant and wise Man, to be Exarch in *Italy*. He having quell'd the Mutiny in *Ravenna*, went with a sufficient Army to *Naples*, into which he fought his way, and kill'd the Tyrant, and reducing it as it was formerly under the Dominion of *Heraclius*, and appointing a new Duke, return'd to *Ravenna* Victorious<sup>4</sup>.

THE Opinion of *Summontes*, or what he supposes, is not probable; that the new Duke left by *Eleutherius* in *Naples*, was that *Theodore* who is said to be the Founder of the Church of S.S. *Peter and Paul*, now situated in the Quarter of *Nido*; for the Greek Inscription which was upon a Marble Stone, and in which *Theodore* Consul and Duke, was named as Founder of that Church, bearing Date of the fourth Indiction, falls much lower, to wit, in the Year 717, in which Time this Duke govern'd, as has been observ'd by Men of Worth; on the contrary, 'tis true, that *Eleutherius* was sent to *Ravenna* by *Heraclius*, in the Year 616, where he held the Exarchate little more than two Years; for in the Year 619, *Isaicus* a Patrician was sent to be his Successor<sup>5</sup>.

THE Fables which our Modern Writers have invented concerning this Rebellion of *Compositus* are surprising; they say, that this Duke, after he had possess'd himself of *Naples*, made himself Master also of *Puglia* and *Calabria*, and of other Places of our Kingdom: That moreover he caus'd himself to be crown'd King of them; and that he went first to *Bari* to be crown'd with the Iron Crown, and afterwards to *Naples* to receive the Golden one; and that therefore he was the first who had usurp'd the Title of King of *Naples*; adding, that the *Normans*, after the Example of this first King of *Naples*, would likewise be crown'd at *Bari* with the Iron Crown, and in *Palermo* with the Golden one<sup>6</sup>. All which are Dreams of weak Men; for *Compositus* was never Master of *Puglia* and *Calabria*, nor other Provinces, which for the most Part at this Time were under the Dominion of the *Longobards*. He invaded *Naples* only with its Dependenceies; *Paul Warnesfride*<sup>7</sup> relates, that a few Days after he was driven out of it by *Eleutherius* a Patrician. 'Tis not likely he could do great Feats, while not only the *Greeks*, but likewise the *Longobards* were very powerful: Neither do we ever read in Authors of any Account, that he made himself to be crown'd King; and 'tis yet more ridiculous to say that he went to *Bari* to take the Iron Crown, and afterwards to *Naples*, that of Gold; what is related of that Coronation at *Bari* with Iron being altogether fabulous, and never practis'd by any of our Kings, as shall be clearly seen in the following Books of this History.

<sup>1</sup> P. Page de Consulib. pag. 342.

<sup>2</sup> Marq. Freher. loc. cit.

<sup>3</sup> Ibidem.

<sup>4</sup> Anastas. Bibliothec. in Deusdedit. Cam. Pel. in Dissert. de Duc. Ben. pag. 33.

<sup>5</sup> Marq. Freher. loc. cit.

<sup>6</sup> Beatil. hist. Bar. p. 12. hist. S. Nic. lib. 11.


<sup>7</sup> War. lib. 4. cap. 10.





## C H A P. V.

## Of Adalualdus and Ariovaldus V. and VI. Kings of the Longobards.

 HE Dominion of the *Greeks* in *Italy* being already reduc'd to a very low Ebb, the *Longobards* under their King *Agilulfus*, attempted to make an end of driving them intirely out of the Countries they were in Possession of; and what contributed very much to it was, the *Longobards* for the most Part (after the Example of *Agilulfus*) having forsaken, some of them *Gentilism*, and very many *Arianism*, had embrac'd the Catholick Religion, which made them less odious to the People, and their Government more tolerable. In effect, the Peace which the Kingdom enjoy'd for so long a Time, was owing to *Agilulfus*, who was the first King of the *Longobards* that embrac'd this Religion, and during all the Course of his Life, left Monuments of much Piety and Munificence towards the Churches and Monasteries: He being dead, *Adalualdus* his Son succeeded him, who had been his Collegue on the Throne while alive; and following the Footsteps of his Father, and much more those of his Mother *Theodolinda*, whom he would have to be his Copartner in the Government, brought the Affairs of the *Longobards* to such a peaceable and quiet State, that no Noise of War disturb'd their Repose; and under them the Churches were repair'd, and many Donations given to holy Places<sup>1</sup>.

BUT *Adalualdus* did not long enjoy so great Prosperity, for in the eighth Year of his Reign, the Emperor *Heraclius* having sent to him a certain *Eusebius*, his Ambassador, for treating of Peace and other Matters of Importance; this Man, either of his own Head, or by Order of his Master, while the King was coming out of the Bath, presented to him a Drink as wholesome for him; which he had no sooner drank, than he lost his Senses, and became foolish<sup>2</sup>; which the cunning *Eusebius* perceiving, gave him to understand, that for his greater Security he ought to cause the most powerful of the *Longobards* to be put to Death; which Advice, being young, and a Fool, he embrac'd, and immediately caused to be put to Death twelve of the Chief Nobility; which the rest of the *Longobards* perceiving, and seeing themselves in the same Danger from his Folly, made an Insurrection, and proclaim'd him Impious and a Tyrant, and dethroning both him and the Queen *Theodolinda*, his Mother, put *Ariovaldus*, Duke of *Turin* in his Room, who had for Wife *Gundeberga*, Sister of *Adalualdus*.

THIS Adventure divided the *Longobards* into two Factions; *Ariovaldus* was supported by those Nobles who had made the Insurrection, to whom all the Bishops on the other Side of the *Po* join'd, who with all their Might endeavour'd to increase their Party; *Adalualdus* on the other hand was assisted by *Honorius* Pope of *Rome*, who had strong Reasons for supporting him, as well on account of *Theodolinda*, to whose Piety the Catholick Religion was much indebted, as because *Ariovaldus* was abhorr'd by the Catholicks for being an Arian, in which Heresy he was born and brought up; and so great were the Pains which *Honorius* took, that he likewise brought over *Isaicus*, at this Time Exarch in *Italy*, to his Party, and with a powerful Army oblig'd him to restore *Adalualdus* to the Throne. He also got the Bishops

<sup>1</sup> Warnef. lib. 4. cap 15.<sup>2</sup> Sigon. ad An. 623.

who favour'd *Ariovaldus* to desert him, by threatening that he would not let such Treachery pass unpunish'd; but *Isaicus* not having accomplish'd his Undertaking, and *Adalwaldus* dying opportunely of Poison, *Ariovaldus* at last obtain'd the Kingdom, who being odious to the Catholics, occasion'd no small Disturbance in *Italy*.

NOT many Years of this Reign had pass'd, when *Theodolinda* seeing herself so despicable, and without all hopes of recovering her former Royal Dignity, full of Anguish and extreme Grief, died in the Year 627. A Princess, both for the excellent Endowments of her Mind, and her singular Piety, most worthy of Praise, and to be number'd amongst the most illustrious Women in the World, and who did not deserve to be put in the Novels of the *Decameron* of *John Boccaccio*.

*ARIOVALDUS* reign'd other nine Years after the Death of *Theodolinda*, and died without leaving Male Children, in the Year 636; for which Cause the *Longobards* having call'd together the Dukes, thought of chusing a new King, and not knowing whom they could raise to that Dignity, gave to *Gundeberga*, as they had formerly given to *Theodolinda*, the Power of making him King whom she should choose to be her Husband. *Gundeberga*, like a most prudent and wise Lady, chose *Rotaris* Duke of *Brescia* for her Husband and King, in the same Year 636, according to the Computation of *Pellegrinus*.

<sup>1</sup> Boccaccio Gior. 3. Nov. 2.



## CHAP. VI.

*Of King ROTARIS VII. by whom the Laws of the Longobards in Italy were put in Writing.*



**R**OTARIS was a Prince most valiant, and of consummate Prudence, but especially a great Lover of Justice; and if any Blemish obscur'd his Worth, 'twas his being stain'd with the Arian Heresy; whence in his Time, in many Cities of *Italy* there were two Bishops, the one Catholick, and the other Arian.

THIS was the first Prince who gave written Laws to his *Longobards*, by whose Example the other Kings his Successors being mov'd, in length of Time there appear'd a new Volume of Laws, call'd the *Longobard Laws*, which had once such an Ascendant in our Kingdom, that the *Roman Laws* were forced to give way to them. But before we mention the *Longobard Laws*, it will be requisite to look into the Condition the *Roman Jurisprudence* was reduc'd to in *Italy*, and these our Provinces, during the Reign of this Prince, and those of the Kings his Successors, and in what Books it was comprehended.

THE Emperor *Justinian*, tho' he had taken Care to have his Volumes spread over all *Italy*, and had strictly commanded, that, all others being abolish'd, these only, with his *Novellæ Constitutiones*, should take Place; nevertheless their Authority expired almost with himself; for he was no sooner dead, and succeeded by *Justin*, a most foolish Prince, than *Italy* fell anew into the Hands of Strangers; and, excepting the Exarchate of *Ravenna*, the Dukedom of *Rome*, and those small ones of *Naples*, *Gaeta*, *Amalphis*, and other Maritime Cities of *Puglia*, *Calabria*, and *Lucania*, the

<sup>1</sup> Warnefr. lib. 4. cap. 15.

<sup>2</sup> Ibid. hist. Long. lib. 4. cap. 15.

*Longobards*

*Longobards* were Masters of all its other Provinces: The other Emperors who succeeded *Justin*, being at very little Pains to recover them, and at much less to restore the Laws of *Justinian*; also there were not wanting some of them, as shall be told in its Place, who either out of Envy, or Emulation, endeavour'd even to extinguish them in the East altogether. Besides it may be added, that among the *Longobards*, by reason of the continual Wars kindled betwixt them, the Name of a *Greek* was most abominable, and all that proceeded from them, was with the greatest Aversion rejected and abolished; whence, altho' it was allow'd to the Inhabitants to make use of the *Roman* Laws, and to the *Romans* to live under them, nevertheless they were to stick to the *Theodosian Code*, which was in greater Esteem amongst the *Longobards* than the *Justinian*.

TO which was added the Example of the *Westrogoths*, who at this Time reign'd in *Spain*; who being satisfied with the Code made by the Order of *Alarick*, and the new Compilation of the Laws of the *Westrogoths*, in imitation of that of *Justinian*, did not acknowledge his Books.

WE may likewise add the Example of the *French*, who until the Reign of *Charles the Bald*, did not acknowledge other *Roman* Laws, but those which were contain'd in the *Theodosian Code*, or its Compendium made by Order of *Alarick*. So *Charles the Great* himself, desirous to restore the *Roman* Jurisprudence, which in his Time was reduc'd to a very lamentable Condition, neglected the Books of *Justinian*, and set about restoring and amending the *Theodosian Code*, as these Words join'd to the Commentary of *Alarick*, which is put at the Beginning of the *Theodosian Code*, demonstrate: *Et iterum Anno XX. Regnante Carolo Rege Franc. & Longobard. & Patrio Romano.* And so great was the Care of this glorious Prince, and the Regard he had for this Code, that he caus'd many of its Laws to be inserted into his *Capitularia*.

IN the Reign of *Charles the Bald*, 'tis evident, that *France* began first to approve of the Laws of *Justinian*, as the Authors of that Age testify, who often quote his Laws, but never mention the *Theodosian*; thus *Hincmare* of *Rheims*: *Et Sacri Africa Provinciae Canones; & lex Justiniana decernunt*, and elsewhere, *Leges Justiniani dicunt*. Which may be gathered from what *Joannes Italus* wrote concerning *Abbo*, Father of *Odo* of *Cluny*, who, *Justiniani Novellam memoriter tenebat*. Altho' there are not wanting Authors in the Times following, who likewise made use no less of the Books of *Justinian* than of the *Theodosian* Laws, as *Ivo* of *Chartres*, *Gratian*, and others did.

IN *Italy* the Popes studied solely to maintain the Authority of the *Justinian* Laws, and those of the other Emperors of the East, for which they had a great Regard and Veneration. Their Design was to support with all their Might the Authority of the *Grecian* Emperors, by acknowledging them for Sovereigns, that so they might counterballance the Power of the *Longobards*, and by that Means keep *Italy* divided betwixt two equal Powers, to the end, that when the one inroach'd upon the other, *Rome* might not fall under the Servitude of either of them. The Popes lov'd the Empire of the *Greeks* best, because they being at a Distance were not in a Condition to bestow much Time in hindering the Progress and Designs they had of making themselves Masters of *Rome*; and therefore when the *Longobards* grew so powerful, as to make them afraid lest they should possess themselves of that City, the Loss of which would have been their Ruin, they immediately had recourse to the *Greeks* for their Assistance to oppose them. In effect, *S. Gregory the Great*, as is said, was very much against the *Greeks* being totally driven out of *Italy*: He had the Laws of the Emperors of the East in great Veneration, and especially those of *Justinian*, which he often made use of, and most frequently of the *Novellæ*, as is manifest from *Gratian*, and the *Decretals*. Which Custom his Successors retain'd afterwards, and amongst the rest *Gregory III.*, *Nicolas I.* *Leo III.* *John VIII.*, and others related by *Dadinus Alteserra*. For which Cause *Leo IV.*

<sup>1</sup> Gotofr. In Protog. ad Cod. Th.

<sup>2</sup> Altes. rer. Aquitan. lib. 3. cap. 12.

<sup>3</sup> Capitular. Caroli M. cap. 18. 4. Addit. & cap. 281. lib. 6.

<sup>4</sup> Hincmar. Rem. ep. 7.

<sup>5</sup> Ibid. in Opusc. adv. Hinc. Laudonensem.

<sup>6</sup> Jo. Ital. in vita S. Odon. Abb. Cluniac.

<sup>7</sup> Altes. loc. cit. pag. 199.

<sup>8</sup> Ivo Epist. 212, 243, 280.

<sup>9</sup> Gregor. lib. 12. Epist. 191, 193. 1. 11. Novel.

<sup>10</sup> 122. Grat. c. 38. c. 11. q. 1. & c. 2. de Testib. c. ult. Nov. 90. V. Altes. rer. Aquit. c. 16. pag.

219. 220, & 228.

<sup>11</sup> Greg. III. cap. Dator. de Pignori.

<sup>12</sup> Jo. VIII. Can. fin. 16. q. 3. sed venerandæ Rom. leges, &c.

<sup>13</sup> Altes. loc. cit. pag. 1219.

following

following the Footsteps of his Predecessors, wrote that Letter which we read in *Gratian*<sup>1</sup>, to the Emperor *Lothaire I.* in which he intreats him to preserve the Roman Laws: *Vestram flagitamus Clementiam, ut sicut hactenus Romana lex viguit absque universis procellis, & pro nullius persona hominis reminiscitur esse corrupta; ita nunc suum robur, propriumque vigorem obtineat*: whence *Ivo of Chartres*<sup>2</sup> said, *Dicunt enim instituta legum Novellarum, quas commendat, & servat Romana Ecclesia*: And the Ecclesiasticks, both in computing the Years that made them capable of Orders, and in many others Things, have follow'd the Roman Laws; whence the Books of *Justinian* in these Times had more Force and Authority in the Roman Dukedom, than in any other Part of *Italy*, and the same as in *Ravenna*<sup>3</sup> the Seat of the Exarchate of the *Greeks*; whence 'tis related<sup>4</sup>, that that Volume of the Digests which is now call'd *Infortiatum*, to which the People of *Ravenna* had recourse for deciding their Causes, was long preserv'd in this City: So that with good reason *Hermendus Conringius* concluded<sup>5</sup>, that in *Italy*, before *Lothaire II.* *Juris Romani & quidem maxime Justiniani, usus aliquis arbitrarius superfuit exiguus ubivis; frequentior tamen Romæ, inque aliis Exarchatus locis, quam in Regno Longobardico, Novellarum præcipua fuit auctoritas in rebus Ecclesiasticis nonnullis.*

BUT the *Longobards* by reason of the obstinate and cruel Wars which they had with the *Greeks*, altho' they allow'd the People to retain the Roman Laws, as the *Goths* had done, yet would not suffer any other Books but the *Theodosian Code*, and the Compendium of *Alarick* to be learned, or to have the Force and Authority of Laws, imitating also in that the Practice of the *Goths*; neither hitherto for the Space of sixty Years that they had been in *Italy*, had they any written Laws of their own<sup>6</sup>, but govern'd themselves only according to their Customs, and the Institutions handed down to them by the Tradition of their Forefathers, which they observed very religiously.

*ROTARIS* then was the first, who having mounted the Throne, and enlarged his Kingdom by the Conquest of the *Alpes Cottia*, and *Oderzo*, thought of giving written Laws to his *Longobards*.

THE Method which the *Longobard Kings* took for establishing their Laws, is so much commended by *Hugo Grotius*<sup>7</sup>, that he prefers the *Longobards* in that to the *Romans* themselves: These often receiv'd Laws from the Will of one single Person, which he alter'd and chang'd at his own Pleasure; so that whatever pleas'd the Prince had the Force of Laws. On the contrary, the *Longobard Kings* did not assume that Power to themselves alone, but took the Opinions and Advice of the principal Lords and Barons of the Kingdom in establishing Laws, and the Order of Magistrates had likewise their Share in them; neither were they establish'd but in publick Assemblies conven'd for that end, into which after the manner of the *French* they did not admit the Ecclesiastical Order, but that of the Lords and Magistrates only; neither did the Commons with them make an Order apart, but as *Cæsar* wrote of Old *Gallia*, *Plebs planè servorum babeatur loco, quæ per se nil audet, nullique adhibetur concilio.*

*ROTARIS* having then, according to the *Epocha of Camillus Pellegrinus*, in the Year 644, summon'd a Diet in *Pavia*, in which the Lords and Magistrates assisted, enacted many Laws which he had caus'd to be committed to Writing, and inserted in an Edict which he publish'd over all his Kingdom, after the same manner that *Theodorick the Ostrogoth* had done, when he publish'd his over all *Italy*, of which we have made mention in the preceding Book. Amongst the other Monuments of Antiquity, which are preserv'd in the Archives of the Monastery of the Trinity of the Cave of the Order of *S. Benedict*, which next to that of *Monte Casino* is the most ancient we have in the Kingdom; there is a Parchment Code, which with our own Eyes we have carefully observ'd, written in *Longobard Letters*, wherein not only the Edicts of the *Longobard Kings* (beginning from this *Rotaris*) but likewise of the *French* and *German Emperors*, who were Kings of *Italy*, are inserted. In this Edict of *Rotaris*, after the Preamble, which is also transcrib'd by *Sigonius*<sup>8</sup> in his History of *Italy*, we read the Titles of each Chapter, and the first

<sup>1</sup> In Decret. Grat. dist. 13. c. 13. Altes. rer. Aquit. lib. 3. c. 14.

<sup>2</sup> Ivo, ep. 280.

<sup>3</sup> Baldum. in Proleg. Comment. in Institut.

<sup>4</sup> Arth. Duck de usu Jur. Civ. l. 1. c. 5. n. 12.

<sup>5</sup> Conring. de orig. Jur. Ger. cap. 20.

<sup>6</sup> P. Warnefr. lib. 4. cap. 44.

<sup>7</sup> Grot. in Proleg. ad hist. Goth.

<sup>8</sup> Sigon. de R. Italiæ, lib. 2. ad A. 643.

begins: *Si quis hominum contra animam Regis cogitaverit*; which being ended, the Conclusion of the Edict follows thus, *Præsentis vero Dispositionis nostræ Edictum*, &c.<sup>1</sup> After follow the Laws or Chapters, according to the Number of the preceding Titles, and this Edict contains Three hundred and Eighty-six Chapters or Laws. The Compiler of the three Books of the *Longobard* Laws, which are now printed in the Volume of *Justinian's Novellæ*, took the Laws, of which he compos'd almost intirely the first and second Books, from the Edict of *Rotaris*; and we read two or three of them in the Third, of which we shall discourse more at length, when we come to treat of the Compilation of that Volume of the Laws of the *Longobards*.

THE Example of *Rotaris* was afterwards follow'd by the other *Longobard* Kings his Successors, such as *Grimoaldus*, *Luitprandus*, *Rachis*, and *Astolphus*; but of all these Kings none left so many Laws as *Rotaris*, the Number of them, as we have said, amounting to 386. He caus'd his Edict to be publish'd this Year 644, which was the eighth of his Reign, over all the Provinces which were under his Dominion, and especially in the Dukedom of *Beneventum*, which having very much extended its Bounds, was reputed the largest and most noble Part of the Kingdom of *Italy*.

<sup>1</sup> The Conclusion of this Edict we likewise read in Sigonius loc. cit.



## C H A. P. VII.

### Of AJO and RADOALDUS III. and IV. Dukes of Beneventum.



THE Dukedom of *Beneventum* was govern'd by *Ajo* the Son of *Arechis*, who died in the Year 641, and had associated him in the Government five Months before he died<sup>1</sup>; but the Father being sensible of his weak Understanding and Incapacity for such a Charge, recommended him on his Death-bed to *Radoaldus* and *Grimoaldus*, both of them Sons of *Gisulphus*, formerly Duke of *Friuli*, and who had been brought up and kept at his Court. These were lov'd by *Arechis* as his own Sons, and whom he had appointed to succeed in the Dukedom upon the Failure of *Ajo*. While the Dukedom of *Beneventum* was govern'd by *Ajo*, under the Direction of these two Brothers, the *Sclavonians* made their first Appearance in these our Provinces.

THE *Sclavonians* were originally of the *European Sarmatia*, on both sides of the *Borysthenes*; who after the Example and Manner of the other barbarous People, advanced to the Banks of the *Danube*, and pass'd it under the Empire of *Justinian*<sup>2</sup>. Afterwards having fallen upon *Illyricum*, at last they possess'd themselves of a great Part of it, particularly that which lies betwixt the *Drave* and the *Sarve* towards the West, call'd to this Day by their Name *Sclavonia*.

THESE falling down from *Dalmatia*, which they had already possess'd themselves of, and landing at *Sipontum*, began to ravage our *Puglia*. *Ajo* hearing of the Irruption of the *Sclavonians* into *Puglia*, which had been for the most Part join'd to the Dukedom of *Beneventum*, gathered together the best way he could, some Troops, while *Radoaldus* was absent, and went immediately to fight them; but having ingag'd them near the River *Ofanto*, fell into a Ditch, where the *Sclavonians* kill'd him<sup>3</sup>.

<sup>1</sup> Warnefr. lib. 4. cap. 15.

<sup>2</sup> Procop. de Bell. Got.

<sup>3</sup> Cam. Pol. in Dissert. Duc. Ben. p. 54.

*Ajo*

*Ajo* held the Dukedom of *Beneventum* one Year only, besides the five Months he reign'd with his Father; but after his Death the *Sclavonians* triumphing on account of the Victory they had gain'd, *Rodoaldus* coming opportunely upon them with a strong Army, and incredible Valour, overthrew and dispersed them; and after having so gallantly reveng'd the Death of *Ajo*, he with his Brother *Grimoaldus*, took Possession of the Dukedom of *Beneventum*, according to the Appointment of *Arecbis*, who had left them to succeed himself and Son.

THESE two Princes govern'd the Dukedom of *Beneventum* five Years. *Radoaldus* invaded other Provinces belonging to the *Greeks*, and carried his Arms to *Surrentum*, which City he besieg'd, and endeavour'd to take it by Assault; but the *Surrentins*, encourag'd by their Bishop *Agapitus*, repuls'd him; whereupon he rais'd the Siege, and *Surrentum* was freed<sup>1</sup>.

WHILE these Princes govern'd the Dukedom of *Beneventum*, the new written Laws of the *Longobards* publish'd by *Rotaris*, with his abovementioned Edict were known for the first Time in these Provinces, which now make up our Kingdom: So that the Cities of our Kingdom which were comprehended in that Dukedom, and our People, altho' they had been made solely by the *Longobards*, began by Degrees to learn them, and to accustom themselves so much to them, that in the succeeding Times the *Roman* Laws were forc'd to give way to them, and were only observ'd as ancient Customs by the Commonalty, who are the last in leaving off the Laws and Customs of their Forefathers; as we shall see anon.

*RADOALDUS* having died in *Beneventum*, in the Year 647, *Grimoaldus* his Brother continued to govern alone; he held the Dukedom sixteen Years, without including the five he had reign'd with his Brother.

<sup>1</sup> Acta SS. Agapit. & aliorum Surrent. apud Ughel. de Archiep. Surrent.



## C H A P. VIII.

*Of Grimoaldus V. Duke of Beneventum; of the Wars which he had with the Neapolitans; and the Death of King Rotaris.*



*RIMOALDUS* V. Duke of *Beneventum*, was a Prince so daring, and of so great a Spirit, that not content with having extended the Bounds of his Dukedom, and obtain'd many Victories over the *Neapolitans* and *Greeks*; he aspir'd still at more glorious and noble Enterprizes, till at last it was his Fate to be exalted to the Throne, and after he had govern'd his Dukedom sixteen Years, he reign'd other nine over the Kingdom of *Italy*.

WHILE he was Duke of *Beneventum*, he was often at War with the *Neapolitans*; and 'tis said to have fallen out at this Time, what *Paul Warnefride*<sup>1</sup> relates, that he hindred the *Greeks* from pillaging the Cathedral Church of *St. Michael*, situated in Mount *Garganus*, by intirely defeating them. 'Tis likewise said, that fifteen Years after, when he had already mounted the Royal Throne in *Pavia*, he had another Victory over the *Neapolitans*; and that they being touch'd at the Heart, on account of such a Calamity, chang'd their Religion, and of Heathens became

<sup>1</sup> Paul. Warn. lib. 4. cap. 16.

Christians,



Christians, as the Author of the Angelical Apparitions <sup>1</sup>, and the unknown Monk of *Casino* relate <sup>2</sup>.

BUT seeing these Adventures are variously reported by Writers, some ascribing to the *Saracens*, what *Paul* imputes to the *Greeks*; while others, by a manifest *Anachronism*, carry back these Events to the Times of *Theodorick* and *Odoacre*, when the *Longobards* were not as yet known in *Italy*; and others with more Truth attribute them to the *Longobards*; therefore it will be necessary to shew more at large, that it was neither the *Greeks*, *Neapolitans*, nor the *Saracens* who pillag'd that Church, but the *Longobards*; and that the Conversion from *Gentilism* to *Catholicism* which is attributed to the *Neapolitans*, ought to be ascrib'd to the *Longobards* of *Beneventum*, and not to those.

MOUNT *Garganus*, situated in *Puglia*, above *Sipontum*, over-against the *Diomedean* Islands, in the Upper Sea, now call'd *Tremiti*, a Name likewise very ancient, and made use of by *Tacitus* <sup>3</sup>, was first made famous by *Virgil* and *Horace*; but afterwards, in the Time of Pope *Galesius* I. was much more renown'd by the miraculous Apparition of *Michael the Archangel* in this Place; and after the *Goths* were driven out of *Italy* in the Reign of the Emperor *Justinian*, by Means of *Belisarius* and *Narfes*, when it was restor'd to the Empire of the East, the Veneration of the *Greeks* for this Saint was incredible. There was not a City either in *Greece* or *Italy*, that did not build Temples, and dedicate Altars to him. *Procopius* <sup>4</sup> relates, that *Justinian* in the City of *Constantinople* alone, erected many Temples to him, and rebuilt others that were old; whose Example the *Greek* Cities in *Italy* follow'd. In *Naples* especially, they had a wonderful Veneration for him; they erected a Temple, which afterwards in the Time of *Gregory the Great*, they dedicated to him after the Rites of the Church of *Rome*; and the same Pope makes mention of this Dedication in one of his Epistles <sup>5</sup>. The same is said of many other *Greek* Emperors, particularly *Heraclius*, who enrich'd that Sanctuary with many valuable and precious Donations: So that 'tis not to be doubted, but the *Neapolitans* being a long time in Conjunction with the *Greeks*, had an equal Veneration for this Archangel; and to impute Infidelity and Idolatry to the *Neapolitans* of these Times, is so gross an Error, that the Chronology of the Catholick Bishops of this City alone, and what is related in the preceding Book, are sufficient to make it manifest, and put it out of all doubt.

ON the contrary, 'tis most certain, that when the *Longobards* retok *Italy* from the *Greeks*, they profess'd no other Religion but Paganism and Arianism; and altho' in the Reign of *Agilulfus*, many of the *Longobards*, after the Example of their Prince, had forsaken Arianism and Idolatry; yet nevertheless the other Kings his Successors persevering in Arianism, was the Occasion that the *Longobards*, and particularly those of *Beneventum*, return'd anew to their first Errors, which they did not altogether abandon until the Year 663, when the Emperor *Constans*, by the Means of *S. Barbatas*, Bishop of *Beneventum*, was defeated: and then it was that they embrac'd the Catholick Religion, as we shall shew by and by.

AND besides 'tis most evident, that all who consider attentively the History of the *Longobards*, written by *Paul Warnefride*, who was a *Longobard*, will see, that he has endeavour'd all he could, as well as all the other Writers of his Nation, to excuse his Countrymen from the Blemish of Infidelity, and the Errors of *Arius*; and rather chuses, in all the Course of his History, not so much as to speak of the Religion of this People, nor their Conversion to the Catholick Faith by means of *S. Barbatas*, on purpose that he might not be oblig'd to mention their old Errors, which *Pellegrinus* very carefully has observ'd <sup>6</sup>.

SO that there are many Things in his History laid to the Charge of the *Greeks*, which were committed by the *Longobards*, which Cardinal *Baronius* likewise rightly observed <sup>7</sup>: And this very Fact is a most clear Document; seeing 'tis altogether incredible, that the *Greeks*, who had so great a Veneration for that Sanctuary, could

<sup>1</sup> Acta Angelicæ Apparit. apud Surium, tom. 5. pag. 322.

<sup>2</sup> Historia ignoti Monaci Cassin. in Cam. Pel. hist. Princ. Long. par. 1. pag. 97.

<sup>3</sup> Tacit. - - Juliam Augusti neptem adulterii convictam, projectam ab eo fuisse insulam Tre-

metum haud procul Apulis littoribus, ibique 20 Annis exilium tolerasse.

<sup>4</sup> Procop. lib. 1. de Ædific. Just. Imp.

<sup>5</sup> Epist. 15. lib. 7. ind. 2.

<sup>6</sup> Cam. Pel. in dissert. fines Duc. Benev. ad Septentrionem.

<sup>7</sup> Baron. ad Ann. 585. num. 2.

ever have had so wicked Inclinations, as to think of pillaging it, as he says, and thereupon come to Blows with the *Longobards*, who drove them away from committing so execrable and sacrilegious a Crime. We are to believe the Fact was quite otherwise, and just as *Pellegrinus* <sup>1</sup> describes it, to wit, that the *Longobards* contending with the *Greeks* for the Possession of that Place, after a long and obstinate Battel, at last overcame the *Greeks*; and as they had been accustom'd to perpetrate such Wickedness already, in *Monte Casino*, under *Zoto*, so they design'd to commit the same in Mount *Garganus*, under *Grimoaldus*, by pillaging that Sanctuary, which being enrich'd by fundry Donations of the *Greeks*, had allured their Rapacity to commit that Sacrilege. And in effect, from the Acts of *S. Barbatus*, Bishop of *Beneventum*, which before they were printed, were preserv'd in the Monastery of the Monks of *S. John the Baptist*, in the City of *Campania*, and which were afterwards publish'd by *Joannes Bollandus* <sup>2</sup>, with his Notes, part of which is likewise now to be seen printed in Octavo, by *Ferdinandus Ughellus* <sup>3</sup>, we clearly perceive, that that Cathedral was actually pillag'd at that Time: So far was it from being prevented by the *Longobards* of *Beneventum*, that it remain'd abandon'd and desolate, *ut nec sedulum illic Officium persolveri possit*, as *S. Barbatus* says. It was not restored to its ancient Lustre till fifteen Years after, when *Constans* was driven out by the *Longobards*, who by the Assistance of *Barbatus* embrac'd the Catholick Religion, and relinquish'd their Infidelity; which Conversion the Author of the Acts of the Angelical Apparition, likewise a *Longobard*, was also pleas'd to apply to the *Neapolitan Greeks*, as we shall see anon; which will the more confirm what we have now said.

AND for the same Reason, they are likewise in an Error <sup>4</sup>, who would impute to the *Saracens*, that which *Paul Warnefride* relates of the *Greeks*, to wit, that *Grimoaldus* in the same Years of his Government had fought on Mount *Garganus* with the *Saracens*, who designing to have pillag'd that Sanctuary, were by him defeated, and put to the Rout; for this War was betwixt the *Longobards* and the *Greeks*, as *Warnefride* writes, and not with the *Saracens*, who at that Time had not as yet come to ravage these our Provinces; and when they did come, it was not to *Garganus*, where they never fix'd themselves till the latter Times, but to *Garigliano*, where, *sua aliquando domicilia habuerunt*, as *Pellegrinus* writes. Neither is it true that the Pillage was prevented, so that the Defeat said to be given the *Saracens* by *Grimoaldus*, is equally fabulous with that other, which *Summontes* and others relate they receiv'd in *Naples* by *S. Agnellus* the Abbot, at a time when these People were not as yet known in *Italy*; neither had their Name been so much as heard of in these our Parts.

BUT while the *Longobards* of *Beneventum* are employ'd in these Wars with the *Greek Neapolitans*, the fatal Death of King *Rotaris* happen'd in *Pavia*, in the Year 652, who left *Rodoaldus* his only Son his Heir and Successor in the Kingdom, none other of his Male-Line remaining. *Rotaris* govern'd the Kingdom sixteen Years, with so much Prudence and Justice, that he was deservedly esteem'd one of the most illustrious Princes in the World; his having left his Subjects at liberty to live in whatever Religion they pleas'd, and his having allow'd in almost all the Cities of his Kingdom two Bishops, the one Catholick, and the other Arian, gave fresh Encouragement to the pernicious Maxim of wicked Politicians, that a Prince ought not to trouble himself about the Religion of his Subjects, nor force them to believe and profess what he might think the best: So that *Bodinus* <sup>5</sup>, the Defender of this perverse Doctrine, to the Example of *Theodosius the Great*, who he believ'd likewise allow'd the same Liberty of Conscience to his Subjects, without minding whether they were Arians or Catholicks, did not forget to add this other of *Rotaris*, who allow'd the same. However, we ought not to pass over this Place without observing by the bye, the Error of this Author, who reckon'd *Theodosius the Great* to have been the Author of that Law <sup>6</sup>; to which, altho' the Name of *Theodosius the Great*, as well as that of *Valentinian II.* be prefix'd in the *Theodosian Code*; nevertheless all Writers firmly agree, that *Valentinian* was the sole Author of it, who by the Instigation of the Empress *Justina* his Mother, and the Importunities of the Arian *Goths*, caus'd it to be publish'd that Year while he resided in *Milan*, against which *S. Ambrose* Bishop of that City so much declaim'd; and besides 'tis known, that

<sup>1</sup> Camil. Pel. loc. cit.

<sup>2</sup> Bolland. tom. 3. Act. Santor. 3. Febr.

<sup>3</sup> Ughel. Ital. Sac. tom. 8. de Archiep. Benev.

<sup>4</sup> Ciar'an. of Samnium, lib.

<sup>5</sup> Bodin. de Repub. lib. 4. cap. 7.

<sup>6</sup> L. ult. C. Th. de Fid. Cath.

altho' at this Time two Emperors govern'd the Empire divided into the Western and Eastern ; nevertheless the Custom was, that the Laws which were publish'd by either of them, bore in the Front the Names of all those who then govern'd the Empire ; which we yet see on the Marbles : And the *Theodosian* Code itself furnishes us with abundance of other Examples, as was likewise observ'd by the careful *Jacobus Gotifredus* <sup>1</sup>, who challeng'd *Franciscus Baldorvinus* as guilty of the same Mistake, who by reason of that Inscription, likewise believ'd that *Theodosius* was the Author of that Law.

<sup>1</sup> Jac. Gothefr. in d. l. ult. & in Prolegom. c. 8.



## C H A P. IX.

Of Rodoaldus, Aripertus, Partarites, Gundebertus, VIII. IX. X.  
and XI. Kings of the Longobards.



THE long and prudent Reign of *Rotaris*, render'd the Affairs of the *Longobards* very prosperous in *Italy*, so the very short and imprudent Reign of his Son *Rodoaldus*, and especially the Discord among his Successors, brought them to a very dangerous Condition. Although *Warnefride* relates, that *Rodoaldus* reign'd five Years, yet he scarcely govern'd one alone ; for having ravish'd the Wife of a certain *Longobard*, he was murder'd by the Husband ; and amongst the five Years of his Reign *Paul* reckons up those when he reign'd together with his Father, who had made him his Collegue.

THE Male-Issue of *Rotaris* being extinct, the *Longobards* assembled in order to chuse a new King, and elected *Aripertus*, Son of *Gundoaldus*, Brother of *Theodolinda*. He, according to *Warnefride*, reign'd nine Years <sup>1</sup> : In all the Course of his Government, History makes mention of nothing he did worthy of being recorded, if it was not that he deserv'd to be prais'd for his being much inclin'd to the Catholick Religion, as was thought, contrary to the Example of *Rotaris* and his Son *Rodoaldus*.

*ARIPERTUS* died in the Year 661, and left two Sons, *Partarites* and *Gundebertus*, who by bad Advice divided the Kingdom betwixt them. So *Gundebert* fix'd the Seat of his Kingdom in *Parvia* ; and *Partarites* his in *Milan* ; which furnish'd *Grimoaldus* our Duke of *Beneventum* with an Opportunity of driving them both from their Seats, and of making himself Master of all the Kingdom ; for Dissention and great Hatred having arisen betwixt the two Brothers, each of them seeking to possess the other's Kingdom, *Gundebert*, not satisfied with his own Lot, had a mind to have the intire Kingdom, and to drive his Brother from it ; but not trusting to his own Strength, he sent *Garibaldus* Duke of *Turin*, to *Grimoaldus* Duke of *Beneventum*, to invite him to come and assist him in the Undertaking, promising for a Reward to give him his Sister in Marriage.

BUT the Duke of *Turin* address'd *Grimoaldus* in a quite different Manner, and betraying his Master, persuaded him that he ought not to neglect to take the

<sup>1</sup> Warnefr. lib. 4. cap. 18.

Advantage of this Discord, which was able to put him in Possession of the Kingdom : It was no hard Matter to persuade him ; so that being spurr'd on by a covetous Desire to reign, he assembled some Troops the best way he could, and leaving *Romualdus* his Son Duke of *Beneventum*, march'd towards *Pavia*. Being arriv'd at *Piacenza*, he dispatch'd *Garibaldus* to *Gundebert* with Advice of his coming, *Garibaldus* after he had deliver'd his Message, told him besides, that it was proper he should go and meet the Duke ; and if he was suspicious of any Thing, he might put on Armour under the Royal Robes : On the other hand, with unheard-of Treachery, he advertis'd *Grimoaldus* to be aware of *Gundebert*, for he was coming to meet him in Armour. *Grimoaldus* believ'd the Traytor ; and what made him give the more Credit to him, was, that after they had met, while they were saluting and embracing one another, he felt that *Gundebert* had really Armour on him ; so that he did not in the least doubt but that all was prepared for murdering him, and in a violent Fury he drew his Sword, run him through, and kill'd him on the Spot, and immediately made himself Master of the Kingdom. *Gundebert* had at this Time a little Son call'd *Rambertus*, whom his trusty Friends carried off privately, and brought up carefully : *Grimoaldus* was not very solicitous about having him in his Custody, because he was yet but a Child.

AS soon as *Partarites* heard of this Adventure, in a panick Fear he deserted his Kingdom, and left his Wife *Rodolinda*, and *Cunipert* his little Son, to shift for themselves ; and in great haste fled to *Cacanus* King of the *Avari* for shelter. *Grimoaldus*, having taken *Milan*, confin'd *Rodolinda* and *Cunipert* in *Beneventum* ; afterwards he went to *Pavia*, where in the End of the Year 662, he was proclaim'd King by the *Longobards* themselves ; and having married the Sister of *Gundebert*, to the great Joy of every Body, he sent back the Army to *Beneventum*, loaded with Presents, and kept with himself only some of his most trusty Friends, whom he rais'd afterwards to the first Honours of the Kingdom.



## C H A P. X.

*Of Grimoaldus XII. King of the Longobards ; of Romualdus VI. Duke of Beneventum ; and of the Italian Expedition of Constantine Emperor of the East.*



**W**HILE *Grimoaldus* reign'd in *Pavia*, and *Romualdus* his Son in *Beneventum*, with so great Contentment, a most dangerous and cruel War was hatching against them, which put them in danger of being driven from their Dominions. Hitherto the *Greek* Emperors, little mindful of the Affairs of *Italy*, and contenting themselves with having in it the Exarchate of *Ravenna*, the Dukedom of *Rome*, and those of *Naples*, *Gaeta*, and *Amalphis*, with some Cities in *Calabria* and the *Bruttii*, had no Thoughts of restoring it to their Empire. The Emperor *Heraclius* could scarcely keep the *Longobards* within their Bounds, and from intirely driving the *Greeks* out of *Italy* ; but he dying in the Month of *May*, in the Year 641, left his Son *Constantine* his Successor : *Constantinople*, the Seat of the Empire, was at this Time so plagu'd with Revolutions, that the Affairs of *Italy* were quite neglected ; forasmuch as *Constantine* had been upon the Throne but four, or according to others ' six

<sup>1</sup> Freber. in Chronol.

Months,

Months, when *Martina* his Mother-in-Law caus'd him to be put to Death, to make room for her Son *Heracleon*. But he was turn'd out at the End of six Months, and banish'd, together with his Mother. *Constans* Son of *Constantine* succeeded him in the Year 642, at which time the Empire of the East began in some measure to breathe. This Prince was so intent upon reuniting *Italy* to the Empire of the East, that he reckon'd himself unworthy of swaying the Scepter of that Empire, if he did not altogether drive the *Longobards* out of *Italy*; and he was so bent on putting this Design in Execution, that not content with sending thither his Captains for that Undertaking, he would needs come in Person to these our Provinces, and put himself at the Head of his Army, leaving his Seat of *Constantinople* to shift for itself: A new Thing truly, which had never happen'd before, this being the first time that an Emperor of the East had been seen to go to *Italy* and to *Rome*. The Oddness and Novelty of which Fact gave occasion for much Speculation, in order to discover the Intent and Reasons of such a Movement.

SOME believ'd, that he having most treacherously murder'd *Theodore* his own Brother, who had often terrified him in hideous and frightful Shapes, and being tortur'd with such ugly Visions, had contriv'd Means for leaving that City, and those Places which had become so odious and fatal to him<sup>1</sup>. Others attributed this Departure to the Hatred which the *Constantinopolitans* bore him, for his having embrac'd the Heresy of the *Monothelites*; and that therefore he intended to remove the Seat of the Empire to *Rome*. But the most judicious Authors, among which are, *Anastasius Bibliothecarius* and *Warnesfride*<sup>2</sup>, say, that he was moved on no other Account, but out of a Desire to recover *Italy*, and the Hopes of being able to drive the *Longobards* out of that Country with his own Forces; therefore in the Spring of the Year 663, he prepared a great Fleet, and departed from *Constantinople*, directing his Course for *Tarentum*. Many Cities of these our Provinces, which at present make our Kingdom, in the Reign of *Constans* were still under the Dominion of the *Greeks*; who besides the Dukedom of *Naples*, and other lesser Dukedoms, had likewise many other Maritime Cities in *Calabria*, such as *Tarentum*, that had not as yet been possess'd by the *Longobards* of *Beneventum*. *Constans* being arrived in this City, and having landed his Troops, whom the *Neapolitans* afterwards join'd, directed his March towards *Beneventum*. This unexpected Appearance of the *Greeks*, at first put the *Beneventans* into such a Consternation and Fright, that they deserted many Cities of *Puglia*; so that with small Resistance *Constans* took and destroy'd *Lucera*, a City not far from *Sipontum*; but he could not take *Acerenza* by reason of its strong Situation; and not willing to consume much Time, went immediately and pitch'd his Camp under *Beneventum*, and laid close Siege to it.

<sup>1</sup> Sigon. de R. Ital. ad A . . . .

<sup>2</sup> Warn. lib. 5. cap. 4.

## S E C T. I.

### Of Romualdus VI. Duke of Beneventum.

**R**OMUALDUS Duke of *Beneventum* seeing himself in this Condition, immediately dispatch'd *Gesualdus* his Ambassador, to King *Grimoaldus* his Father in *Parva*, to beg of him to send him powerful Assistance; and in the mean time, tho' the City was often assaulted by the *Greeks*, yet the *Beneventan Longobards* still repulsed them, and sometimes they likewise attack'd the *Greeks* in their Lodgments by frequent Sallies, and routed and did them considerable Damage every where; the Labours of *Barbatus*, now a Priest, and afterwards their Bishop, contributed not a little to the Defence of this City; who often inveighing against them, and declaring, that they were punish'd with the Calamities of so cruel a War, because that some of them had not as yet forsaken the Superstition of the *Gentiles*, and others of them *Arianism*; wrought so far upon them, that he brought them to renounce their Idolatry, and to implore the Divine Assistance, and the Protection of the Saints, in order to be freed

freed from the Calamities that were hanging over them. But while *Constans* was at this Siege, behold, King *Grimoaldus* comes in Person with a powerful Army for the Relief of his Son; and in the mean time sends *Gesualdus* to advise him of it, and bid him take Courage, for that he would very soon relieve him. But this unlucky Man being arriv'd at the Enemies Camp, while he was endeavouring to throw himself into the besieged City, was taken, and carried before the Emperor *Constans*; who understanding that *Grimoaldus* was on his March with a strong Army in order to relieve his Son, and that he was already very near, was greatly perplex'd; and being resolv'd to raise the Siege, he try'd, because he could do it safely, and by that means reap some honourable Conditions of Peace, to get *Gesualdus* to declare the Success of his Embassy to *Romualdus* quite contrary to what it was; therefore having caus'd him to be brought under the Walls, he compell'd him to call to *Romualdus*, and tell him, that it was not possible his Father could come to his Relief; but *Gesualdus*, with undaunted Courage, seeing *Romualdus* upon the Wall, with a loud Voice, that all the *Greeks* that were present might likewise hear, said to him: *Continue stedfast, and be of good Courage, my Lord; know, that your Father is near at hand with a powerful Army in order to relieve you, and this Night he will reach the River Sangro. I earnestly recommend to you my dear Wife and Children, because I am certain that these rascally Greeks will put me to Death immediately*. *Constans* being highly incensed at this generous and bold Action, instantly caus'd his Head to be cut off, and with the Machine for throwing Stones, threw it within the Walls. Duke *Romualdus* took it up, and most affectionately kissing it, bathed it with Tears; thus did he honour the singular Vertue and Love of his faithful Friend, and besides gave him a sumptuous and noble Burial.

THE Emperor therefore afraid of the coming of *Grimoaldus*, rais'd the Siege; and while he was marching in a great hurry towards his City of *Naples*, Count *Mitula* of *Capua*, gave his Army a great Overthrow on his way at the River *Calore*, which much afflicted him; and after his Arrival at *Naples*, with a Design to go from thence to *Rome*, *Saburrus* having represented to him, which encourag'd him in the Undertaking, that if he would leave with him Twenty thousand Soldiers under his Command, he would engage to subdue all the *Longobards*, and gain a compleat Victory; *Constans* granted his Request, and left him at the Pass of *Formia*, which is now said to be *Castellone*, or *Mola di Gaeta*, where he could at least keep the Enemy in Awe, while the Emperor should go to *Rome*. The Army of *Saburrus* was made up of *Greeks* and *Neapolitans*, People who had always been Rivals, and implacable Enemies of the *Beneventans*, and with whom they always had had cruel and obstinate Wars. *Grimoaldus* being arrived at *Beneventum*, when he heard of the Braggings of *Saburrus*, and the Designs of the *Greeks*, was for going himself in Person to fight him; but being intreated by *Romualdus* his Son, to commit that Undertaking to him, for that he had Courage enough to engage him; he consented, and gave him a Part of his Army. *Romualdus* encountred the Enemies Army with wonderful Intrepidity; and while they were fighting boldly, and the Victory as yet very doubtful, a *Longobard* named *Amelungus*, who was wont to carry the Launce before the King, boldly struck with the same Launce a *Greek* Horseman, with so much Strength and Fury, that lifting him from the Saddle, he rais'd him up high in the Air, and threw him Headlong on the Ground. Such a valorous Action struck so much Terror and Astonishment into the *Greeks*, that they basely abandon'd the Field, and fled, and the *Longobards* pursuing them, made a most cruel Slaughter, and obtain'd a compleat Victory. *Romualdus* full of Joy return'd triumphantly to *Beneventum*, where he was receiv'd by his Father and the *Beneventans* with great Applause, as the Deliverer of his native Country, and was honour'd and prais'd by the State. In the mean time *Constans*, when he saw all his Labour lost, and himself left without any hopes of defeating the *Longobards*, that his coming to *Italy* might not seem altogether in vain, full of Rage, design'd to go to *Rome*, where altho' he was receiv'd with many Marks of Respect and Veneration by *Vitalianus* the Roman Pontiff, yet all the twelve Days he remain'd there, he minded nothing else but plundering it of the richest Ornaments he could find, taking what was most valuable of Gold, Silver, Bras and Marble, which he caus'd to be put on board his Ships, in order to carry them to *Constantinople*; he himself return'd by Land to *Naples*, and from thence to *Rhegium*, where his Army was for the third Time defeated by the *Beneventans*: From thence he went to *Sicily*; where having continued some time,

<sup>1</sup> Warnefr. lib. 5. cap. 4.



in the Year 668. he was miserably kill'd in the Bath by his own Men <sup>1</sup> in *Syracuse*; and the inestimable Plunder and Riches which he had gathered together in *Rome*, and other Places, fell into the Hands of the *Saracens*, and were carried to *Alexandria*, and not to *Constantinople*.

SUCH was the fatal Issue of this Expedition of *Constantine*, both with respect to the *Greeks* and himself, who by undertaking to restore *Italy* to his Empire, render'd the Affairs of the *Longobards* more prosperous: An Expedition as unfortunate to the *Greeks*, who were very near quite driven out of *Italy*, as it was fortunate and prosperous to the *Longobards*, who being more firmly establish'd in their Dominion, were intent on nothing afterwards but expelling the *Greeks* from those Cities which as yet they had Possession of. By these famous Victories, *Romualdus* so much enlarg'd the Dukedom of *Beneventum*, that having driven the *Greeks* from *Bari*, *Tarentum*, *Brundisium*, and all the other Places of *Calabria*, which at present go by the Name of *Terra d'Otranto*, he confin'd them to the small Dukedom of *Naples*, and *Amalphis*, and to *Otranto*, *Gallipoli*, *Gaeta*, and some other Maritime Cities of the *Bruttii*, which we now call the *Further Calabria*.

THESE were the remarkable Defeats, which, as the Historians of those Times relate, were given the *Neapolitans* by the *Beneventans*; about the same Time it was, that by the Labour of *S. Barbatus* the *Longobards* of *Beneventum* renounc'd Idolatry and Superstition, and heartily embrac'd the Catholick Religion. Which Conversion *Warnefride*, and the Writer of the Acts of the Angelical Apparition in Mount *Garganus*, both of them *Longobards*, most industriously conceal; that by so doing they may not discover, that hitherto the *Longobards* had continu'd Heathen, and that they had charg'd the *Neapolitans* with what the *Longobards* did, tho' the *Neapolitans*, as we have seen, had a great Regard both for the Catholick Faith, and the Sanctuary of Mount *Garganus*, of which there can be no better Proof than the Acts of *S. Barbatus* himself, now publish'd by *Bolandus* and *Ughellus* <sup>2</sup>, for after *Barbatus* had persuad'd the Duke of *Beneventum*, and the *Longobards*, that their having escap'd so many Calamities, was the Work of God and *S. Michael the Archangel*, they forsook all Heathenish Rites, and embracing the Catholick Religion, chose him Bishop of that City; and the Duke having offered him many and rich Donations, the holy Bishop refused them, and at the same Time persuad'd *Romualdus* that these Donations would be better bestow'd on the Cathedral of Mount *Garganus*, which by its being lately pillaged, had been neglected, and less frequented; and that his Example would instill into his *Longobards* a Veneration for the Place, and make it to be more frequented; and he likewise desired that the Duke would annex to his See of *Beneventum*, all that depended on the Bishoprick of *Sipontum*, because these Places at present uncultivated, being put under his Care, could be better kept and look'd after, to which *Grimoaldus* consented; whence it is, that from the Time of Pope *Vitalianus*, the Bishoprick of *Sipontum*, and the Care of the Cathedral of Mount *Garganus* did belong to the See of *Beneventum*, as is manifest from some Letters of Pope *Vitalianus* directed to the same *Barbatus*, related by *Marius Viper*, in the first Book of his Chronology of the Bishops and Archbishops of *Beneventum*: So that afterwards in the succeeding Times, the Churches of *Sipontum* and Mount *Garganus* were long subject to the Bishops of *Beneventum*, until the Principality of *Beneventum* being in a declining Condition, *Sipontum* got its Archbishop restored; under whose Care these Churches absolutely return'd, as we shall shew more at length, when we come to treat of the Ecclesiastical Polity of these Times.

ON this Account, the Veneration which the *Longobards* had for this Sanctuary grew greater, insomuch that they acknowledg'd the Saint for their Protector; and as the *Subalpine Longobards* had for their Protector the Forerunner of Christ, so those of *Spoletium* had *S. Sabinus* Bishop and Martyr; and our *Longobards* on this Side of the *Tyber*, had *Michael the Archangel* <sup>3</sup>: So that all the Victories which the *Longobards* gain'd after this Time over the *Neapolitans*, which were many, as well as this which happen'd on the eighth of *May*, the Day of the Angelical Apparition, were attributed to the Intercession of this their Protector <sup>4</sup>: Whence likewise the

<sup>1</sup> P. Pagi de Consulib. pag. 348.

<sup>2</sup> Boland. loc. cit. Ughel. tom. 9. Ital. Sacr. loc. cit.

<sup>3</sup> P. Warnefr. lib. 4. c. 5. Cam. Pel. Diff. de Duc. Ben.

<sup>4</sup> Hist. Ignoti Monaci Cassin. apud Cam. Pel. par. 1. hist. Princ. Longobard.

Error of those is manifest, who being ignorant of these Facts, carry back these Events to the Time of *Theodorick the Ostrogoth*; and being now convinced that before these Times the *Neapolitans* were Catholick, would have what is said of the Heathen *Neapolitans* to be understood of the *Vandals*, who were then join'd with the *Neapolitans* against the *Goths*.

## S E C T. II.

*The coming of the Bulgarians; and the Origin of the Italian Language.*

**B**UT to return to King *Grimoaldus*, whom we left in *Beneventum*; this Prince seeing the Affairs of the *Greeks* at such a low Ebb, after having rewarded *Mitola* by making him Count of *Capua*, and given him his Daughter to Wife besides; on the Death of *Zoto* likewise made him Duke of *Spoletium*, and kept his Court at *Pavia*. While he was there intent on punishing the Rebellion of *Lupus* Duke of *Friuli*, *Alczecus* Duke of the *Bulgarians* came to him<sup>1</sup>, who having forsaken his own Country, for what Reason is not known, enter'd peaceably into *Italy* with his *Bulgarians*, and offered his Service to *Grimoaldus*, intimating at the same time, that he was willing to live with his People, in any Place of his Dominions he should be pleas'd to appoint. The *Bulgarians* had come from that Part of the *Asiatick Sarmatia* which is wash'd with the River *Volga*; and after having travers'd all those vast Countries which reach from that River to the Mouths of the *Danube*, they pass'd it for the first time in the Reign of the Emperor *Anastasius*, and made great Havock in *Thrace* and *Illyricum*, and settled themselves at last along the *Danube*, in that Tract of Country which comprehends the two *Myssias*, with the lesser *Scythia*, which is now called *Bulgaria* from the Name of these People.

THE King receiv'd him very graciously, thinking he would be of great Use and Assistance to his Son against the *Greeks*, and sent him to *Romualdus* in *Beneventum*, whom he order'd to give him some Places in the Dukedom of *Beneventum*, for himself and People to live in. Duke *Romualdus* gave him a kind Reception, and allotted to him and his People many fine Cities in that Dukedom, to wit, *Sepinum*, *Bajanum*, and *Ifernina*, with other Cities and Territories in the Neighbourhood; but he would have him to lay aside the Title of Duke (for he had not given him those Places in Seignory and Property) and for the future call himself *Gastaldus*, perhaps he thought it was not fit, seeing he had no other Title himself but that of Duke, that one of his Subjects should have the same Title; whence it came to pass, that the Dukedom of *Beneventum* being divided into many Counties, all subject to the Duke of *Beneventum*, they who were appointed to govern them, had no other Title but that of *Comites* or *Gastaldi*, and they held these Places, as *Cujacius* says, *Jure Gastaldie, non perpetuo, proprioque Feudi jure*<sup>2</sup>.

THUS in the Year 667, a new Nation of *Bulgarians* was brought into our Kingdom; a People who for many Ages inhabited that Country which we now call *Contado di Molise*; and altho', more than a Hundred and fifty Years after, when *Warnefride* wrote his History, they had learned our common *Italian* Language, nevertheless, they had not then lost the Use of their own, as he relates in the fifth Book of the Actions of the *Longobards*, Article 11.; in which Place what he writes is worthy of Observation, that in his time the *Bulgarians* retain'd their own Language, tho' they likewise spoke a sort of *Latin*, *Quamvis etiam Latine loquantur*, which we are not to understand, as some have done<sup>3</sup>, that they spoke *Roman Latin*, which about the End of the ninth Century, when *Warnefride* wrote, was generally forgotten and disus'd, and was only made use of in Writings, but very much corrupted, and the Variety, Mixture, and Confusion of so many foreign Languages with the *Latin*, had given Rise to another new and vulgar Language which was then current in *Italy*, and call'd the *Italian*.

<sup>1</sup> P. Warnefr. lib. 5. cap. 11.

<sup>2</sup> Cujac. lib. 1. de Feud. tit. 1. §. 3.

<sup>3</sup> Ciarlant. of Samnium and others.

'TIS not to be doubted in the least, but that at this Time the *Italian Language* had got footing, and was much in use, it being more ancient than some believe. *Fornerius* attests <sup>1</sup>, that in the Time of the Emperor *Justinian* there had been an Instrument drawn up in *Ravenna*, *Conceptum eo fere Sermone, quo nunc vulgus Italiae utitur*. *Constantinus Porphyrogenitus* also in his Time, about the Year 910, calls *Beneventum* and *Venice*, *Citta Nova* <sup>2</sup>. The Author of the Acts of *Alexander III.* as Cardinal *Baronius* has it <sup>3</sup>, relating the reproachful Language given by the Roman Women to *Octavianus* the Antipope, says, that they called him *Lingua Vulgari : Smanta Campagno*. Afterwards in the Time of *Frederick II.* it was most common, and become already old : Not to mention *Ramittus* of *Calabria*, who, as *Richard* of *S. Germano* relates <sup>4</sup>, went about crying, *Benedittu, laudatu e santificatu lu Patre : Benedittu laudatu e santificatu lu filiu : Benedittu laudatu e santificatu lu Spiritu santu* ; nor the same *Frederick*, nor *Eutius* his Bastard Son, nor *Pietro delle Vigne*, nor many others of that Age, we read of many Compositions written in the *Italian Language*.

THIS Language, by the Writers of this, and likewise of the following Centuries, was also call'd *Latin*, for it was commonly spoke even by the ancient Provincials (whose Language before the Corruption was the ancient *Latin*) who were call'd *Latins*, or *Romans*, in order to distinguish them, either from the *Greeks*, or *Longobards*, or other Nations that came into *Italy* ; whence not only *Paul Warnefride*, but Writers much later than he, by the vulgar or common *Latin*, understand the vulgar or common *Italian*. So *Otho Frisingensis* <sup>5</sup> commends the *Longobards* of his Time, who were then become *Italians*, for the Elegancy of the *Latin Language*, that is to say, the *Italian*, which they spoke not only well, but also readily. At this Time our *Italian Idiom* pass'd under no other Name but that of the vulgar *Latin* ; it was call'd so in the End of the first Chapter of *Ser Brunettus* : So likewise those who spoke not the ancient *Latin*, but our *Italian Dialect*, by *Dante Alighieri*, *Petrarcha* <sup>6</sup>, and *Boccaccio* <sup>7</sup> are said, *Latine loqui*, as the most exact *Pellegrinus* nicely observes <sup>8</sup>.

AND from this Residence, which various Nations had in many Parts of this our Kingdom, has risen the so great Diversity of Language which we observe in these our Provinces, altho' they all spoke a sort of *Italian* ; for tho' the *Bulgarians* had liv'd many Ages in these Cities, and in process of Time had become *Italians*, and left off their own Language, and learn'd the Vulgar ; nevertheless the Mixture of two Nations in the same Place, occasion'd that the *Italian*, tho' superior, became somewhat corrupted ; and besides the new Words of that strange Nation, retain'd likewise a foreign Twang or Accent. So likewise in other Parts of our Kingdom, such as *Samnium* and *Aprutium*, where the *Longobards* continued longest, besides Words, they left an Impression different from the common *Italian Language* : And in those Countries where the *Greeks* were long settled, as in some Cities of *Calabria*, and particularly in *Naples*, they retain to this Day a great deal of the Tone of their Language, as also many of their Words ; and there are some who have been at the Pains to collect a long Catalogue of them, as *Capaccius* <sup>9</sup> did of the *Greek Words* which the *Neapolitans* make use of in their common Discourse at this Day. The Novelty and Variety of foreign Nations who invaded the Kingdom, did not end here, but one Nation succeeded another at different Times, and in different Countries of it ; from whence sprung the so many various and strange Mixtures which we see at this Time.

EVEN the *Arabians* or *Saracens* left us their Share ; these fixed themselves first in *Garigliano* ; from thence dispersing themselves over *Calabria*, *Puglia*, and *Pozzuolo*, left several Words among us ; for Example, *Meschino*, *Magazzino*, *Maschera*, *Gibel*, which signifies a Hill ; whence *Ætna*, by way of Excellency, is called *Gibel*, and corruptly *Mongibello*, repeating the same Thing twice, not to mention other Examples. And some have written, that it was the *Arabians* who first taught the *Sicilians*, and afterwards the other *Italians*, as also the *Spaniards*, to rhyme ; and *Thomas Canpanella*, in order to confirm that, brings a *Sclavonian Song* for a Testi-

<sup>1</sup> For. in Notis. ad Cass. lib. 10. cap. 7.

<sup>2</sup> Constant. de Admin. Imp. cap. 27, & 28.

<sup>3</sup> Baron. An. lib. 12. an. 1154.

<sup>4</sup> Ric. in Chron. an. 1222.

<sup>5</sup> Otho Frising. de Gest. Fred. lib. 2. c. 13.

<sup>6</sup> Petrar. in Trionfo d'Amore, cap. 2. and elsewhere.

<sup>7</sup> Boccac. Novel. 2. Giorn. 5.

<sup>8</sup> Camill. Pell. in Diss. de Duc. Ben.

<sup>9</sup> Capac. in Forastier. cap. 1. num. 10.

mony,

mony, wherein the same is affirm'd, and which he was wont to repeat by Heart, from whom afterwards the other Provinces of *Europe* learn'd it, and at last it reach'd *Germany*, as may be seen in that Poem, or rhiming Verses of *Otphridus*, who liv'd in the Time of *Lewis the Pious*, whom *Antonius Matthæus* <sup>1</sup> believes to be the most ancient Writer the *Germans* now pretend to: Besides, as we shall see in the following Books of this History, it was from the *Arabians*, and none else, that we had Philosophy, Physick, Mathematicks, and other Learning, which for many Ages have been taught in our Schools.

BUT the *Normans*, the *Suervi*, the *French*, the *Spaniards*, the *Albani* (and who not?) succeeding the *Longobards*, *Greeks*, and *Saracens*, tho' all our Provinces retain'd the same *Italian Language*, occasion'd that Diversity and Mixture which we at present see, and is the more surprizing, that there is not the least Part whatsoever in the Kingdom, that either in the Terms, the Accent, and often in the Words, does not differ, and is distinguish'd from the rest; but enough of this, and perhaps we shall have occasion to touch on it elsewhere.

<sup>1</sup> Anton. Mathæus de Criminibus ad L. Juliam Majest.

### S E C T. III.

#### *The Laws of Grimoaldus, and his Death.*

MEAN while *Grimoaldus* freed from all Suspicion and warlike Cares, in the sixth Year of his Reign, was altogether intent on the Arts of Peace, and to secure the Quiet of his Dominions by new Laws. The Laws of *Rotaris* during the Space of Twenty-four Years that they had been publish'd, had taken deep Root in *Italy*; not only the *Longobards*, for whom they had been made, began to conform themselves to them, but likewise the Natives, tho' the Use of the *Roman Laws* had never been forbid them: But in process of Time, as commonly happens, it was observ'd, that these were not sufficient for every Thing that was necessary, and many of them when they came to be made use of, and put in Practice, seem'd something harsh and grievous <sup>1</sup>; whence *Grimoaldus*, a most prudent Prince, desirous to reform in Part the Edict of *Rotaris*, and to add to it other Laws, which seem'd to him more useful: Having assembled his *Longobards* and their Judges, according to their Custom, in the Year 668, which was the sixth of his Reign, added other Laws to the Edict of *Rotaris*, and reform'd those already made, and publish'd a new Edict with this Preamble; *Superiore pagina hujus Edicti legitur, quod adhuc annuente Domino memorare poterimus, de singulis Causis, quæ præsentì non essent adscriptæ in hoc Edicto adjungere debeamus, ita ut causæ, quæ judicatæ & finitæ sunt, non revolvantur. Ideo ego Grimoaldus vir excellentissimus, Rex Gentis Longobardorum, Anno Deo propitio, sexto Regni mei, mense Julio, Indictione undecima, per suggestionem Judicum, omniumque consensum, quæ illis dura, & impia in hoc Edicto visa sunt, ad meliorem sensum revocare prævidimus* <sup>2</sup>.

THIS Edict of *Grimoaldus* is to be found in the abovementioned Code of the Monastery of the Cave, after that of *Rotaris*, and is contain'd in eleven Chapters, the Titles of which are these, I. *Si quis hominum nolendo occiderit.* II. *Ut causæ finitæ non revolvantur.* III. *De servo, qui 30 annos servivit.* IV. *De 30 annorum libertate.* V. *De culpa servorum.* VI. *De 30 annorum possessione.* VII. *De successione Nepotum.* VIII. *De Uxoribus dimittendis.* IX. *De Crimine uxoris.* X. *Si mulier, aut Puella super alia ad maritum intraverit.* XI. *Si ancilla furtum fecerit.*

THE Compiler of the three Books of the Laws of the *Longobards*, inserted likewise some of these Laws of *Grimoaldus* in the first and second Book, to the Number of Seven. We read the first in the first Book, under the Title *de Furtis, & servis*

<sup>1</sup> P. Warnefr. lib. 5. cap. 12.

<sup>2</sup> We read in Codice Cavense; and in the Body of the Laws of the *Longobards*, *Salick* and German, &c. of the Basil Edition in the Year 1557. and in Sigonius de Reg. Ital. lib. 2. ad Anno 668.

*Fugacibus*; the second under the Title *de culpis Servorum*; the third in the second Book under the Title *de Eo, qui uxorem suam dimiserit*; three others in the same Book under the Title *de Præscription.*; and the seventh in the same second Book under the Title *Qualiter quisque se defendere debeat.*

AFTER *Grimoaldus* had so well perform'd the Part of an excellent Prince, by a most surprizing Accident he was snatch'd away by Death; for having been blooded in one of his Arms, nine Days after, when with all his Strength he was bending a Bow, the Vein opened again, and all Means possible were used for closing it, but to no purpose; being drain'd of Blood, he died in the ninth Year of his Reign, which fell out in the Year 672. of Man's Redemption. *Grimoaldus* was endued with all singular Vertues, and by his Prudence and courteous Deportment was exalted to the Throne: A Prince, who by his Piety left a commendable and worthy Example for his People to follow; for tho' he had been born and brought up in the Arian Heresy, by the Assistance of *John Bishop of Bergamo*, a Man of singular Goodness and Learning, he forsook it, and embrac'd the Catholick Religion; not content with that, he repaired many Churches, and rebuilt others, amongst which that dedicated to *Alexander*, in the Island of *Dulcheria* was famous, and the other in *Parvia* to the holy Bishop *Ambrose*<sup>1</sup>. And his Example was so prevalent, that the Kings his Successors were all Catholicks, and Arianism was forsaken by all the *Longobards* in *Italy*.

<sup>1</sup> Sigon. de R. Ital. ad A. 672.



## C H A P. XI.

*Of Garibaldus, Pertarites, Cunipertes, and other Kings and Dukes of Beneventum, down to Luitprandus.*



*RIMOALDUS* left, besides *Romualdus* who reign'd in *Beneventum*, another little Son nam'd *Garibaldus*, to whom on his Death-bed he left the Kingdom. *Romualdus* Duke of *Beneventum* was not advanc'd to the Royal Throne, tho' the Eldest, because he was reputed a Bastard. But *Garibaldus* did not long enjoy it, for he had scarcely mounted the Throne, when *Pertarites*, who had been banish'd into *France*, hearing of the Death of *Grimoaldus*, came immediately into *Italy*, where being receiv'd with incredible Joy by a great Multitude of *Longobards*, he presently went to *Parvia*; from whence *Garibaldus*, after a Reign of three Months from the Death of his Father, was expell'd, and *Pertarites* plac'd on the Throne by the *Longobards*; and having recall'd his Wife *Rodolinda*, and *Cunipertus* his Son, who had been long in Exile in *Beneventum*, he govern'd the Kingdom afterwards with so much Peace and Justice, that no Violence, Robbery, or Treason was heard of during his Reign.

THIS Prince in the Year 680, associated *Cunipertus* his Son with himself in the Kingdom, and *Pertarites* at last dying in the Year 690, he continued to govern alone: However his Peace and Quiet was somewhat interrupted by *Alabis* Duke of *Trent*, who invaded the Kingdom; but he was soon expell'd, and *Cunipertus* continu'd to govern the Realm with the former wonted Quiet. *Cunipertus* died in the Year 703, leaving for Successor in the Kingdom *Luitpertus* his only Son, yet an Infant, therefore he left him under the Care of *Asprandus*, a Man of noble Birth,

Birth. *Cunipertus*, as *Warnefride* says, was a Prince of singular and wonderful Beauty, of most sweet Manners, and uncommon Courage, and a Catholick of rare Piety, so that the Kingdom of the *Longobards* had never been seen hitherto in so much Peace and Tranquillity as in his Reign, and that of *Pertarites* his Father.

## S E C T. I.

Of *Grimoaldus II.* *Gisulphus I.* *Romualdus II.* *Adelai*, *Gregorius*, *Godescalcus*, *Gisulphus II.* and *Luitprandus*, *Dukes of Beneventum.*

**I**N the mean time, *Romualdus* dying in the Year 677, was succeeded by *Grimoaldus II.* his Son, to whom he left the Dukedom much greater, having enlarged it with the Conquest of *Taranto*, *Brundasium*, *Bari*, and all the Country round about, which he had taken from the Emperor of the East. But *Grimoaldus* enjoy'd the Dukedom not quite three Years; during which Time, together with his Brother *Gisulphus*, he had govern'd it, and dying, left him alone in the Dukedom.

*GISULPHUS* held the Dukedom of *Beneventum*, reckoning the three Years which he reign'd with his Brother *Grimoaldus*, seventeen Years; and he began to govern it alone about the End of the Year 680, according to the Computation of *Pellegrinus*, and laid waste the *Campanina Romana*.

**B**UT *Gisulphus* dying in the Year 694, was succeeded in the Dukedom by *Romualdus II.* his Son, and while he govern'd *Beneventum* the Monastery of *Casino* was restor'd to its ancient Lustre by *Pertanax*. The Government of *Romualdus* was of a pretty long duration, having lasted twenty-six Years, during which Time he much vexed the *Neapolitans*, from whom he took *Cuma*; but they, at the Instigation of Pope *Gregory II.* making War under their Duke *John*, very soon retook it, and made great Havock of the *Longobards*.

**T**O *Romualdus*, in the Year 720, *Adelai* succeeded, who govern'd only two Years. To him succeeded *Gregory*, who held the Dukedom seven Years, and dying in the Year 729, was succeeded in the Dukedom by *Godescalcus*, who rul'd it somewhat less than four Years.

*GISULPHUS II.* of that Name succeeded in the Year 732, who to make amends for the Pillage of *Zoto*, enrich'd the Monastery of *Monte Casino* with many Possessions and large Donations; such Places and Lands of the Estate of *S. Germano* were given to it at this Time; and that at length being increas'd with other Donations, it became so rich, that the Abbots being Lords of many Vassals, rose to such a Height, that they kept Troops in their own Pay.

*GISULPHUS* govern'd the Dukedom of *Beneventum* seventeen Years; a Prince of great Piety, and most munificent to the Churches, to which he was profuse in his Gifts, and built many, amongst which that of *S. Sophia* was famous, which he rais'd in *Beneventum* from the Foundation. He died in the Year 744, and his Successor was *Luitprandus* the last Duke of *Beneventum*. He held the Dukedom eight Years and three Months; and after his Death, in the Year 758, *Arechis* his Son-in-Law was substituted in his Room by the Barons of *Beneventum*, and King *Desiderius*: Who, when the Kingdom of the *Longobards* was extinguish'd by *Charles the Great*, first chang'd the Dukedom of *Beneventum* into a Principality, and introducing a new Polity, filled his Dominion with many Counts, and *Castellains* or *Gastaldi*; and laying aside the Title of Duke, took that of Prince, and causing himself to be anointed by his Bishops, assumed the Crown, Scepter, the Purple Garment, and all the other Emblems of Royalty; whose notable Exploits will furnish us with abundance of Matter in the sixth Book of this History.

\* Jo. Diacon. apud Ughell. de Episc. Neap. pag. 86.



## S E C T. II.

*Of Luitpertus, Ragumbertus, Aripertus II. and Asprandus Kings of the Longobards.*

**I**N the mean time *Ragumbertus* had succeeded *Luitpertus*, who had reign'd only eight Months in the Kingdom of *Italy*. He was Duke of *Turin*, and Son of *Gudebertus*, who left him very young when he was kill'd by King *Grimoaldus*. He invaded the Kingdom in the Minority of *Luitpertus*, and at last drove him from the Throne.

**T**O *Ragumbertus*, who died the same Year, *Aripertus* II. of that Name, his Son, succeeded, of whom 'tis said, that he confirm'd the Patrimony of the *Alpes Cottia* to the Church of *Rome*; but he was afterwards chased away and kill'd by *Asprandus*, who took Possession of the Kingdom; and he likewise dying after three Months, left it to *Luitprandus* his Son, in whose Time were hatch'd those Mischiefs, which not long after were the Occasion of the transferring the Kingdom of *Italy* from the *Longobards* to the *French*; whence sprung the Beginning of the Temporal Dominion of the Popes in *Italy*, and so many and strange Changes happen'd in these our Provinces, that for the Novelty and Importance of the Events, after we shall have related the Ecclesiastical Polity of these Times, deserve to be reported in the following Book of this History.



## C H A P. XII.

*Of the Exterior Ecclesiastical Polity in the Kingdom of the Longobards, from Autaris down to King Luitprandus; and in the Empire of the Greeks, from Justin II. down to Leo Isauricus.*



**H**OW great soever the Progress of the Patriarchs of *Constantinople* had been in these Times in the East, nevertheless they had not as yet extended their Patriarchal Authority over these our Provinces; although by Degrees, being upheld by the Favour of the Emperors, they began to lay Claim to some Churches of those Cities which were yet under the *Greek Empire*. The first Step they took was, by giving the Bishops the Title of Archbishops, which not being a Title of Power, such as Metropolitan, but only of Dignity, it was very easy for a simple Bishop to obtain it, and for the Patriarchs of the East to give it: So we read, that from the Reign of the Emperor *Phocas*, who govern'd the Empire from the Year 602. to 610, the Patriarchs of *Constantinople* began, according to the wonted Pride of the *Greeks*, to give many of the Bishops of our Cities which were under their Subjection, that specious Title of Archbishop, such as those of *Otranto*, *Bari*, and afterwards also to the Bishop

Bishop of *Naples*<sup>1</sup>, to the great Indignation of the Popes. These were the first Steps they took in these our Parts; but in the East, by reason that the other Patriarchal Cities were possessed by the Barbarians, and the three Patriarchs laid aside, so that there could not be a continued Succession preserv'd, the Patriarch of *Constantinople* became more haughty and arrogant: Whence *Joannes Fejunator*, who was elected Patriarch of *Constantinople* in the Year 585, during the Empire of *Mauritius*, took the vain-glorious Title of *Oecumenical Patriarch*.

BUT on the other hand, the Progress of the Patriarch of *Rome* was no less in the West, that he might withstand so much Pride, and counterbalance so great Power. And the Chair of *Rome* was at this Time much exalted above all others, on account of the Sanctity and Doctrine of *Gregory the Great*, who sat in it in the Year 590. This Pope maintain'd the Prerogatives and Rights of his See, and made his Authority to be respected over all the West; he oppos'd the Patriarch *John*, and did not approve of the pompous Title of *Oecumenical Patriarch* of *Constantinople*, as being Ambitious, and which tended to the Diminution of the Power and Jurisdiction of other Bishops; so that he was the first who call'd and subscrib'd himself *Servus Servorum Dei*, in Opposition to the vain-glorious Title of *Oecumenical Patriarch* of *Constantinople*.<sup>2</sup>

FOR which purpose he endeavour'd to keep in Favour with the Emperors of the East, whose Subject he profess'd himself to be,<sup>3</sup> *Rome* being under those Princes; and that he might deserve well of them, he always oppos'd the Power of the *Longobards*; by not only taking Care for the Defence of that City, but of all the rest, and particularly of *Naples*, in order to maintain the Dominion of the Emperors of the East in *Italy*, and to counterbalance the Power of the *Longobards*, who aim'd at the universal Monarchy of all *Italy*, and driving the *Greeks* intirely out of it: Therefore he reliev'd the People by his great Liberality; and when the *Longobards* pillag'd *Croton*, and carried the Citizens into Captivity, he apply'd himself so strenuously, that by his good Offices he got them ransom'd. And he took a special Care of the Churches of *Italy*, *Sicily*, and of these our Provinces, which as formerly acknowledged no other Patriarch but him, and the other Popes his Successors. So we see, that in the Ordination of Bishops in *Sicily*, *Naples*, *Capua*, *Misenum*, *Beneventum*, *Puglia*, *Calabria*, *Lucania*, and *Apulium*, recourse was had to him, and any Disputes that arose about Elections were decided by him. He likewise applied himself wholly to the Affairs of the Universal Church, and he not only took Pains to extinguish the Division which was in the Church, betwixt the *Latins* and the *Greeks*, but also to extirpate the Schism of the *Donatists* out of *Africa*; and he sent *Augustin* the Monk into *England*, in order to convert those People. He left no Stone unturn'd, that by the Means of *Theodolinda*, the *Longobards*, by forsaking their Idolatry and Arianism, might embrace the Catholick Faith: Nevertheless he forbid the using of Violence to oblige the *Jews* to turn Christians. And above all, he was intent on keeping up the Church Discipline, and the absolute Observation of the Canons in all the Churches, holding it for certain, that the Power and Authority which the Primacy of his See gave him, made the most shining Figure by these Means.

THE Successors of *Gregory* took the same Measures; for although he died in the Year 604, and was succeeded by *Sabinian*, who held the See only five Months, and twenty-one Days; yet *Boniface III.* his Successor, who had been a long time Nuncio with the Emperor *Phocas*, Successor of *Mauritius*, by his Prudence had found Means so to insinuate himself into his Favour, that if we may give Credit to *Anastasius*, *Bede*, *Warnefride*, and many other Authors, when the Patriarchs of *Constantinople* claim'd the Primacy over all the Churches, he obtain'd a Rescript from *Phocas*, in which it was declared, That the Church of *Rome* ought to have the Primacy over all the Churches, and that the Bishop of *Rome* alone ought to have the Title of *Oecumenical Patriarch*; which 'tis said the Emperor *Phocas* did in Odium of *Ciriacus* Patriarch of *Constantinople*, who had succeeded *Joannes Fejunator* in the Year 596, and died soon after.

*BONIFACE IV.* who succeeded the Third, found Means likewise to keep in Favour with the Emperor, and oppos'd the *Longobards*, so that he got the Temple

<sup>1</sup> Paul. Warnefr. Ughel. de Epif. Hydruntin. |  
Beatil. hist. de Bari.

<sup>2</sup> Epist. Greg. M. lib. 4. ep. 80.

<sup>3</sup> Lib. 2. ep. 62.

of *Phaeton* in *Rome*, from *Pbocas*, in order to make a Church of it, which he did, and which, from its Figure is now call'd the *Rotunda*. All his Successors took the same Measures, and Pope *Vitalian*, when the Emperor *Conflans* came to *Rome* in the Year 663, receiv'd him with great Marks of Esteem and Respect: All the other Popes did the same, who continued firm in their Obedience to the Emperors of the East, against the *Longobards*, until *Leo Isauricus*, who, by defending the Error of the *Iconoclasts*, against the Authority of *Gregory II.* and *III.* put all in Confusion, as we shall see in the following Book of this History.

ON the other hand the *Longobards*, tho' for the most part Idolaters, and some of them Arians, did not disturb the Peace of our Churches; and as they found them at first under the Care of the Popes, so they suffered them to continue. King *Autaris* about the Year 587, forsook Paganism, and embrac'd the Christian Religion; but after the Example of the *Gotbish* Kings, he receiv'd it polluted with the *Arian* Heresy. The *Longobards* following the Example of their King did, the same, and made no Alteration in the Religion of the Provincials; whence there were seen in some Cities of *Italy* two Bishops, the one Arian, who had the Inspection of the converted *Longobards*; the other Catholick, who govern'd the Catholick Churches of the Provincials: However our Provinces were free of that Deformity; for those which continued subject to the Emperors of the East were all Catholick; the rest which were brought under the Dominion of the *Longobards*, kept the same Religion intire, which the *Goths*, and especially the great King *Theodorick*, had left them; in which King *Autaris*, and the other Kings his Successors persever'd. To all this was afterwards added the Piety of Queen *Theodolinda*, a most Religious and Catholick Lady, who, tho' she had not the desir'd Success in getting her first Husband *Autaris* perswaded to relinquish Arianism, yet such was the Influence she had upon her second *Agilulfus*, on account of the great Obligations he ow'd her, that she perswaded him to embrace the Catholick Religion; whence it was that *S. Gregory the Great* acknowledg'd himself so much oblig'd to that Princess, to whom he dedicated his four Books of the Lives of the Saints<sup>1</sup>; and we read many affectionate Letters of his, full of Encomiums and Praises, directed to this Queen<sup>2</sup>: Whence many *Longobards*, following the Example of their Prince, became likewise Catholicks; whereupon many Churches and Monasteries were built in the Reign of *Agilulfus*<sup>3</sup>, to which many Lands were given, and the Bishops, who formerly had been despis'd in the Cities of the *Longobards*, were now comforted and much respected. And tho' in the Reign of *Ariovaldus*, a perfidious Arian, who succeeded *Agilulfus*, that Peace was disturb'd which *Agilulfus* had settled, nevertheless, *Rotaris* afterwards ascending the Throne, a Prince tho' an Arian, of a peaceable Disposition, and who allow'd the Provincials, as well as the *Longobards*, to enjoy what Religion they pleas'd best, Things return'd to the former Peace and Tranquillity, which was still more confirm'd in the Reign of *Aripertus*, who was very favourably inclin'd to the Catholick Religion.

BUT afterwards our *Longobards* on this Side of the *Tyber* were the first that relinquish'd Arianism altogether, the Praise of which was owing to two illustrious Bishops, *Barbatus* of *Beneventum*, and *Decorusus* of *Capua*. *Barbatus*, after the Defeat which the *Beneventan Longobards*, under their Duke *Romualdus*, gave the *Greeks*, purg'd that Nation not only of Idolatry, but likewise of Arianism, and they became all Catholicks; the same happen'd to the *Capuan Longobards* by *Decorusus* their Bishop: So that in all these Provinces which had been subjected to their Dominion, Arianism was quite abolish'd by the *Longobards* themselves. Altho' the East frequently produc'd Heresies and Errors concerning Doctrine, whence these Churches had no good Agreement with our Western, and especially at this Time on account of the Heresy of the *Monothelites*; nevertheless the Vigilance of the Popes, under whose Care and Government the Churches of the Provinces yet subject to the *Greeks* still continued, was such, that they were not polluted with these Errors.

BUT not long after, what happily fell out to our *Longobards* on this Side of the *Tyber*, under *Romualdus* Duke of *Beneventum*, happen'd to the *Subalbin Longobards*, under *Grimoaldus* King of *Italy*: This Prince becoming Catholick, so much favour'd the Churches, and had so great an Aversion to the Doctrine of the Arians,

<sup>1</sup> P. Warnefr. lib.<sup>2</sup> Greg. M. lib. 3. ep. 4. & 33. lib. 7. ep. 42.<sup>3</sup> P. Warnefr. lib.

that he intirely abolish'd Arianism over all *Italy*. This gave Rise to the Riches of the Churches; whence likewise proceeded the Depravation of Manners of the greatest Part of Christians, and the Decay of Ecclesiastical Discipline.

THESE *Longobard* Princes, after the Example of all the other Princes of the West, and of the Emperors of the East, altho' they had become Christians, nevertheless with regard to the exterior Ecclesiastical Polity, kept up the same Prerogatives and Pre-eminence in their Dominions, that the *Gothish* Kings had done; and though the Popes made their own Authority to be regarded in the West, yet the Princes, and especially those of *France* and *Spain*, had a mind, amongst other Things, by their Laws and Edicts to give Force to the Provincial Synods, which were very frequent in this Century, and conven'd by their Order, for redressing of Grievances, and the corrupt Discipline and Irregularities of Ecclesiasticks. Likewise the Emperors of the East, not only follow'd the Footsteps of their Predecessors, but concern'd themselves much in the Affairs of Religion, the Popes not being able to make that Resistance they would willingly have done. The Emperor *Mauritius* treading in the same Footsteps of the other Emperors his Predecessors, publish'd Laws forbidding Soldiers to be receiv'd into Monasteries: *S. Gregory* complain'd of the Law, but did not impugn the Power of the Lawgiver; and with much Caution represented, that it was unjust, and against the Service of God, to hinder Men from chusing the Way to greater Perfection. *Maurentius* our Duke of *Naples*, oblig'd the Monks to stand Centinel for guarding the City, and quarter'd the Troops every where, not even sparing the Nunneries, of which this Pope likewise complain'd <sup>1</sup>.

MORE OVER the Emperors of the East appointed the Diocesses, and the Metropolis's, regulated the Sees and Precedencies, and augmented and diminish'd the Prerogatives of the Metropolitans at their Pleasure. And our Dukes of *Beneventum* did the same in their large Dukedom: At the Request of *Barbatus* Bishop of that City, Duke *Romualdus* united the Bishoprick of *Sipontum* to that of *Beneventum*; see the Request of *Barbatus* to *Romualdus*, as we read it in his Acts: *Si munus*, says he, *tuæ salutis offerre Studes, unum impende beneficium, ut B. Michaelis Archangeli domus, quæ in Gargano sita est, & omnia, quæ sub ditione Sipontini Episcopatus sunt, ad sedem Beatissimæ Genitricis Dei, ubi nunc indigne præsum, in omnibus subdas; & quoniam absque cultoribus omnia depravantur, unde nec sedulum Officium persolveri potest melius a nobis disposita tibi proficiant in Salutem.* *Romualdus* granted his Request, and gave him a Diploma for it: *Illico Princeps viri Dei consentit petitionibus, eo ordine, ut fati sumus, & sicut mos est, per Præceptum Genetrici Dei universa concessit, & ut resonet in futurum, Anathematizaverat, qui contra hæc agens irritam hanc facere voluerit Concessionem.* *Barbatus* wanted likewise to have the Pope *Vitalianus* to consent to it, because it was the Business of the Roman Pontiffs (to whom *Samnium* and *Puglia*, as *Suburbicarian* Provinces, belong'd) to unite and separate their Churches, as had been often practis'd by Pope *Gregory*, who in the Year 592, join'd the Church of *Cuma* to that of *Misenus* <sup>2</sup>, which Union was of short Duration; and the same was practis'd in other *Suburbicarian* Provinces. For we read in *Vipera* and *Ughellus* <sup>3</sup>, the Brief of *Vitalianus* directed to Bishop *Barbatus*, wherein amongst other Things we find this: *Concedentes tibi, tuæque præfatæ Reverendissimæ Beneventanensi Ecclesiæ, Bibinum, Asculum, Larinum, & Ecclesiam Sancti Michaelis Archangeli in Gargano, pariterque Sipontinam Ecclesiam, quæ in magna inopia, & paupertate esse videtur, & absque cultoribus, & Ecclesiasticis Officiis nunc cernitur esse depravata, cum omnibus quidem eorum pertinentiis, & omnibus prædiis cum Ecclesiis, &c.* Therefore since this Time of Pope *Vitalianus*, the Church of *Sipontum* has been united to that of *Beneventum*, and the Bishops of *Beneventum* call'd themselves likewise Bishops of *Sipontum*, until these Churches were again separated.

THEREFORE, the Ecclesiastical Polity was not alter'd, either in the Provinces which were brought under the Dominion of the *Longobards*, or those which remain'd under the *Greeks*; but every Thing with respect to that was preserv'd in the same Form in which it had been under the *Gothish* Kings of *Italy*, and under *Justinian* and *Justin* Emperors of the East.

<sup>1</sup> S. Greg. epist. 62. lib. 11.

<sup>2</sup> Greg. lib. 7. ep. 74. & 107. Camil. Pel. |

<sup>3</sup> Ughel. de Episc. Camanis.

<sup>4</sup> Ibid. de Episc. Benev.

## S E C T. I.

*The Election of Bishops, and their Disposition in the Cities of these our Provinces.*

THE Bishops were still elected by the Clergy and People, and ordain'd by the Popes as formerly; but the Princes, as if such Power had been devolved upon them by the People, would have the greatest Share in the Elections, whence it came, that by their Means some being elected, who had neither Merit, Learning, nor Capacity, the Churches were ill govern'd. In the Register of the Letters of S. Gregory we read, that this Pope exercising both his Metropolitan and Patriarchal Authority in these our Provinces, not only ordain'd those elected by the Clergy and People, but also regulated the Elections, decided the Controversies which arose, and often depriv'd the Bishops of their Sees, when he found them unworthy. Thus we read of the Bishops of *Naples*, that in the Year 590, while *Demetrius* fill'd that Chair, he, for his many and heinous Crimes was deposed by *Gregory* the following Year; who after he had deposed him, wrote to the Clergy and the Orders of that City, to wit, to the Nobles and People, that in the Room of *Demetrius* they should chuse another; and in the mean Time he sent Bishop *Paul* to govern that Church, until they should chuse a Successor. The *Neapolitans* were so well pleas'd with *Paul*, that they wrote to the Pope, intreating him that he would give them him for their Bishop: *Gregory* took Time to consider; and in the mean while, *Paul* being in the Castle of *Lucullus*, which is now call'd *Uovo*, and having receiv'd an Affront from some Servants belonging to a *Neapolitan* Lady, named *Clementia*, intreated *Gregory* that he would allow him to return to his Church; whereupon the *Neapolitans* not agreeing amongst themselves in the Election of one of their Citizens, and perceiving that *Paul* would not accept, elected *Florentius* the Pope's Subdeacon, who was then in *Naples*; but he refusing the Charge, soon made his Escape, and fled to *Rome*; so that *Gregory* wrote <sup>1</sup> to *Scholasticus* Duke of *Naples*, exhorting him to assemble the Nobles and the People of the City, in order to elect another Person; and after the Election to send the Decree to *Rome*, that he might ordain the Person elected: Adding besides, that seeing they had twice elected Strangers, if they could not find amongst the Citizens a Person fit for such a Charge, at least they should chuse three prudent and virtuous Men, to whom all the Orders were to give their Power, and send them to *Rome* as Representatives of the City, that together with the Pope, they might consult and order Matters so, as at last to find a Person of unspotted Life, and approve of him, that the Pope might ordain and send him to the vacant Church.

*GREGORY* wrote such another Letter <sup>2</sup> to *Peter* Subdeacon of *Campania*, who had the Charge of St. *Peter's* Patrimony in that Province, whom he injoin'd to cause the Clergy of the Church of *Naples* to be assembled, and to order them to chuse two or three of their Number, to whom they should give full Power, and send them to *Rome*; where being join'd to the other Representatives of the Nobility and People, they might treat about the Election and Ordination of the new Bishop.

THIS Election was call'd *per Compromissum*, which was wont to be practis'd in Cases of Division and Disagreement, that so by uniting their Minds and Suffrages in two or three prudent Persons, in order to shun Confusion and Disputes, these might elect him whom they thought the most deserving and capable <sup>3</sup>. In this manner *Fortunatus* was elected at last by the Arbitrators in *Rome*, in the Month of *June*, in the Year 593; and being ordain'd by the Pope, came to *Naples*, where he was most lovingly receiv'd by the *Neapolitans* his Children, and he govern'd that Church for many Years with so much Prudence and Care, that he was highly commended by *Gregory*; whence we read many of his Letters directed to this Bishop <sup>4</sup>.

<sup>1</sup> Ep. Greg. apud Chioc. de Episc. Neap.

<sup>2</sup> Ep. apud Chioc. loc. cit.

<sup>3</sup> Fr. Florens ad tit. de Elect. & El. pot. tit.

<sup>4</sup> p. 175. & seq. Jo. a Costa in Sum. add. tit.

Ant. Mattheus man. ad jus Can. lib. 1. tit. 12.

<sup>4</sup> Ep. Greg. apud Chioc. loc. cit.

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*FORTUNATUS* dying, there arose new Disputes about a Successor; and the Suffrages being divided, the Clergy and People elected two Bishops; one Party elected *John* the Deacon; the other *Peter*, likewise a Deacon. Immediately they had their recourse to Pope *Gregory*, that of the two he might chuse him whom he should esteem the most worthy, and confirm and ordain him. But none of them pleas'd him: *John* was remarkable for Incontinency, having a Daughter who was a Testimony of his Weakness; *Peter* as an Usurer, and of a weak Understanding, was reckon'd unworthy, and not fit; whereupon he wrote back to the *Neapolitans* to chuse others, which they afterwards did.

WE see the same Method practis'd in the Elections of the Bishops of *Capua*, *Cuma*, *Misenum*, *Beneventum*, *Salernum*, *Aprutium*, and of all the other Churches in these our Provinces, which as *Suburbicarian* belong'd to the Pope: *Palermo*, likewise *Messina*, and all the other Churches of that Island, *Sicily* being also a *Suburbicarian* Province, observ'd the same Rule.

THE Election, according to the Direction of the Canons, ought to fall upon one who was of the same Church, or who (according to the Language of this Time) was incardinated into it, and not of other Churches; but when the Citizens could not find a fit Person amongst themselves, which seldom happen'd, then in that case they had recourse to Strangers, who were eminent either for their Piety, Prudence, or Learning: So we read, that *Gregory*, when a Bishop of *Capua* was to be elected, the *Capuans* disagreeing in the Election, and some of them naming Strangers, protesting, that there were none of the Natives worthy, answer'd, that it appear'd very strange to him, and that in the mean Time they ought to make a more narrow Scrutiny among their Citizens, and if truly there was not one fit Person found among them, then he would furnish them with one.

BY the Death of *Liberius* Bishop of *Cuma*, which fell out in the Year 592, this same Pope sent *Benenatus* Bishop of *Misenum* to govern it until a Successor should be elected. The People of *Cuma* disagreed in the Election, some designing to elect a Person of another Church; but *Gregory* made *Benenatus* to understand, that he should not allow a Stranger to be elected, unless it appeared that there was not a Person amongst the Inhabitants of *Cuma* fit to be rais'd to that Dignity.

THE same was practis'd in the Election of the Bishop of *Palermo*. By the Death of *Victor* that Church had remain'd vacant: S. *Gregory* immediately sent thither *Barbatus* Bishop of *Beneventum* to govern it until there should be a Successor elected. The *Palermitans* disagreeing in the Election of a Native, thought of electing a Stranger; *Gregory* oppos'd them, and would not allow a Person of another Church to be elected, *Nisi forte inter Clericos ipsius Civitatis nullus ad Episcopatum dignus, quod evenire non credimus, poterit inveniri.*

IN such manner were the Elections of Bishops, when the ancient Discipline of the Church, and what the holy Canons prescribe, were regarded. Thus likewise by the Clergy and People, ought the Election of the Bishop of *Rome* to have been: They had not the Emperors of the East to obstruct them in it. But already in these Times the Princes had begun to usurp the Rights of the People and Clergy in these Elections; whether out of Fear or Complaisance, the Person who pleased the Prince was often elected. The Emperors of the East, as Masters of *Rome*, had a great Hand in the Election of the Popes, who were their Subjects, and there was a Custom introduc'd, that without their Mandate none could be ordain'd; whence the Elected was oblig'd to send to *Constantinople* to ask the Consent and Permission of the Emperor. *Paul Warnefride* writes\*, that after the Death of *Benedictus Bonosus*, *Pelagius II.* was exalted to that Chair in the Year 577, when *Rome* was so closely besieg'd by the *Longobards*, that none could go out of it, and *Pelagius* could not send to the Emperor in *Constantinople* to obtain his Consent, whereupon he was ordain'd Pope without the Mandate of the Prince; afterwards when the Obstacles were remov'd, the Popes were wont to send Letters to the Emperors, in which they gave Account of the Impediments they had had, and begg'd to be excus'd, and to have their Ordination confirm'd. S. *Gregory the Great* being elected Pope, and refusing to accept of it, wrote to the Emperor *Mauritius*, earnestly intreating

\* Epist. Gregor. apud Chioe. loc. cit.

\* Ibidem.

\* Anast. Biblioth. in Vigilio. Id. in Pelag. II.

\* Warnefr. lib. 3. cap. 10.



him that he would not give his Consent to the Election; but the Emperor was so well pleas'd with it, that he deny'd his Request<sup>1</sup>.

IN our Provinces the Princes likewise would have their Share in the Election of the Bishops of their Cities: So it happen'd in the Year 663, when, by the Means of Duke *Romualdus*, *Barbatus* was elected Bishop of *Beneventum*.

WE also read the same of the *Neapolitan* Bishops, and particularly of Bishop *Sergius*, who by the Death of *Laurentius*, was exalted to that See by *John* Duke of *Naples*; but these Cases happen'd to be out of the Rule. The Discipline was, that as the Election belong'd to the Clergy and People, so the Ordination to the Pope.

THE Disposition of Bishops in these our Provinces was the same as in the preceding Centuries: And with regard to their Authority and Jurisdiction, their Power of taking Cognizance was restricted as formerly to Ecclesiastical Causes, wherein they proceeded by way of Censure; they had no compleat Justice, nor Tribunals, nor Magistrates, and their Cognizance extended no further than what *Justinian* had given them in his *Novellæ*<sup>2</sup>. As to Honour and Power, it was the same, and confin'd to the same Bounds. In the Cities they were only Bishops, none of them having as yet acquir'd the Authority of Metropolitans; neither had they Suffragan Bishops under, and depending upon them, but every Bishop govern'd his own Church, and the People committed to his Charge. The Patriarchs of *Constantinople* had not as yet invaded our Churches, so as to be able to make any of them a Metropolis, and advance their Bishops to be Metropolitans, and subject them to the See of *Constantinople*, as they did in the Empire of *Leo Isauricus*, and of the other Emperors of the East his Successors; only, as we have said, some Bishops of the Cities subject to the *Greek* Empire, began, according to the Vanity of the *Greeks*, to be honour'd with the Title of Archbishop, which highly offended the Popes, who rebuk'd those Bishops severely that accepted of it<sup>3</sup>.

SOME have believ'd, that the Bishop of *Naples* before *S. Gregory the Great*, or at least by this Pope, was rais'd to the Honours of Metropolitan and Archbishop. They prove it from this Inscription which we read in the Decretal<sup>4</sup>, under the Title *de Statu Monac.* where, *Gregorius Archiepiscopo Neapolis*; and under the other *de Religiosis Domibus*, where, *Gregorius Victori Archiep. Neap.* But who does not see the manifest Incorrectness of the vulgar Code? for in the correct Copies the first is read thus, *Gregorius Fortunato Episcopo Neapolitano*, as *Gonsales* likewise read it<sup>5</sup>; and the second, *Gregorius Victori Neapolis Episcopo*: Besides, that in the Register of the Letters of *S. Gregory*, acknowledged and corrected in *Rome*, from which this Text is said to be transcrib'd, this Title is not to be found; neither is this Decretal to be seen amongst the Letters of *S. Gregory*, which is said to be directed to *Victor*. Whence our most accurate Writers, such as *Caracciolus*<sup>6</sup>, and *Chioccarelli*<sup>7</sup>, with good Reason blam'd this their Belief, and they bring back the raising of this See to be a Metropolis to later Times.

OTHERS have grounded their Opinions upon the Disposition of these our Provinces under the Pontificate of *Gregory*, that in these Times *Naples* was made a Metropolis. *Naples*, say they, had in those Times its own Duke; the other Cities had their Counts and Governors. A Duke, according to the Polity of the Empire, presided over many Cities in the Province of which the Dukedom was compos'd. A Count presided over one City only; whence in the Laws of the *Westgoths*, 'tis said Duke of a Province, and Count of a City; and *Fortunatus* says to Count *Sigoaldus*,

*Qui modo dat Comitibus, det tibi Jura Ducis.*

REGULARLY the Dukes had twelve Cities under them, and those Cities were call'd Counties; whence a Duke govern'd twelve Counts, as *Petrus Pictus* observ'd from that Place of *Aimoinus*: *Pipinus domum reversus, Grisonem more Ducum duodecim Comitibus donavit*, as does also *Camillus Pellegrinus*<sup>8</sup>, from the many Examples which we read in *Gregory of Tours* in his Appendix: Whence *Durandus* observ'd, that by adapting the Polity of the Church to that of the

<sup>1</sup> Io. Diac. vita S. Greg. lib. 1. cap. 39, 40.

<sup>2</sup> Novell. 83, & 123.

<sup>3</sup> Chioc. de Epist. Neap. Anno 730.

<sup>4</sup> Cap. 1. de Statu Monac.

<sup>5</sup> Gonsales d. cap. 1. & de Relig. domib.

<sup>6</sup> Carac. de Sacr. Eccl. Neap. Monum.

<sup>7</sup> Chioc. de Epist. Neap.

<sup>8</sup> Pellegr. in Dissert. de Duc. Benev.

Empire, the Ducal Cities had Archbishops, and those of Counts had Bishops, the Archbishops answering to Dukes, as the Bishops to Counts. Thus *Naples* being made a Ducal City at this Time, tho' its Dukedom was not of such Extent as afterwards, as comprehending only the neighbouring Cities about *Crateri*; such as *Pompeii*, *Herculaneum*, *Acerra*, *Nola*, *Pozzuolo*, *Cuma*, *Misenas*, *Baja*, and *Stabia*, might have been a Metropolis, and its Bishop a Metropolitan.

BUT as 'tis true, that in process of Time, the Polity of these our Churches, was by degrees adapted to the Disposition or Polity of the Empire, as we shall see in the following Centuries; nevertheless, in the Times we are now treating of, the Ecclesiastical Polity was not adapted to the Disposition of the Dukedom; either of the *Longobards* or *Greeks*; and the Disposition of our Churches, and of those of *Italy* was quite different: So that 'tis a fallacious Argument to give Archbishops to the Ducal Cities. Could there be seen in those Times a more conspicuous and eminent City in these our Provinces than *Beneventum*, the Head of so large a Dukedom, that it comprehended many Provinces, and was the Seat of the Dukes of *Beneventum*? and yet its Bishop was neither Metropolitan nor Archbishop, but acquir'd that Prerogative long after, to wit, in the Year 969, in the Pontificate of *John XIII.* as we shall shew. *Spolegium*, the Head of another famous Dukedom, had no Archbishop. *Brescia*, *Trent*, and other Cities of *Lombardy*, honour'd by the *Longobard* Princes with the Titles of Dukedom, had not their Archbishops in this Century, but long after; and *Brescia* and *Spolegium* never had any. *Gaeta* likewise had its Duke, but never an Archbishop. *Capua*, *Bari*, *Ravennae*, *Salernum* conspicuous Cities, and many other of these Provinces which were subject to the *Greeks*, had not their Metropolitans from the Popes before the tenth Century, and others much later; altho' the Patriarchs of *Constantinople* dispos'd of them otherwise, as we shall relate in the following Books. *Naples* then, as the same *P. Caraccioli*, and others of our Writers confess, was not made a Metropolis in these Times. It was honour'd with this Dignity in the tenth Century, in the Pontificate of *John XIII.* after *Capua* and *Beneventum*, as shall be told in its Place: All the other Churches of these our Provinces had not as yet obtain'd that Prerogative; they were only Bishops who presided over Cities, how great and famous soever they might be, and Seats of Dukes. However, 'tis true, that in process of Time some Cities rising to be Heads and Metropolis's of Dukedom, or Principalities, and the Popes beginning in the tenth Century to exercise new Patriarchal Privileges in these our Provinces, by raising Bishops to be Metropolitans, and sending them the *Pallium*; the Polity and Ecclesiastical Disposition began to be adapted and answerable to the Polity of the Empire.

'TIS likewise true, that from these Times the Foundations of a new Polity, as well of the Empire as of the Priesthood, began to be laid. Thus we see in these Times the Churches of *Sipontum*, *Bovinum*, *Arcoli*, and *Larinum* annexed to the Bishoprick of *Beneventum*: Those of *Cuma*, *Misenus*, and *Baja*, join'd to the Bishop of *Naples*; not that the Bishops of these Cities acknowledg'd him for their Metropolitan; but in Honour of the Ducal City, as their Metropolis, in what concern'd the Polity of the Empire, they allow'd him the chief Honours, for he was look'd upon to be the first Bishop of that Dukedom. In process of Time, besides the Dukedom of *Beneventum* and *Naples*, the Dukedom of *Capua* and *Salernum* sprung up, which with that of *Beneventum* were exalted afterwards to be Principalities. *Amalphis* and *Surrentum* had likewise their Dukes, and were erected into Dukedom. *Bari* had likewise its Duke. Some Cities of *Puglia* and *Calabria*, of the *Bruttii*, and *Lucania*, being also made Heads and Metropolis's of these Provinces, became more famous than the rest; whence, conformable to the Polity of the Empire, they receiv'd Metropolitans, and the Bishops of the lesser Cities of these Provinces became their Suffragans: Whence it came to pass, that the more their Dukedom or Province was extended, the more Suffragans they had; for which Reason, seeing the Dukedom of *Beneventum* extended its Bounds more than all the rest, its Archbishop had so many Suffragan Bishops, that to this Day he has a much a greater Number than any of the other Metropolitans; whence also it has happen'd, that the Principality of *Salernum*, having likewise enlarged its Bounds, tho' not so much as *Beneventum*, its Archbishop retain'd many Suffragans; and that of *Capua* for the same Reason likewise had very many. And on the contrary, the Dukedom of *Naples*, *Surrentum*, and *Amalphis*, as being but very small, had not so great a Number of Suffragan Bishops,

Bishops, as the Metropolitans of the other Cities of these our Provinces; as we shall observe when we come to treat of their Ecclesiastical Polity in the latter Times.

SUCH then was the Disposition and Ecclesiastical Hierarchy of these our Provinces in this Age, to wit, the Pope, as both Metropolitan and Patriarch: Bishops, Priests, Deacons, Subdeacons, who were already at this Time tied down to Celibacy, and their Order put in the Rank of superior Orders, Acolytes, Exorcists, Lectors, and Door-keepers.

WE read also in the Writers of these Times, and especially in S. Gregory's Letters, of Cardinal Priests, Cardinal Deacons, and Cardinal Subdeacons; and that many Churches besides the Roman had of these Cardinals, such as those of *Aquileja*, *Ravenna*, *Milan*, *Pisa*, *Terracina*, and *Syracuse*; and likewise in our Provinces, such as the Churches of *Naples*, *Capua*, *Beneventum*, *Venafrum*, and perhaps all the rest. But in these Times, as *Florens* and *Balutius* sufficiently prove<sup>1</sup>; and as is evident from the very Letters of S. Gregory; these Cardinals were nothing else but stranger Priests, Deacons, and Subdeacons, who were join'd and added, or, as you may say, thrust in like a Wedge into a certain Church, whence they were call'd *Incardinati*, and depended, and turn'd on that Body as a Door on its Hinges; so that they were no more look'd upon as Strangers, but as belonging to that Church, therefore they were call'd *Incardinati*, or *Cardinales*, a Title which tho' at its Rise did not denote any Dignity nor Superiority whatsoever; yet in the following Centuries made such a tearing and dazzling Figure, that of late it hath found Means to vie with the Royal Title; and those who are honour'd with it, to put themselves on a Level with the most potent Kings of the Earth.

'TIS true there likewise arose at the same Time in the West, diverse Officers, and other Titles were heard of, such as *Cimeliarcha*, *Rector*, *Chartularius*, and others; and in the Eastern Church a great many more, of which there is a long Catalogue in *Bodinus*<sup>2</sup>, and *Leunclavius*<sup>3</sup>. But these Officers were appointed in order to take care of the Temporalities of the Churches, and their Riches. The Bishops by the Piety of the Princes and the Faithful, who were profuse in making Donations to their Churches, applied themselves to build other new and more magnificent ones; and especially our *Neapolitan* Bishops<sup>4</sup> beautified the Churches of their own Cities above all the others of these Provinces, and built many of them anew: And whereas before this Time the Vessels had been made of Wood, Glass and Earthen-Ware; the Vestments, and all the other Ornaments had been simple and plain; so now they were made of Gold and Silver; the Vestments came to be rich and pompous; the Ornaments all precious and magnificent; wherefore it behoved them to appoint one of the Clergy to keep them, and take care of them; whence the Keeper of them with us<sup>5</sup> was call'd *Cimeliarcha*, and with the *Greeks*<sup>6</sup> *Magnus Vasorum Custos*. The Church of *Naples* had her *Cimeliarcha*, which she continues to have to this Day, but with a different Employment: All the other Churches of these our Provinces had likewise such an Officer, as also those of *Rome*, *Ravenna*, and in fine all the rest. The Possessions, Farms, and the large Revenues situated in remote and distant Countries, had a Person appointed to take care of, and look after them; whence came the Rectors, of whom S. Gregory often makes mention, who had the Charge of the Patrimony of the Churches, and consequently the *Chartularii*, the Oeconomists and other Officers. But all these Offices were ordain'd for the Temporalities of the Churches, and were not Hierarchical Degrees, nor were they concern'd in the least with Spiritual Matters.

<sup>1</sup> Balut. in annot. ad Anton. August. in Decreto Grat.

<sup>2</sup> Codin. de Offic. Eccl. Constant.

<sup>3</sup> Leuncl. tom. 2. Jur. Græco-Rom.

<sup>4</sup> Jo. Diacon. de Episc. Neap. Chiec. de Episc. Neap.

<sup>5</sup> Chiec. de Episc. Neap.

<sup>6</sup> Codin. Leuncl. loc. cit.

## S E C T. II.

## M O N K S.

**C**HURCHES as well as Monasteries became more frequent and magnificent in these Times, and their Monks more numerous. The *Longobards*, as it commonly happens in the first Ardour of new Religions, having embrac'd that of the *Roman* Catholicks, were much more profuse in their Donations to Churches and Monasteries, than the Old *Greek* Christians. King *Agilulfus* having become Catholick, repaired many Monasteries in *Italy*, and built others new. King *Aripertus* was as profuse in giving to the Monasteries and Churches, and particularly to the *Roman*, as he was in restoring the great Possessions in the *Alpes Cottiae*; whence the Patrimony of *St. Peter* grew so great in that Province, that it made some believe, that *Aripertus* had given all the Province of the *Alps* to the Church of *Rome*.

OUR Dukes of *Beneventum*, altho' the Monastery of *Casino* had suffer'd so terrible a Pillage under Duke *Zoto* I. a Pagan and Idolater; nevertheless having afterwards, by the Labour of *Barbatus*, embrac'd the Catholick Faith, were bountiful to the Churches and Monasteries; insomuch that *Pertinax* having repair'd that Monastery in the Year 690, the Dukes of *Beneventum* enrich'd it hugely, and among others *Gilulphus* II. increas'd it with immense Donations, and great Possessions. Those Places and Lands belonging to the State of *S. Germano* were mostly given to that Monastery; so that afterwards in process of Time, being enrich'd with other large Donations, it became so great and powerful, that the Abbots, as Lords of many Lands and Vassals, kept Armies in their own Pay, as we shall see in the following Century.

BY this the Monasteries of the Order of *S. Benedict* became more numerous in the Dukedom of *Beneventum*, which in these Times comprehended what we now call the two *Aprutii*, the County of *Molise*, and the *Capitanata*; almost all *Campania*, a good Part of *Lucania*, of *Puglia*, and of the ancient *Calabria*, *Tarentum*, *Brundisium*, and all the large Country about it. Many such, both of Men and Women were newly erected in these our Provinces under the Reign of the *Longobards*; we read of very many in *Beneventum* in the Time of *S. Gregory*<sup>2</sup>, of the Monastery of the Monks of *S. Nazarius the Martyr*; of another near to that of the Friars of *S. Mary ad Olivulam*: And in the Time of *Grimoaldus* V. Duke of *Beneventum*, we read of that of *S. Modestus* enrich'd by *Grimoaldus* with great Possessions<sup>3</sup>; and *Theodorata* Wife of Duke *Romualdus* his Son, founded a Monastery of Women without the Walls of *Beneventum*, in Honour of *St. Peter the Apostle*. The Example of the Princes was afterwards follow'd by their rich Subjects, as well *Longobard* as Provincial; so that in the Dukedom of *Beneventum*, over all the Provinces which it comprehended, the Monasteries of *S. Benedict* were in those Days more numerous than in the preceding Century.

IN the Dukedom of *Naples*, and in all those Cities which were subject to the *Greeks*, altho' many others of this Order were newly built, nevertheless the Number of Monasteries, as well of Men as of Women, under the Rule of *S. Basil* was greater: *Naples* had a great many of them, as we have seen in the foregoing Book; they were no less frequent in *Otranto*, *Brundisium*, *Rubegum*, and almost in all the other Cities of *Calabria* and *Brutium*.

THUS the Monasteries were no less numerous and rich in these our Provinces, than in *France* and *Germany*, and other Parts of the West; so that they began to pretend to shake off the Yoke of the Bishops, and to ask Privileges and Immunities in order to be at Liberty. If the Acts of the Council be true, which *S. Gregory* is said to have held in *Rome* in the Year 601, in favour of the Monks, it was there ordain'd, that the Monks should have the Liberty to elect their own Abbot, and to

<sup>1</sup> P. Warnefr. lib. 6. cap. 1.<sup>2</sup> Ughel. de Episc. Benev. p. 19.<sup>3</sup> P. Warnefr. lib. 6. cap. 1.

chuse a Monk of their own Community, or of another Monastery; that Bishops could not take a Monk out of a Monastery in order to make him a Clerk, or to employ him in reforming another Monastery, without Consent of the Abbot; that the Bishops were not to meddle with the Temporalities of Monasteries, neither to celebrate solemn Offices in the Church of the Monks, nor exercise therein any Jurisdiction. By reason of all which, the Monastick State from that Time became considerable, and soon after began to inroach upon the Civil and Temporal State of Princes, who instead of setting Bounds to so great Acquisitions, rather increas'd them with their immense Donations.

### S E C T. III.

#### ECCLESIASTICAL Regulations.

THE Canons which had been establish'd in different Councils in the West during this seventh Century, and particularly in *Toledo* and in *France*, redress'd in a great measure the Irregularity of the most Part of Christians, and the Discipline of the Ecclesiasticks, that had been much decay'd. They were invigorated likewise by the Edicts of the Sovereigns; and *S. Gregory the Great* restor'd in *Italy* the declining Discipline of our Churches; he took much Pains to preserve it, and apply'd himself wholly in causing the Canons to be inviolably observ'd in all the Churches. For which Purpose he wrote a great Number of Letters during the fourteen Years of his Pontificate, which contain a great many Decisions concerning the Government and Discipline of the Church.

IF that which *Baronius* wrote of *Cresconius* Bishop of *Africa* be true, and what the most grave Authors say of the Collection of *Isidore Mercator*, there was not one Collection of Canons made in this seventh Century. *Baronius* believ'd that the Bishop *Cresconius* flourish'd about the Time of *Justinian* the Emperor, therefore his great Collection of Canons was spoke of in the foregoing Book. If then we would follow the Opinion of *Doviat*<sup>1</sup>, reckon'd true by *Pagi*<sup>2</sup>, and embrac'd by *Burcardus Gotthelf Struvius*<sup>3</sup>, the Collection of *Cresconius* would belong to this seventh Century, according to the Opinion of those who reckon it was made about the Year 670. That of *Isidore Mercator* must certainly be referr'd to the next Book, seeing this Writer flourish'd in the eighth Century, in the Year 719.

IF *Isidore* of *Spain*, Bishop of *Seville*, be reckon'd Author of it, this should certainly be its Place; he sat in that Chair after the Death of his Brother *Leander*, to whom he succeeded about the Year 595, and govern'd it for almost the Space of forty Years; but 'tis certain he was not the Compiler of it, as well because that Collection contains many Canons establish'd in diverse Councils held in *Toledo* a long Time after his Death, which fell out in the Year 636, and some Letters of *Gregory II.* and *III.* and of *Zacharias*<sup>4</sup>, who sat in the Chair of *Rome* in the eighth Century; as also, because amongst the many Works of this eminent Writer, this Collection has never been mention'd by any<sup>5</sup>.

<sup>1</sup> Doviat. hist. Droit Can. par. 1. ch. 22.

<sup>2</sup> Pagi in Critica in An. Bar. ad A. 827. n. 14.

<sup>3</sup> Struvius hist. Jur. Can. cap. 7. §. 11.

<sup>4</sup> Pet. de Marc. de Conc. Sac. & Imp. lib. 3. cap. 5. n. 2.

<sup>5</sup> V. Gonzales in Apparatu de Orig. & Progr. Jur. Can. num. 46. V. Hunoldum. Plettenbergium Introd. ad jus Can. cap. 11. §. 7.

## S E C T. IV.

## T E M P O R A L I T I E S.

THE so many profuse Donations, which from Time to Time were made, as well by private Men as by Princes, to the Churches in the Course of little less than two Centuries, were the Cause that the Churches, as well as the Prince and Private Men, had their particular Patrimonies. The most ample Possessions which they acquir'd, not only within the District of their Cities, but also in distant Countries, from whence they drew so great Revenues and Fruits, were call'd *Patrimonies*, according to the Custom of that Time, in which the Possessions of any Family, and the Heritages descended to them from their Forefathers, were call'd its Patrimony. So likewise an Estate which a Prince possess'd in Property, was call'd Patrimony; and in order to distinguish it, not only from the Patrimonies of Private Men, but also from his own Revenue, was call'd *Sacrum Patrimonium*, as we read in many Constitutions of the *Justinian Code*<sup>1</sup>; which afterwards, in the new Kingdoms of *Europe*, was call'd the *Royal Demaine*. For the same Reasons the Name of Patrimony was given to the Possessions of each Church: So in the Letters of *S. Gregory*, we see not only the Patrimony of the Church of *Rome* mention'd, but also the Patrimony of the Church of *Ravenna*; the Patrimony of the Church of *Milan*; the Patrimony of the Church of *Rimini*; and of many others. The Churches of great Cities, such as *Rome*, *Ravenna*, and *Milan*, as Imperial Cities, and where the Senators, great Officers, and other illustrious Persons liv'd, acquir'd Patrimonies, not only within their own Bounds, but also in different Parts of the World. The other Churches of lesser Cities, such as *Naples*, *Beneventum*, *Capua*, *Salernum*, *Bari*, *Rbegium*, and many others, whose Inhabitants had but moderate Fortunes, and all within their own Limits, had no Patrimonies without their own Districts.

AMONGST all the Churches of the Imperial Cities, the Church of *Rome* was that, which in those Days had acquir'd the most ample and vast Patrimonies, not only in *Italy*, but also in the most distant Provinces of *Europe*<sup>2</sup>. In the Pontificate of *Gregory the Great*, as may be gathered from his Letters, the Church of *Rome* had ample Patrimonies in *Sicily*; this Pope writing to *Justin*, Prætor of that Island, which was govern'd by him for the Eastern Empire, desir'd that he would take care, without delay, to cause some Grain gathered in the Patrimony of *S. Peter*, to be transported to *Rome* were there was a Scarcity. And seeing these Possessions were many, and some of them divided into small Portions, according to the Donations which from Time to Time had been made by the Faithful; therefore he wrote again to *Peter* the Subdeacon, Rector of that Patrimony, that being solicited to farm out some of them, he had not as yet resolv'd what to do in that Matter. The Church of *Rome* had likewise a Patrimony in *Africa*, whence *Gregory* gave infinite Thanks to *Gennadius* a Patrician, and Exarch of that Province, which he held for the Emperor of the East; that seeing many Places of that Patrimony had been abandon'd by the Labourers, he had been so good as to send many of those People who depended on him to it, whereby it had been much improv'd. She had also a Patrimony in *France*, the Care of which was committed to a Priest, whose Name was *Candidus*, whom he earnestly recommended, not only to the Queen *Brunichilda*, but also to King *Childebert* her Son, in the Year 596, shewing, That that Charge had formerly been recommended to *Dinanius* a Patrician, and wrote to *Candidus* giving him an Account how he should dispose of those Revenues; and about the End of his Pontificate, in the Year 604, he recommended that Patrimony to *Asclepiodatus* a French Patrician. She likewise had a Patrimony in *Dalmatia*, which was put under the Care of *Antonius*, or *Antoninus* a Subdeacon.

<sup>1</sup> Cod. Justin. lib. 12.<sup>2</sup> V. Ammirat. in his Opusc. disc. 7.



IN *Italy* and in these our Provinces, the Church of *Rome* had likewise many Patrimonies. In the Province of the *Alpes Cottiae* she had a large Patrimony, which being possess'd for a long Time by the *Longobards*, was afterwards restor'd to her by King *Aripertus* in the Pontificate of *John VII.* *Paul Warnefride* writes, *That Aripertus King of the Longobards restor'd the Donation of the Patrimony of the Alpes Cottiae, belonging to the Apostolical See, but for a long Time possess'd by the Longobards; and sent this Donation to Rome written in Letters of Gold.* Which Donation, as the same Author affirms, was confirm'd by King *Luitprandus*: his Words are; *At which Time King Luitprandus confirm'd to the Church of Rome the Donation of the Patrimony of the Alpes Cottiae.* In the Exarchate of *Ravenna* *S. Peter* had also his Patrimony; for in the Pontificate of *S. Gregory*, there was a Law-Suit betwixt him and the Bishop of *Ravenna* for the Patrimony of both the Churches, which they agreed by Transaction. Likewise in our Dukedom of *Beneventum* the Church of *Rome* had her Patrimony, as she had in *Saturnum* and *Nola*; the Revenues of which *S. Gregory* allotted for the Relief of certain poor Nuns. She also had a Patrimony in *Naples*, whither, as we see in some of this Pope's Letters, he sent Rectors from *Rome* to oversee it, whom he injoin'd to lay out a good Part of the Revenues of it on the Poor. The Rectors of which Patrimony in *Naples*, were successively *Petrus*, *Theodinus*, *Autemius*, and others, all Subdeacons of the Church of *Rome*. These in *Naples* had their certain *Diaconiae*, or Places and Stations appointed, in which the Subdeacon Rector supply'd the Poor of the City, and dispers'd the Alms, after the manner of *Rome*, which had many of these *Diaconiae*<sup>2</sup>: In fine, she had Patrimonies in some other Cities of this Province of *Campania*, as she had in *Aprutium*, in *Lucania*, and likewise in *Calabria*.

THE Bishops of these greater, as well as of the lesser Sees, in order to make the Possessions of their Churches the more respected, were wont to give them the Name of the Saint which that Church had in special Veneration; thus the Church of *Ravenna* gave her Possessions, the Name of *S. Apollinarius*; and that of *Milan*, of *S. Ambrosius*; and the *Roman* her's the Patrimony of *S. Peter* in *Sicily*, *Africa*, *Dalmatia*, *Calabria*, *Aprutium*, *Beneventum*, *Naples*, and elsewhere; just so as in *Venice*, the Publick Revenues were call'd *S. Mark's*. Thus likewise the Churches of the lesser Cities, for the more Respect, nam'd their Patrimonies by the Name of the Saint for whom they had the greatest Devotion, as in *Naples* the Patrimony of *S. Aspremus*; in *Beneventum*, of *S. Barbatus*; in *Brundisium*, of *S. Leocus*; and in *Amalphis*, of *S. Andrew*; in *Saturnum*, of *S. Matthew*; and so of all the rest.

BUT 'tis well worthy of Observation, that this Name of Patrimony, which the Church of *Rome* had in these Provinces, did not import any supreme Dominion, or any Jurisdiction which the Pope, or the Church of *Rome* had over such Patrimony; they held of the Prince in whose Provinces the Patrimony was situated, as all other private Patrimonies did, and were subject to the Jurisdiction and immediate Dominion of that Prince in whose State they were. 'Tis true, some Ecclesiasticks of the Church of *Rome* attempted to make Incroachments, but all in vain; for in the Patrimonies of Princes, when they were not allotted to Soldiers, there was a Governor appointed with Jurisdiction over all Causes which could happen concerning these Possessions, for the more easy bringing in of their Revenues, and for compelling Debtors; which very Prerogatives some Ecclesiasticks attempted to usurp in the Patrimonies of that Church, by taking the Administration of Justice into their own Hands, without having recourse to the Judgment of Magistrates: But *S. Gregory*, that most prudent and wary Pope, check'd that Incroachment, and forbid it under the Pain of Excommunication; neither would the Princes on any account suffer it within their Dominions.

THEREFORE the Ecclesiastical Possessions paid Tribute to the Prince as all other private Patrimonies did, which appears plainly from *Can. si tributum*, of *S. Ambrose*<sup>3</sup>; and 'tis clear, that the Emperor *Constantinus Pogonatus*, in the Year 681, granted Exemption from the Tribute which the Church of *Rome* paid for her Patrimony in *Sicily* and *Calabria*. And the Emperor *Justinianus Ritmenus*, Successor of *Constantine*, in the Year 687, remitted the Tribute which the Patrimonies of *Aprutium* and *Lucania* paid. This Indulgence of Tribute occasion'd a Friendship

<sup>1</sup> Lib. i. ep. 22.

<sup>2</sup> V. Ant. Matt. man. ad jus Can. l. i. tit. 17. |

<sup>3</sup> Can. si tributum XI. q. 1.

and good Correspondence betwixt the Popes and the Emperors of the East; but when afterwards by the Innovations which arose in the Empire of *Leo Isauricus*, there grew those bitter Contentions betwixt the Popes and the Emperors of the East, which shall be the Subject of the following Book, and which at last broke out into open Sedition and Enmity; *Leo Isauricus* in the Year 732, not only did not exempt, but took away altogether from the Church of *Rome* the Patrimones of *Sicily* and *Calabria*, and apply'd them to his own Exchequer. And the Writers, who relate these Events, report, that these confiscated Patrimones yielded in all a Revenue of three Talents and a half of Gold Yearly <sup>1</sup>, which make in our Money, (not to be precise as to the different Opinions about how much answers exactly to a Talent) the Sum of 2500 Crowns; and the Patrimony of *Sicily*, tho' very large, yielded no more than 2100 Yearly.

THOSE Patrimones which the Church of *Rome* had in different Provinces, where the Ecclesiasticks, when they found their Account in it, likewise frequently usurp'd some Jurisdiction in Causes belonging to them, gave rise amongst the Writers of latter Times, to a Blunder, which was swallow'd as a Truth by those that came after them, who from this invented other Stories, to wit, that the Province of the *Alpes Cottiae*, *Sicily*, the Dukedom of *Beneventum*, the Dukedom of *Spolegium*, Part of *Tuscany* and *Campania*, and many other Provinces belong'd to the Church of *Rome*, because she had Patrimones in them, by confounding the Patrimony which she had in the *Alpes Cottiae*, with the Province itself, and so of the other Provinces. Into which Blunder, we cannot but admire, that amongst others our *Scipio Ammiratus* <sup>2</sup>, otherwise a most careful Historian, should have fallen; who, as *Paul Warnefride* himself declares, would likewise give us to understand, that the Donation of King *Aripertus* contain'd the Restitution and Confirmation of the *Alpes Cottiae* to Pope *John VII.*; whereas from the Words of this Writer above related, 'tis evident, that the Patrimony of the *Alpes Cottiae* is meant, and not that Province, which comprehended a great Tract of Country, and reach'd as far as *Genoa*, beautified with so many Cities and Towns, that it would be Folly to believe, that that Prince, in so gloomy and suspicious Times, would have given it to the Pope, then a Confederate of the Emperors of the East, who were implacable Enemies of the *Longobards*.

WE shall fix this Mistake when we come to treat of the many famous Donations of *Charles the Great*, and *Lewis the Pious*; where we shall see, that what we read in them of *Naples*, *Salernum*, and especially *Beneventum*, is to be understood only of the Patrimones which the Church of *Rome* had in these Provinces, and not at all of the Dukedoms and Principalities; which Patrimones, according to the Custom of these Times, were confirm'd and granted to the Church of *Rome* by Virtue of the *Præcepta* of the Emperors, who successively reign'd in *Italy*, as was the Patrimony of *Beneventum* by *Lewis the Pious*, in the Year 817, to Pope *Paschale I.* which was afterwards confirm'd and granted anew by *Otbo III.* and *Otbo King of Germany*, his Son, to *John XXII.* in the Year 962, and not the Dukedom or City of *Beneventum*, which certainly came under the Dominion of the Church in the Year 1052, by way of Exchange, made betwixt *Henry II.* the Son of *Conrade*, and Pope *Leo IX.* for the Church of *Bamberg*, as shall be shewn in its proper Place.

SO great in these Times was the increase of the Temporal Riches of our Churches, and especially of the Church of *Rome* their Mistress and Leader, and according to the Circumstances of the Times we shall see them make greater Acquisitions in the Ages following.

THE Number of Churches and Monasteries increasing, the Worship of Saints, their Reliques and Images grew much more. The Sanctuaries, and above all, that of Mount *Garganus*, were more frequented, and enrich'd with valuable Gifts, not only by the *Greeks*, but *Longobards*. Miracles were multiplied; and besides Preachings and Sermons, innumerable Stories began to be forg'd concerning them, and to be collected into Volumes; and *S. Gregory* publish'd a great many of them in his four Books of Dialogues, which he dedicated to Queen *Theodolinda*. Holy-Days were multiplied in the Churches; the Octave of *Christmas*; that of the *Epiphany*;

<sup>1</sup> Theophanes appellata Patrimonia Sanctorum Principum Apostolorum, qui apud veterem Romanam in Veneratione sunt, illorum Ecclesiis jam olim persolvi solita, auri Talenta tria &

semis, ærario Publico solvi jussit. V. De Marca de Concord. Sacerd. & Imp. lib. 3. c. 11. n. 4.

<sup>2</sup> Ammir. opusc. disc. 7.

those of the Purification and Annunciation of the Virgin ; her Death and Nativity ; and in fine, that of all Saints. Riches increas'd proportionably to Worship and Devotion, the Faithful promising themselves to obtain of the Saints, not only Spiritual, but also Temporal Riches, Health, Abundance, and good Success in their Traffick and Affairs, Navigation, and Land Journies.

FROM so many and different Springs which began to discover themselves, the Possessions and Inheritances of the Churches multiply'd much more ; and the Reason was, because, as our *Ammiratus* writes, Religion being an Account which is kept with God, and Mortals standing in need of him in many Things, either by thanking him for the Good receiv'd, or the Evil escap'd, or by intreating him that such a Thing may not happen, or that another Thing may succeed well ; it necessarily follows, that out of Gratitude we should give a Share of our Goods, not to Him, who stands not in need of them, but to his Temples, and his Priests : How much more then must the Donations and the Offerings increase, when there was not only an Account to be kept with God, but likewise with so many Saints, by whose Intercession the Faithful expected the same Things<sup>1</sup> and their Worship and Veneration having increas'd so much, and thereby many Monasteries and Temples being erected in their Names, and their Sanctuaries being multiply'd, it was easy to draw the People in to make Offerings of their Goods and Riches in greater Plenty, both to their Temples and Priests. The Custom began likewise of giving, not only to the Churches, but also to the Parishes and Priests, and other Ministers, for their Masses for liberating the Souls of their deceas'd Friends out of Purgatory<sup>2</sup> ; whence proceeded, as *Mornacius*<sup>3</sup> believes, the Authority which they assum'd of making Wills to those who died Intestate ; of which we shall have occasion to treat in another Place.

OUR Churches kept up the same Rule in the Distribution of the Revenues and Temporal Riches into four Parts, one to the Bishop, another to the Clergy, a third to the Poor, and the fourth to the Material Church. The Church of *Naples* in the Time of *S. Gregory*, under Bishop *Pascasius*, had a numerous Clergy, amounting to a hundred and twenty-six, besides Stranger Priests, Deacons, and Clerks : And we read in the Letters of this Pope<sup>3</sup>, that *Pascasius* neglecting to distribute the Revenues to the Poor and the Clergy, as was requisite, he, the Pope, was oblig'd to distribute them, and reserving the Bishop's Portion, he appointed what was to be given to the Clergy and the Poor, injoyning likewise *Antemius* his Subdeacon, who was Rector of *S. Peter's* Patrimony in *Naples*, that jointly with the Bishop, he should oversee the Division according to the Necessities of the Poor, and the Quantity of the Money ; and order it so, as to distribute it at a proper Time, according to his own Discretion.

THE Church of *Beneventum* likewise observ'd the same Custom of dividing the Revenues into four Parts : *S. Barbatius* her Bishop would not in that depart from the Direction of the Canons ; and we read in his Acts, that after Duke *Romualdus* had enrich'd his Church with so many Donations, and added that of *Sipontum* to her, by a particular Direction he resolv'd to settle this Distribution for ever, which was always to be observ'd in his Church ; thus we read in these Acts<sup>4</sup>, *Impetratis omnibus ut poposcerat vir Sanctus, non est oblitus mandatorum Dei : In quatuor partes cunctum Ecclesiæ redditum omni tempore sanxit fideliter dispartiri, unam egentibus, secundam his, qui Domino sedulas in Ecclesiis exhibent Laudes, tertiam pro Ecclesiarum restauratione distribui juxta quartam suis peragendis utilitatibus Episcopus habeat ; Et hætenus sicut ab eo disposita sunt, in præsentī cuncta videntur.*

ALL the other Churches of these our Provinces observ'd the same Rule, which besides other Things was commendable for this, that the Poor were not cheated of their Portion, and the Bishops practis'd that Hospitality to Strangers, to which they are oblig'd by the Canons.

<sup>1</sup> V. Bodin. lib. 5. de Rep. c. 2. p. 530.

<sup>2</sup> Mornac. ad l. 1. c. de Sacrosanct. Eccl. Ant. Marth. manud. ad jus Can. lib. 2. tit. 1.

<sup>3</sup> Lib. 9. ep. 29. v. Chioc. de Episc. Neap. in Pascasio.

<sup>4</sup> We read them in Ughel. de Episc. Benev. in S. Barbato.



T H E

# CIVIL HISTORY

Of the KINGDOM of

# N A P L E S.

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B O O K V.

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**L**UITPRANDUS King of the *Longobards*, having in the Year 711, fix'd the Throne of his Kingdom in *Pavia*, as his Predecessors had done, began to give very great Marks of his Goodness and Prudence. And like his Father and other Kings his Predecessors, was most stedfast in the Catholick Religion, to whose Piety *Pavia* owes the glorious Bones of *Augustine*, which he recover'd from the *Saracens*, after he had driven them out of *Sardinia*, where he found the precious Shrine. He, imitating *Rotaris* and *Grimoaldus*, would likewise have his Share of the Glory of a wise Law-maker; for which end, in the first Year of his Reign, according to Custom, having conven'd the States of the Kingdom in *Pavia*, he ordain'd other Laws, and added them to the Edicts of *Rotaris* and *Grimoaldus*<sup>1</sup>; not satisfy'd with that, in the following Years, as Occasion requir'd, he establish'd others: So that amongst the Kings of the *Longobards*, next to *Rotaris*, *Luitprandus* was he, that more than any other provided his Kingdom with Laws.

<sup>1</sup> P. Warnefr. lib. 6. c. 58. Bernard, Saccus hist. Ticin. lib. 9. c. 5. Sigon. ad A. 713.

## S E C T. I.

*The Laws of* LUITPRANDUS.

MANY Laws of this Prince, full of the greatest Wisdom, have been handed down to us in the Volumes of the *Longobard Laws*; but in the Parchment Code of the Monastery of the Cave we read his intire Edicts, whence the Compiler of that Volume took them. There we read his first Edict, which was publish'd in the First Year of his Reign, containing six Chapters, amongst which the first has this Title, *de Successione filiarum*. We likewise read the other Edicts which he made in the following Years; for in the Fifth Year of his Reign he publish'd another, which contains other seven Chapters; in the Eighth, ten; in the Tenth Year five; in the Eleventh, thirty-three; in the Thirteenth Year five; in the Fourteenth, fourteen; in the Fifteenth, twelve; in the Sixteenth, eight; in the Seventeenth, thirteen, in the Nineteenth, thirteen; in the Twenty-first, nine; in the Twenty-second, four; in the Twenty-third, five; and some others he publish'd in the following Years: So that the Laws of this Prince, as they are registred in the same Code, which is preserv'd in the Archives of the Cave, amount to the Number of a hundred and fifty-two; to which in the foresaid Code we see seven other Chapters added, whose Titles or Summaries are, I. *De Mercede Magistris*. II. *De Muro*. III. *De Annona*. IV. *De Opera*. V. *De Caminata*. VI. *De Furno*. VII. *De Puteo*.

OF these Laws, only 137 were inserted in the Volumes of the *Longobard Laws* by their Compiler. In the first Book we read 48; and in the Second 89; for in the Third there are none. The first which we read in the first Book is under the Title *de Illicito Consilio*; the other under Title 8, we read nine others under the Title *de Homicidiis*; another under that *de Parricidiis*; one other under the fourteenth Title of the same Book; four under the Title *de Injuriis Mulierum*; three in the seventeenth Title; one under the Title *de Seditione contra Judicem*; another in the nineteenth Title; one under that *de Paupere*; four in the twenty-third Title; twelve under that *de Furtis, & servis Fugacibus*; one under the Title *de Invasoribus*; another under the twenty-ninth; another under the Title *de Raptu Mulierum*; another under that *de Fornicatione*; three under the Title *de Adulterio*; one in the thirty-fourth Title; and another under that *de Culpis servorum*, which is the last of the first Book.

IN the Second we read many more to the Number of 89; two under the second Title; one under the third; three in the fourth; one in the fifth; another in the sixth; another in the seventh; eight under the Title *de Prohibitis Nuptiis*; one in the ninth; another in the tenth; another in the eleventh; three under that *de Conjugiis servorum*; another under the thirteenth Title; another under that *de Donationibus*; another under the Title *de ultimis Voluntatibus*; three under the thirteenth; sixteen in the Title *de Debitis, & Guadimoniis*; one under that *de Treugis*; two under the twenty-fifth; another under the twenty-sixth; another under that *de Depositis*; another under the Title *de Rebus intertatis*; seven in the Title *de Prohibita Alienatione*; two under the thirtieth; one under that *de Prohibita Alienatione servorum*; four under the Title *de Præscriptionibus*; two under that *de Evictionibus*; four under that *de Santimonialibus*; two in the Title *de Ariolis*; four under the Title *de Reverentia Ecclesiæ, seu immunitatibus debita*; five under that *Qualiter Judices judicare debeant*; one under the Title *de Consuetudine*; another under that *de Testibus*; four under the Title *Qualiter quis se defend. Deb.*; and one in that *de Perjuriis*, which is the last Title of the Book.

IN the third, we have no Laws of *Luitprandus*, it being compos'd for the most Part of the Laws of those Emperors who reign'd in *Italy*, as Successors to the Kings of the *Longobards*, after having driven them out of this Province; all that the Compilers inserted in it were a few of the Laws of *Rotaris*, of *Rachis*, and *Astolphus*. We may see some other Laws of this King in *Marcolphus* <sup>1</sup> and *Goldastus*.

<sup>1</sup> Marcol. tit. 55. §. 4. Goldast. tom.

BUT the Wisdom which this Prince shew'd in settling his Kingdom with such provident Laws, and all his other Talents, were not a little eclips'd by his too great Ambition of Dominion, and his extreme Desire to enlarge the Bounds of his Kingdom beyond what his Predecessors had left him, which he push'd so far, that at last it occasion'd the Ruin of the Empire of the *Longobards* in *Italy* to his Successors; for not satisfy'd with having retaken the Patrimony of the *Alpes Cottiae* from the Pope, which a little before King *Aripertus* had confirm'd to the Church of *Rome*; he likewise invaded the *Sabinian* Patrimony; and being altogether intent upon taking Advantage, and seeking any Opportunity of enlarging his Dominions, spurr'd on by a covetous Desire to a quick and dexterous Execution, he much enlarg'd his Kingdom upon the Ruins of the *Greeks*: So that his Power made the Popes jealous of him ever afterwards, and at last they seeing the *Greeks* depress'd, and the Authority of the Emperors of the East almost quite abolish'd in *Italy*, and not trusting any more to the *Greeks*, who had become their greatest Enemies, resolv'd to have recourse to foreign Assistance, in order to bring down so great an Empire, in the Manner we shall shew anon.

## S E C T. II.

*Innovations in Italy, occasion'd by the Edicts of Leo Isauricus.*

AT this Time *Leo Isauricus* reign'd in the East, who following the Footsteps of *Bardanus*, Surnamed *Philippicus* (who was the first Emperor of the East that began to make War upon Images) was called *Iconomachus*, because he had Images in the greatest Abomination; for he was persuaded, that by throwing them down, he should drive out Idolatry, which, he believ'd, by the Adoration and Worship of them, had intruded upon Christianity, by which he promis'd himself Prosperity to his Empire; and for a Reward of so bold and pious an Undertaking, as he thought, flatter'd himself, that if he succeeded he should be able to enlarge his Empire, to recover *Italy* from the *Longobards*, and to restore it to its antient Dignity and Grandeur. There were not wanting some who, in order to improve his Error and fond Conceit, by Presages and Omens, confirm'd by Chance, promis'd him an easy and safe Accomplishment of his Design; and the Policy of this Prince, which cannot be deny'd, was very great, was deluded and imposed upon by such idle Prophecies; forasmuch as he did not consider that so strange and unheard of an Undertaking could not but excite Disturbance and Tumults amongst a People, and especially *Italians*, who now for a long time, had been accusom'd to worship those Images in the Churches, and elsewhere, and to promise themselves not only spiritual, but also temporal Happiness by the Intercession of their Prototypes; being struck with such a strange Novelty, their Minds could not but be filled with great Horror, by seeing those Statues which by their Forefathers, with equal Piety and Magnificence, had been placed in their Temples, and over the Gates of the Cities, for publick Adoration, burnt by the Hands of vile Men, and, with the utmost Contempt, thrown down, and broke in a thousand Pieces.

IT certainly could never have entered into the Mind of Man, to contrive a more flagrant or shocking Innovation than this, for putting all the Provinces of *Italy* into Disorder; for the other Heresies, which had nothing popular or tragical in them, tho' they had diffus'd themselves in the Minds of Men, and especially the *Arian*, yet they could not raise so many Tumults, and such Confusion, as this was able to do, which could not be put in Execution but by such tragical Means as burning, throwing down, demolishing, and the like. *Leo*, as a prudent and judicious Prince, in the Beginning took soft and peaceable Methods; he first endeavour'd by Reasoning, and earnest Entreaties, to persuade others to believe as he did; but seeing that did not avail, he put forth an Edict, by which he commanded only, that the Images should be remov'd from the usual Places where they were set in order to be worshipped, and placed on the Tops of the Temples, where they could neither be worshipped nor adored: But when he afterwards perceiv'd

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that



that the People entertain'd a Horror and Aversion for such Edicts, he was seiz'd with sudden Indignation and Rage, and laying aside all Patience and Moderation, became so furious in the Undertaking, that convening the Senate, by publick Declaration he ordain'd, That all the Images should be thrown down, and not so much as one should be suffered within the Churches of *Constantinople*, being persuaded, that the longer he delay'd the bringing this heroick and glorious Work to a Conclusion, the longer it would be before he receiv'd his Reward, according to his conceiv'd Notions.

IN the East, *Germanus*, Patriarch of *Constantinople*, and *S. John Damascene*, oppos'd this Design of the Emperor; but *Leo* caus'd *Germanus* to be depos'd, and, in the Year 730, ordered *Anastasius* to be put in his Place. There are some who have wrote, That he likewise caus'd his Edict to be put in Execution in *Constantinople* by Force, by burning, and turning topsy-turvy all the Images, and all that was rare or foreign in that City; and likewise, in the Sight of all the World, caus'd the Statue of our Saviour, which was rais'd above the great Gate of the Imperial Palace, and had been plac'd there by *Constantine the Great*, to be pull'd down: Others reckon the pulling down of the Statue of our Saviour as fabulous, and will have it, that in these Beginnings *Leo* did not proceed to that Height of Madness. However that may be, he would have his Edict observed, and put in Execution, not only in *Constantinople*, and in the East, but also in all the Provinces of the West which had remained under his Dominion. Therefore he strongly injoin'd his Officers who had the Government of these Provinces, that they should see the Edict put in Execution in the Cities under their Command; and, especially, he commanded *Scholasticus*, a Patrician, who was at that Time Exarch of *Ravenna*, that he should see his Orders punctually obey'd, by throwing down all the Images in that City, without suffering one to remain.

BUT in the West, and particularly in *Italy*, the Edict was not only not obey'd, but the People had it in such Abhorrence, that they broke out into open Rebellion. The Princes of the West that were not subject to his Empire, the *Longobard* Kings of *Italy*, and our Dukes of *Beneventum*, detested it, and would not allow it to be receiv'd into their Dominions. The People of the *Greek* Empire had the same Aversion for it; neither was all the Power of the Officers, who us'd all Means possible for having it observed, ever able to surmount the obstinate and universal Repugnancy. It was of no Force in *Rome*, nor all the *Roman* Dukedom: It had no better Success in the Dukedom of *Naples*, and the other Dukedoms and Cities subject to the Emperors of the East. *Scholasticus*, Exarch of *Ravenna*, by endeavouring to oblige that People to observe the Edict by Force, occasion'd greater and more dangerous Disorders; for having commanded that all the Images of that City should be pull'd down by main Force, he rais'd such Tumults, that the People being driven on to an open Revolt against the Emperor, brought Matters to that Extremity, that at last they subjected themselves to the Dominion of *Luitprandus*: For this most cunning Prince, who was always upon the Catch for aggrandizing his own Kingdom at the Expences of the Emperor, having heard of this Revolt in *Ravenna*, immediately laid Siege to that City, and invested it both by Sea and Land; and, after having defeated the *Grecian* Fleet, made himself Master of it in a few Days: Many other Cities of the Exarchate surrendered to him; and at last he reduced the Exarchate into a Dukedom, and added it to the other Dukedoms of the *Longobards*, giving it a new Form, and created *Ildeprandus*, his Nephew, Duke of it (the same who was afterward rais'd to the Royal Throne) to whom, being yet an Infant, he gave *Peredeus* Duke of *Vicenza*, for Guardian.

AT the same Time *Gregory II.* of that Name govern'd the *Roman* See, who had succeeded to *Constantine* in the Year 714. Altho' he in Conjunction with the *Romans* had greatly oppos'd the Designs of *Leo*; nevertheless being jealous of the Power of the *Longobards*, as all his Predecessors had been, he could not endure their Kingdom under *Luitprandus* an ambitious Prince, to become so powerful as to enable him to ruin his See and the Pontificate. On this Account, as the other *Gregory* had done, he was always careful of the Interest which the Emperors of the *Greeks* had in *Italy*, and took care that their Power might not decline in order to

\* Anast. in Greg. II. P. Warnefr. lib. 6.

oppose the Designs of the *Longobards*, to hem in their Authority, and to curb their Power; therefore he oppos'd the Duke of *Beneventum*, and assisted the *Greek Neapolitans* in keeping *Cuma* from being subjected by the *Beneventan Longobards*. And tho' he was bound in Duty to oppose the Designs of *Leo* in this Innovation of throwing down the Images, and had been most unworthily treated by the Emperor, even by threatening to drive him out of his See, and send him into Exile<sup>1</sup>; for all that, preferring the Publick Cause to Private Injury, he did his utmost to prevent the Revolt of the People of *Italy* who were under his Command, and defend the Lands of the Empire against the Invasion of the *Longobards*.

HE had not a neighbouring Prince in *Italy* to whom he could have recourse for Assistance to stop the Career of the *Longobards*. The single Power of the *Greeks* was not sufficient; the Republick of *Venice* was the only one remaining, which tho' risen from a slender Beginning, was at this Time come to be of some Consideration in *Italy*, insomuch that the Exarch had fled thither for Shelter; in the mean Time *Gregory* recommended himself and apply'd to the *Venetians* for Assistance, and having wrote a very pithy Letter to *Ursus* their Duke, it had so good Effect, and so far influenc'd his Officers, that at last the *Venetians* were induc'd to reinstate the Exarch in *Ravenna*, which they retook so suddenly from the *Longobards*, that *Luitprandus* could not succour it from *Pavia*; the *Longobards* being driven out, *Ildeprandus* remain'd Prisoner in the Hands of the *Venetians*, and while *Peredeus* was making his Escape, he was miserably kill'd.

THE Pope thought that *Leo* would have been grateful for so considerable a Service; whereupon he began to solicit him by Letters more pressingly than ever<sup>2</sup>, to give over his Undertaking. But *Gregory* was much deceiv'd in his Expectation, for this Prince, who knew very well that *Gregory* had bestir'd in getting him Assistance, more for his own Interest, than that of the Empire, was much more exasperated seeing he continu'd still to oppose his Design, and that by an open Revolt he had endeavour'd to shake off his Dominion; and knowing the Steadiness of the Pope, that he would always be an Enemy to his Enterprize, he resolv'd in earnest to remove all Obstacles; and because it would be a very difficult Matter to compass his Ends by Force, he resolv'd to have recourse to Art and Treachery. The *Roman* Dukedom, as we have often said, continu'd under his Dominion, and the Dukes were sent by him to *Rome* to govern it. *Mauritius* was at this Time Duke of *Rome*, to whom he gave most secret Orders to befriend three of his Officers, who were at *Rome*; who lying in wait for the Pope's Life, had given their Parole to *Leo* to carry him to *Constantinople* dead or alive; but their Design did not succeed, and the Emperor thinking that it had miscarried by the Negligence of some of his principal Officers, in the Year 725. sent *Paul* a Patrician to *Italy* to command as Exarch<sup>3</sup>, whom he injoin'd to see this Design put in Execution, upon which the three Conspirators being assur'd of such powerful Protection, made haste to give the design'd Blow; but before they could put it in Execution the Conspiracy was discover'd by the *Romans*, who were most vigilant for the Preservation of a Pope for whom they had so great a Value; for they apprehended two of them, who were immediately put to Death; and the other escaping into a Monastery, turn'd Monk, and there ended his Days.

IN the mean Time the new Exarch, who was spurr'd on with most pressing Orders from *Leo*, to leave no Stone unturn'd for getting the Pope into his Clutches, seeing all his Art and secret Ambushes came to nothing, the Pope being too well guarded by the *Romans*, at last, impatient of any longer Delay, in order to keep his Parole which he had given to *Leo* of putting *Gregory* into his Hands<sup>4</sup>, resolv'd to make use of open Force. Therefore as soon as possibly he could, he assembled some Troops, partly from *Ravenna*, and partly from the Army, which he had always ready for defending himself against the Insults of the neighbouring *Longobards*, which he order'd to join the Imperial Forces which were too weak in *Rome*, and to carry off the Pope and conduct him to *Ravenna*.

BUT *Luitprandus*, a crafty and subtle Prince, tho' offended at *Gregory*, who had stirr'd up the *Venetians* to take *Ravenna* from him, as they had done, yet in this Pinch resolv'd to assist the Pope and the *Romans* against the *Greeks*, in order to keep the Ballance

<sup>1</sup> Sigon. ad A. 725.<sup>2</sup> Ep. 1. & 2. Greg. ad Lion.<sup>3</sup> Marq. Freher. in Chronol. Esar. Rav.<sup>4</sup> Anast. in Greg. II.

even betwixt them, that by assisting each Party, as he saw occasion, he might divide, and by degrees weaken both the one and the other, and afterwards take Advantage of their Weakness. In the mean Time he gave Orders to the Governors of the Towns which he had in the neighbourhood of *Ravenna* and *Rome*, to join the *Romans*, who by so strong Succours, being superior in Strength to the Exarch, oblig'd him to stop near *Spoletium*, and at last give over his Undertaking, and return to *Ravenna*.

IN the mean Time *Leo*, otherwise not so unexpert in the Art of Government and Dissimulation, altho' he had seen that his Force and Treachery had succeeded so ill, yet suffer'd himself to be so much led by his Passion, that not minding the great Detriment that so extravagant a Resolution, which he had taken when he had least Reason, would bring upon him, he believ'd that his Authority alone, without Force, would easily do what with Arms and Treachery could not be put in Practice; therefore, laying aside all other Considerations, and consulting only his Passion, at a very unseasonable Time, he strictly repeated his Orders to the Exarch, to publish and put in Execution in *Rome*, and in all the Cities of *Italy* which were under his Empire, the Edict, which a little before he had fram'd in *Constantinople*. The Edict contain'd, as was said, that all the Images, as so many Idols, should be remov'd out of the Churches; moreover he promis'd the Pope his Favour, provided he obey'd; if not, he declar'd him Contumacious, and no longer vested with the Papal Dignity.

THERE never was seen a more ready, or a more general or better concerted Resolution than that which was taken over all *Italy*, and especially at *Rome*, immediately upon the Publication of this Edict.

GREGORY being now secure of a hearty Assistance both from the *Italians* and *Longobards*, and seeing that *Leo* had broke all Squares, and now openly attack'd not only his Person, but Religion likewise; resolv'd at first to employ all his Pontifical Authority, and the Spiritual Arms of his Office, in order to hinder so detestable an Edict from being received in *Italy*. He began with solemnly Excommunicating the Exarch and all his Accomplices. Afterwards he sent Apostolical Letters to the *Venetians*, to King *Luitprandus*, and to the *Longobard* Dukes, and to all the Cities of the Empire, by which he exhorted them to continue stedfast and immoveable in the Catholick Faith, and to oppose the Execution of that Edict with all their Might.

These Letters made such an Impression upon the Minds of the People, that all those of *Italy*, tho' of different Interests, and often at War with one another; to wit, the *Venetians*, *Romans*, and *Longobards*, united in one Body, animated with the same Spirit, to act in concert for defending the Catholick Faith, and the Life of the Pope, protesting that they would preserve it with the Hazard of their own in so glorious a Cause. But as 'tis difficult in the Heat of a new Commotion, even when the Design of it is for doing good, to keep within just Bounds, so they exceeded those of a lawful Defence; for not only the *Romans*, and those of *Pentapolis*, which is now *la Marca d'Ancona*, took up Arms, and join'd the *Venetians*, who were the first that arm'd; but by carrying their Zeal further, openly shook off the Yoke. Not contenting themselves with having thrown down the Statues of *Leo*, they would no longer acknowledge him for their Emperor, and elected new Magistrates for governing them during the Interreign, which they pretended to do by their own Authority. They even went further, and at last carried the Matter almost to the utmost Extremity; being resolv'd to elect another Emperor, and conduct him to *Constantinople* with a strong Army, to place him in the Room of *Leo*; but the Pope not thinking this Resolution seasonable, nor proper at that Time, oppos'd it, so that it did not take Effect.

BUT this did not prevent the Fate of *Leo*, which terminated in his Loss of the Exarchate of *Ravenna*, the Dukedom of *Rome*, and had very near lost that of *Naples*, and with it all his Authority in *Italy*: The People being now in a Commotion, immediately turn'd into Factions and Parties. *Paul* the Exarch had gain'd a great many of them in *Ravenna*, who basely comply'd for Interest, or hopes to advance themselves to better Posts. But the opposite Party, which the Pope supported, being the strongest and most numerous, could not endure the Exarch, therefore they mutinied, and a violent Sedition arising, or rather a kind of a Civil War betwixt the two

<sup>1</sup> P. Warnefr. lib. 6. Regin. lib. 1. Chron. Sigon. ad annum 726.

Parties, they took themselves to Arms, in order to destroy one another. The Catholick Party, as the stronger, after coming to Blows, remain'd victorious, having made a terrible Slaughter of all the *Iconoclasts*, without so much as sparing the Exarch, who was kill'd in the Tumult. These were the Causes of the Emperors of the East's losing many Cities in *Romagna*, which belong'd to the Exarchate, and all the other Cities of *la Marca*, which surrender'd to *Luitprandus* King of the *Longobards*. For this cunning Prince, who had enter'd into this War on no other account but to take an Opportunity of aggrandizing himself at other Peoples Cost, did not fail to improve this Revolt, and to cloak it with the Pretence of Religion for compassing his Ends, according to the Maxims of human Policy. He suggested to these People on the one hand, that they could never preserve their Religion under an Emperor, who was not only a Heretick, but likewise a Persecutor of the Orthodox; and on the other hand, that they were too weak to resist the Power of any potent Prince who might attack them at a Time, when perhaps other Interests might hinder their Friends from assisting them: Thus those Cities, in this Commotion, following such Advices only as were instill'd into them, either out of Hatred or Fear mix'd with Zeal, and the Love of Religion, after having shook off the Yoke of the Empire, put themselves under the Dominion of the *Longobards*. An Instance which may let Princes see what mighty Influence Religion has on the Minds of People; whence they may learn, that it cannot be alter'd without the Danger of giving a violent Shock to the chief Hinges of their States.

## S E C T. III.

*The Dukedom of Naples keeps its Allegiance to Leo Isauricus.*

WHAT the Predecessors of *Luitprandus*, in a long Tract of Time and Wars, could not compass, he at once was near accomplishing, by making himself Master of the Dukedom of *Naples*, as he had done of many Cities of the Exarchate of *Ravenna*. The Dukedom of *Naples*, as we have said, was govern'd by a Duke whom the Emperors of the East were wont to send from *Constantinople*. In the Time of *Leo*, this City was govern'd for him by *Exbilaratus* Successor of *John*, who being spurred on by the precise Orders of *Leo*, urged the People of *Campania* to receive the Edict, and to comply with the Religion of their Prince. He had likewise suborn'd some Men to murder the Pope, by promising them great Rewards if they should strike that Blow, which he said was absolutely necessary for the Quiet of *Italy*. This execrable Villainy being discover'd by the *Neapolitans*, who were always most devoted to the Popes, and most tenacious of the Doctrine of the Church of *Rome*; it appeared to them so horrid and monstrous, that laying aside all other Considerations, except that which kindled their Indignation, in order to revenge this outrageous Attempt, they took Arms, and amidst these Commotions and Tumults, revolted from the Duke *Exbilaratus*, who not having wherewithal to make Resistance, was murder'd, together with his Son *Adrian*; and one of his chief Officers, who was accus'd of having compos'd a seditious Libel against the Pope, likewise lost his Life.

BUT the *Neapolitans* carried their Resentment no further, neither did they fail in their Duty to their Prince, as the other Cities had done; neither would they have any recourse to the *Longobards*, who had a watchful Eye on so fair an Opportunity; nor basely subject themselves to them, for fear of disobliging the Emperor, or, what is more likely, because they mortally hated one another on Account of the continual Wars which had always been betwixt them; so that neither *Luitprandus* nor the *Beneventan Longobards* succeeded in making Advantage of so fine an Occasion. By which means this Dukedom continued firm and constant in their Obedience to their Prince, when all the other Dominions which the Emperors of the East had in *Italy* began to fail; whereupon *Peter* was appointed Duke of *Naples* in

! Sigon. ad ann. 726. Maimb. hist. Iconocl.

the Room of *Exbilaratus* : And the *Neapolitans* continu'd to live under the Empire of the *Greeks* until, after a very long Tract of Time, their Dukedom was at last conquered by the *Normans*, as we shall relate in the following Books.

*LEO*, upon the Advice of so general a Revolt, was much amaz'd ; but, instead of removing the Cause of so great an Evil, he rather added to it, till he made it incurable ; which at last caus'd him likewise to lose the Dukedom of *Rome*, without hopes of ever recovering it ; and would have also lost him that of *Naples*, and all his Authority in *Italy*, if the Steadiness of the *Neapolitans*, and the Aversion which they had to the *Longobards*, had not put a Stop to it. He still persevering in his wicked Design against the Life of the Pope, believing him to be the Author of all these Mischiefs, as soon as he had heard of the Death of *Paul* the Exarch, and the Revolt of *Campania* against the Duke of *Naples*, in the Year 727, sent the Eunuch *Eutychius* to *Ravenna* in the Quality of Exarch<sup>1</sup>, who was one of the most wicked Men upon the Earth, and the most fit for putting in Execution the most impious and difficult Undertaking. He set about corrupting the Governors of the Towns, which were subject to the *Longobards* in the Neighbourhood of *Naples* and *Rome*, in order only to get them to dissemble, and not to do all that they could for defending the Pope : But that base Artifice had not all the Success which he expected ; for a Messenger that was privately sent to *Rome* by this Eunuch, was taken by the *Romans*, and express Orders from the Emperor being found about him to all his Officers to risque every thing in order to murder the Pope ; they were for cutting him in Pieces, if *Gregory* had not hindered it, contenting himself only with Excommunicating *Eutychius*<sup>2</sup>.

<sup>1</sup> Freher. in Chron. Efar. Raven.

## S E C T. IV.

### *The Origin of the Temporal Dominion of the Popes in Italy.*

*GREGORY* was truly very much perplexed ; for though *Luitprandus* and his *Longobards* pretended to defend him against the Power of *Leo*, yet he knew very well, that this Zeal was design'd not so much for his Service and Preservation, as for taking Advantage of other Peoples Quarrels ; for which Cause he had no great Reason to put much Trust in them, as the Event demonstrated. Whereupon the *Romans*, abominating the Impiety of *Leo*, into which he strove to involve them by his Edict on the one hand, and on the other, being jealous of the Ambition of *Luitprandus*, who thirsted after nothing so much as to be Master of the *Roman* Dukedom ; at last resolved to shake off the Yoke of *Leo*, and to keep themselves united under the Government of the Pope, to whom they took an Oath to defend him against the Power of *Leo* and *Luitprandus*. This was the Origin, and these were the first Foundations that were laid, upon which, in Process of Time, the Temporal Dominion of the Popes came to be established in *Italy*. From this Inter-reign which the *Romans* made, began their Dominion, who having shaken off *Leo*, were all united under the Pope as their Head, but not yet as their Prince.

*BUT* though *Eutychius* found his Design thwarted, yet he had Courage to go on in it ; for having recruited his Army the best Way he could, he went to *Ravenna*, and the Factions continuing yet in that City, it was easy for him, seeing his Party was succoured with such powerful Assistance, to recover it, and reduce the People of *Ravenna* to the Obedience of their Prince. He considering that all *Italy* was lost as to him, and that he could never suppress the Pope and the Obstinacy of the *Romans*, as long as *Luitprandus* was ready to support them ; employed all his Cunning and Policy to take off that Prince from the Pope's Interest and that of the *Romans*, and to bring him over to his own. At this very Time, *Trasimund* Duke of *Spoletium* had rebelled against *Luitprandus*, who finding it very hard to suppress him, resolved to bring him to condign Punishment. The King was likewise appriz'd

priz'd of the firm Resolution the *Romans* had taken to subject themselves to the Pope, that all his Art and Flattery would not avail for bringing them under his Obedience, and that there was nothing to be done but by meer Force. For these Reasons, the Exarch offered him his Army for suppressing first the Rebellion of *Trafimund*, as having concerned himself in that War for no other End, but in order to take hold of all the Opportunities, with which it might furnish him of making great Advantage by the one or other Party. *Eutychius* had no great Difficulty to draw him into his Measures: The King then forgetting the Obligations he lay under to the *Romans*, and his Promise to defend the Pope and Religion against the Insults of the Emperor, accepted these Offers, and concluded a Treaty with *Eutychius*, who immediately join'd his Army to that of the King, and went along with him to the War which he was entering upon against the Duke of *Spoletium* his Rebel, which did not last long; for *Trafimund* was so much surpriz'd with that Confederacy, which he did not in the least dream of, that no sooner was *Luitprandus* come before *Spoletium*, than he cast himself at his Feet, begging Forgiveness, which he obtain'd: He was likewise re-establish'd in his Dukedom, and took a new Oath to the King, and gave Hostages for his Fidelity.

THE Opportunity of employing their Arms against the Rebels being so soon over, in pursuance of the Treaty with *Eutychius*, they were turn'd against the *Romans*, and *Luitprandus* came with the two Armies and sat down before *Rome*, incamping in the Meadows of *Nero*, which are betwixt the *Tyber* and *St. Peter's Church*, over-against *Castle St. Angelo*. *Gregory* being appriz'd of the Preparations of *Luitprandus*, had caused the City of *Rome* to be fortified the best way he could; but perceiving that he could ill resist such warlike Preparations with Force, and having before his Eyes the Example of the Duke of *Spoletium*, who, by request, had obtain'd, from the Piety of *Luitprandus*, what he could not have expected by Arms, resolv'd to imitate him, and, without consulting human Prudence, which would never have persuaded him to go and deliver himself up into the Hands of his Enemies till he had cautiously guarded against the worst that could befall him, accompanied with the Clergy and some *Roman* Barons, went to the King. *Luitprandus*, surpriz'd at such an unexpected Action, could not resist the Impulses of Courtesy, which were very natural to him, and receiv'd him with all the Respect due to the Sanctity of his Life, and the august Character of *Roman* Pontiff. Then it was, that *Gregory* taking upon him that Air of Majesty, which Vertue alone, accompanied with so high a Dignity, inspires, began with all Force imaginable, temper'd with tender Affection, to display the Power of his Eloquence, taxing him with the Breach of Faith; the Harm he did to Religion, for which he had been so zealous; and laying before him the great Prejudice he would do to his Kingdom, if he fail'd to protect the Church, he conjur'd him to leave off his Undertaking, and turn his Arms another way. *Luitprandus* either inwardly touch'd with Remorse, or that at this instant he saw many Things, which he had not thought of in the Heat of his Passion, or because Men, as they cannot be altogether good, so neither can they be altogether bad; was so struck with these Remonstrances of *Gregory*, that, without insisting on the Justification of his Conduct, or seeking Excuses, in some measure to vindicate his Honour, he cast himself at his Feet in the Presence of all, confessing his Fault, protesting that he would repair it immediately; and for the Time to come never suffer any Injury to be done the *Romans*, nor the Majesty of the Church to be violated in the Person of him who was the Father and Head of it. When the Exarch insisted that the Emperor's Orders might be obeyed<sup>1</sup>, he not only did not give Ear to him, but in order to give the Pope a more secure Pledge of his Word, he intreated him to go along with himself to the Cathedral Church of *S. Peter*, which at this Time was without the Walls of the City, and there, in Presence of all the Chief Men of his Army, who had follow'd him, he caus'd himself to be disarm'd, and laid his Girdle, his Sword, his Gauntlet, his Royal Mantle, his Crown of Gold, and Cross of Silver, upon the Apostle's Sepulchre; afterwards he begg'd of the Pope, that he would receive *Eutychius* into his Favour, of whom he needed be no longer in fear, seeing he was not now supported by the *Longobards*. *Gregory* still hoping that *Leo* some time or other would acknowledge his Errors, consented to this Demand: So that *Luitprandus* retiring with his Army to his own Dominions,

<sup>1</sup> Sigon. ad A. 729.



the Exarch was receiv'd in *Rome*, and continu'd for some Time very peaceable, and in a good Understanding with the Pope. At this very Time it happen'd that an Impostor, who call'd himself *Tiberius*, and bragg'd of his being descend'd of the Emperors, had seduc'd some People in *Tuscany*, who had proclaim'd him Emperor: *Gregory*, who slipp'd no Opportunity of obliging *Leo*, perceiving that the Exarch had not Forces sufficient to crush him, manag'd Matters so with the *Romans*, that they accompanied him in this War against the Tyrant, who was besieg'd and taken in a Castle, and his Head sent to the Emperor.

BUT *Leo* being still more obdurate, carried his Passion to the utmost Extremity; for in the East where he govern'd more absolutely, and had no-body to controul him, he fill'd every Place with Slaughter, Tears, and Blood; he caus'd the Pictures in all the Churches to be defac'd; he publish'd an Order whereby he commanded all the Inhabitants, especially those who had Care of Churches, to put in the Hands of his Officers all the Images, that by burning them all at once, he might purge the City. But the Execution prov'd so odious, not sparing Age or Sex, that at last it occasion'd the Loss of what was yet remaining in the West, to *Leo* and his Successors for ever; for the Pope finding that it was not in his Power to reclaim this Prince, and being afraid lest some time or other, he might do in the Western Provinces, what he heard with extreme Grief, he had done in those of the East; he slacken'd the Reins by which hitherto he had kept the *Romans* in the Obedience to their Prince, and leaving them to their Choice, and to do what they thought fit; at last he approv'd of that which hitherto he had endeavour'd to hinder, and what the People had already begun to do of themselves; whereupon the *Romans* renouncing their Allegiance to *Leo*, withdrew themselves altogether from under his Dominion, paid him no more Tribute, and united themselves together under the Direction of *Gregory* as their Head, but not as their Prince.

SOME of our Writers, from the Authority of *Theophanes*, *Cedrenus*, *Zonara*, and *Nicephorus*, Greek Authors, who flourish'd long after *Gregory* and *Paul Warnefride*, and *Anastasius Bibliothecarius*, relate, that the *Romans* having shaken off the Yoke, elected *Gregory* for their Prince, by taking an Oath of Fidelity to him; and that the Pope accepted the Principality of *Rome*, and order'd the *Romans*, and all the rest of *Italy*, to pay no more Tribute to the Emperor, and besides absolv'd the Vassals from the Oath to the Empire; publicly and solemnly excommunicated the Emperor *Leo*, depriv'd him not only of his Dominions in *Italy*, but also of all the Empire: Whence the independent Dominion of the Pope over *Rome* and its Dukedom, had its rise; which afterwards by the Bounty of *Pepin* and *Charles the Great*, extended itself to the Exarchate of *Ravenna*, *Pentapolis*, and many other Cities of *Italy*.

THE *French* Writers, and amongst the rest the Archbishop of *Paris*, *P. de Marca*<sup>1</sup>, and those two famous Divines *Natalis* and *Du Pin*<sup>2</sup>, deny, that *Gregory*, a wise and prudent Pope, had given way to such an Excess; the Letters of the same Pope<sup>3</sup>, *Warnefride*, *Anastasius*, *Bibliothecarius*, *Damasceus*; the Letters likewise of *Gregory III.* and *Charles the Great* to *Constantine* and *Irenæus*, are convincing Proofs that these Stories are fabulous; to wit, that *Gregory* excommunicated *Leo*, accepted of the Principality of *Rome*, absolv'd the Vassals from their Oath to the Empire, and from paying Tribute, and depos'd the Emperor; and assure us, that *Gregory*, tho' in a thousand ways offended, was always very serviceable and faithful to *Leo*, and had on many Occasions hinder'd the People from revolting, and endeavour'd to keep them from rising against their Prince. 'Tis true he oppos'd the Edicts of *Leo* for abolishing the Images, commanding them not to be obey'd, and exhorting that Prince to give over the Design he had undertaken; but we read not in so grave Authors that he excommunicated him. The first Pope who boasted of his having darted his Thunder-bolts at Imperial Heads, was the famous *Hildebrand* *Gregory VII.* which we shall observe in its Place, and not *Gregory II.* What *Anastasius* writes, is most clear<sup>4</sup>; he tells us, that after *Leo* had depos'd *Germanus* Patriarch of *Constantinople*, for his not consenting to the Edict, and appointed *Anastasius* the *Iconoclaste* in his Room, *Gregory* excommunicated *Anastasius* for persevering in his Error; but only rebuk'd, admonish'd, and exhorted the Emperor by Letters to desist from his

<sup>1</sup> Anast. Biblioth. in Greg. II.

<sup>2</sup> P. de Marca de Concord. Sacer. & Imp. lib. 3. cap. 11. num. 2.

<sup>3</sup> Du Pin, de Antiq. Eccl. disc. diff. 7.

<sup>4</sup> Greg. II. in Ep. 1. ad Leonem.

<sup>5</sup> Anast. ad A. 658.

Enterprize, but did not excommunicate him, as *Anastasius* writes. And what is said of *Gregory's* having depos'd *Leo*, is yet more fabulous; for this Pope acknowledg'd *Leo* as Emperor as long as he liv'd; and *Gregory III.* his Successor, did the same, who had a Correspondence with him; and we read many of his Letters directed to the Emperor, full of great Humanity and Respect. 'Tis the more certain that he acknowledged him as such, because the Dates of his Letters bear the Years of his Empire, as that of *Gregory* directed to *Boniface*, *Imperante Domino piissimo Augusto Leone, Imperii ejus XXIII.* <sup>1</sup>

OUR Modern *Latin* Writers, misled by the Authority of these *Greek*, have taken their Fables for Truths; but they did not advert, that the Authority of our ancient *Latin* Writers, who flourish'd first, and related Things which fell out in Times and Places not so remote and distant from them, ought to have weigh'd more with them. They likewise did not advert, that the *Greeks* of these latter Times, besides the Character of their Nation, which has always obtruded Lyes and Fables upon the World, had all an Aversion for the Church of *Rome*; and in order to stir up the Minds of Men to a Hatred of, and to draw Envy on, the *Roman* Pontiffs, they represented them to the World as Authors of Innovations and Revolutions, by imputing to them the Ruin of the Empire of the East, calling them Innovators, Ambitious and Usurpers of the Temporal Authority of Princes; and that they, ill imitating our Head and Master *Jesus Christ*, from Priests, were become Princes.

THE Fables of these *Greek* Schismatics were afterwards greedily, and with pleasure swallow'd by our modern Innovators, and the most furious Hereticks of these our latter Times: Who likewise from the Authority of those, by all means will have it, that *Gregory* truly excommunicated *Leo*; that he absolv'd the Vassals of the Empire from their Oaths; that he depos'd the Emperor, order'd that no more Tribute should be paid him; and that being offer'd the Sovereignty of *Rome* by the rebellious *Romans*, he accepted, and became Prince thereof. *Spanhemius* <sup>2</sup>, amongst others, cries out mightily against the *French* Writers, who take these Accounts concerning *Gregory* to be fabulous; he says, that they writing in the Reign of *Lewis the Great*, were fain to deny these Facts, *Ne sub Ludovico magno, Romano in Pontifice hujusmodi potestatem agnoscere viderentur*: But they themselves by all means will have them to be true, in order to make a Comparison betwixt our Saviour *Jesus Christ* and the Pope. When the Multitude taken with his Miracles, offer'd to make our Saviour King, he immediately left them, and answer'd, *That his Kingdom was not of this World*; the Pope, when the rebellious *Romans* had shaken off the Yoke of *Leo*, and offer'd the Principality to *Gregory*, he immediately consented, and became their Prince. *Christ* expressly commanded Tribute to be paid to *Cæsar*; the Pope ordain'd, that no more Tribute should be paid to *Leo*: By these and the like *Antitheses*, and by such Methods, without either Rhime or Reason, they afterwards broke into that Blasphemy of making the Pope to be Anti-*Christ*.

WHO would believe, that the greatest Sticklers for the *Greek* Schismatics, and the greatest Abettors of these furious Hereticks, are now the modern *Romans*, and the Writers most addicted to that Court? These, tho' for another end, will likewise have it, that *Gregory* excommunicated *Leo*, depos'd him, order'd that Tribute should not be paid him, and, which is more, that being offer'd the Principality by the rebellious *Romans*, he accepted of it; whence sprung the Temporal Dominion of the Popes in *Italy*. Thus, not to mention others, our Jesuit Historian, Author of the new History of *Naples*, writes <sup>3</sup>: *Tum tandem Romani Orientalis Imperii jugum excusserunt, Gregorium Dominum salutarunt, eique Sacramentum dixerunt, &c. Gregorius oblatum ultrò Principatum suscepit: Quem non arma, non humanæ vires, arteſque, sed populorum studia, Anno 727. auspiciato contulerunt.* Such a Beginning the Hereticks exactly give to the Temporal Dominion of the Popes, founding it upon the Rebellion of the *Romans*; and that *Gregory*, ill imitating our Saviour, did accept of the Principality, and the *Servant of Servants* became Lord and Master. But by what we shall relate hereafter, it will clearly appear, that altho' it did take its Rise from these slender Beginnings, nevertheless it was not then that the Pope acquir'd the Sovereignty of *Rome*, but many Years after; neither during all the Interreign

<sup>1</sup> Greg. III. ep. 3. ad Bonifac. P. de Marca de Conc. Sac. & Imp. lib. 3. cap. 11. num. 5.

<sup>2</sup> Spanheim. contra Maimburg. in Histor. Imag. pag. 52.

<sup>3</sup> Giannettas. hist. Neap. lib. 5. pag. 94.

which the *Romans* of their own Authority pretended to make, were there Officers of the *Greek* Emperor wanting in *Rome*; and we can demonstrate, that the first Acquisitions were in the Exarchate of *Ravenna*, in *Pentapolis*, and afterwards in the *Roman* Dukedom, and not in the City of *Rome*, on the Occasions which we shall presently relate.

## S E C T. V.

*Pope Gregory II. and his Successor Gregory III. were the first that had recourse to France for Succour.*

THE Emperor *Leo* being advis'd of these most important Events, and more furiously inrag'd against the Pope, immediately confiscated all the Patrimonies which the Church of *Rome* had in *Sicily*, *Calabria*, and in all his other Dominions; and was preparing a powerful Army in order to chastise the *Romans* for their Rebellion; to recover the other Towns to his Obedience; and to revenge himself fully upon the Pope, whom he took to be the Author of all these Revolts: Wherefore *Gregory* dreading lest so considerable warlike Preparations might be design'd for crushing him, if he was not supported by a Power able to cope with *Leo*, resolv'd to pitch upon a Protector in whom he might find all the Support and Assistance necessary. He could not trust the *Longobards*, whose Designs and Treachery he knew from long Experience. The *Venetians*, tho' most zealous in the Defence of the Church, were not as yet so strong in *Italy*, as to be able alone to withstand all the Power of the *Greek* Emperor, especially when they were jealous of the *Longobards*, who were more troublesome Neighbours. And as for *Spain*, it was in a most lamentable Condition at that Time, being almost wholly ruin'd by the *Saracens*. Therefore he resolv'd to have recourse to the Power of the *French*, whose Constancy in the Catholick Faith had always been most firm. They had been now above fifteen Years govern'd by *Charles Martel*, who, on account of the Insufficiency and Pusillanimity of the King, being rais'd to be the Steward of the Household, the first Honour of the Kingdom, rul'd that Realm with an absolute Sway, and was become famous for a thousand glorious warlike Expeditions in *France* and *Germany*, and especially for the remarkable Overthrow given the *Saracens* in the Field of *Tours*; he was generally reputed the greatest Captain, and the true Hero of his Time.

*GREGORY* sent to this great Prince, which no other Pope had ever done before, a magnificent Embassy with many Relicks, to beg Assistance against the Attempts of *Leo*, and that he would take the *Romans* and the Church under his Protection<sup>1</sup>. The Ambassadors were receiv'd by *Charles* with extraordinary Honours, and a Magnificency becoming the most august Prince of his Age; and in a short Time the Treaty was concluded, by which *Charles* oblig'd himself to go to *Italy* in order to defend the Church and the *Romans*, if they should be attack'd by the *Greeks* or *Longobards*; and the *Romans* on the other hand were to acknowledge him for their Protector, and to confer the Honour of Consulship, as had been done formerly by the Emperor *Anastasius*, to the great *Clotvis*, after he had defeated the *Westgoths*. And when the Ambassadors return'd, loaded with rich Presents, and pleas'd with so successful a Negotiation; *Gregory* having nothing more to fear concerning the Church, to which he left so powerful a Protector, ended his Days in the Year 731, with the Fame of singular and eminent Virtues, which made him deserve upon Earth, the Honours which are only ascrib'd to the Saints in Heaven.

*GREGORY* III. succeeded, and some have written<sup>2</sup>, that it was he who sent this Embassy to *Charles Martel*, because *Luitprand*, after having defeated *Trasimund* Duke of *Spoletium*, who had rebell'd a second Time, taking Advantage of his Victories, had anew invaded the *Roman* Dukedom, and laid close Siege to *Rome*, being offended at *Gregory* for having entertain'd the Rebel; and when the Prayers

<sup>1</sup> Zonar. Append. ad Greg. Touron.

<sup>2</sup> Sigon. ad A. 739.

and Eloquence of the Pope had not the same Effect as those of his Predecessor, at last he had recourse to the Assistance of *Charles*, by whose Mediation he obtain'd, that *Luitprand* being satisfied with four Cities only, should raise the Siege, and leave *Rome*, and the rest of the Dukedom, to the *Romans* and the Pope. But be this as it will, 'tis certain, that from the Pope's having recourse to *France*, the *French* began to concern themselves in the Affairs of *Italy*; the Consequence of which was, that by this mutual Assistance, each of the Parties plotting to advance their own Interest; at last the *Longobards* being driven out, the *French* came to rule in *Italy*: The Kingdom of *France*, from the *Merovingian*, was translated to the *Carlovingian* Race; and on the other hand, the Popes were establish'd in *Rome* and the *Roman* Dukedom, with a great Part of the Exarchate of *Ravenna* and *Pentapolis*, as we shall relate by-and-by.

## S E C T. VI.

*Constantinus Copronimus, succeeds to his Father Leo. The Death of Luitprandus King of the Longobards.*

THE Affairs of *Italy* being in so great Confusion, and by various Accidents the Power of the Emperor *Leo* always more and more declining, nothing but the Shadow of Authority remain'd there. The Exarchate of *Ravenna* being much curtail'd by the Conquest of the *Longobards*, was now ready to go to ruin, without Hopes of Recovery; the Dukedom of *Rome* was in the Hands of the *Romans*, and the Pope their Head, whom they obey'd; and tho' there were as yet some Vestiges of Sovereignty remaining in *Rome*, *Leo* having still his Officers there; nevertheless his Authority was so very weak, that it was evident it would in a very short Time be altogether abolish'd in that City; he had no full Power and Dominion but only in the Dukedom of *Naples*, in *Calabria*, the *Bruttii*, and in some other maritime Cities of the Kingdom, which had not as yet fallen into the Hands of the *Beneventan Longobards*. But *Leo Isauricus* dying in the Year 741, and his Son *Constantinus Copronimus* succeeding to him in the East, its Ruin was compleated; *Constantine* having none of the good Qualities of the Father, exceeded him infinitely in the Bad; and, if Credit may be given to the *Greek Writers*, he was the most wicked and ugly Monster that ever the Earth produc'd<sup>1</sup>. He was no sooner sole Emperor, than he shew'd himself more furious against Images than his Father had been, and publish'd an Edict, by which he not only condemn'd the Images of the Saints, but likewise forbid the Invocation of them, and the very Title of Saints; and carrying his Fury further, he was also outrageous against their Relicks, by ordering the greatest Violence and Disrespect in the World should be offer'd them: Therefore he persecuted the Defenders of the Images, and on that account banish'd many Bishops. But he render'd himself much more impious, and abhor'd by all for the Hatred he had conceiv'd against the Mother of God, in prohibiting any Holy-Day whatsoever to be observ'd in Honour of her, and that none should implore the Assistance of God by her Intercession, asserting, that she had no Power either in Heaven or on Earth.

THIS execrable Impiety, together with many more wicked Instances of the same nature, and his abominable Vices, render'd him so odious to his Subjects, that he not only lost that Shadow of Dominion which he had in *Rome* and *Ravenna*, but was like to have lost the whole Empire.

IN the same Year that *Leo* died, *Gregory III.* likewise departed this Life, and was succeeded in the Pontificate by *Zacharias*; to him the Church of *Rome* ow'd her Temporal Dominion, much more than to the two *Gregory's*, for he knew how to raise it upon the Ruins of the *Greek Empire*, and to make greater Acquisitions; forasmuch as he no sooner had mounted the Chair, than he sent Ambassadors to *Luitprandus*, to

<sup>1</sup> Sigon. ad A. 741.

demand the four Cities, which by the Mediation of *Charles Martel* had been given him when he rais'd the Siege of *Rome* for the second Time. And altho' the Ambassadors were honourably receiv'd by *Luitprand*, and got some Hopes of the Restitution, nevertheless *Zachary* observing that the Affair was protracted, and intending to imitate *Gregory*, went with all the Clergy of *Rome* to find the King, and being receiv'd with extraordinary Marks of Respect; his Motives were so strong and effectual, that he not only obtain'd from the Piety of this Prince, the Restitution requir'd, but likewise establish'd a Peace betwixt them for twenty Years: He also got the *Sabinian* Patrimony to be restor'd, and made many other Acquisitions beyond his Expectation. And this Pope was so successful with *Luitprand*, and so much in his Favour, that when in the latter end of his Reign, impatient of Repose, according to his wonted Custom, he design'd to attack *Ravenna* anew, *Eutychius* the Exarch had recourse to the Mediation of the Pope, who wrought so upon *Luitprand*, as to make him lay aside that Expedition, and even to restore some Places which he possess'd, especially *Cesena*.

BUT while these Things were transacting in *Italy*, *Luitprand*, after having reign'd 32 Years, ended his Days in *Pavia*, in the Month of *July* in the Year 743<sup>1</sup>. A Death as sudden as doleful to the *Longobards*, and never enough to be lamented by them; he was bury'd in solemn Pomp in the Church of *S. Adrian the Martyr*, in *Pavia*, with the highest Commendation, and lofty Encomiums<sup>2</sup>. A Prince, laying aside his excessive Ambition of Empire, indued with all the Perfections desirable in a King, either for Peace or War; he enlarg'd the Bounds of his Dominion<sup>3</sup>, and tho' brought up from a Child amongst Arms, had nothing of Pride or Cruelty in him, but was rather most courteous, and always inclin'd to use Clemency, even towards those who had offended him; he was more knowing and sufficient than all those of his Council. All his Laws were wise and prudent; and tho' he had not cultivated his Mind with Learning, yet by the Strength of his own natural Parts he had attain'd all the Force and Subtlety of a Philosopher.

THERE are remarkable Monuments of his Piety towards God still remaining; he was magnificent in founding of Churches and fine Monasteries, of which *Warnfride* gives us the Number<sup>4</sup>, and to this Day the Vestiges of them are admir'd; he was chaste, and compassionate to the Poor, and of so good natural Parts, that of all the *Longobard* Princes that reign'd in *Italy*, all Writers deservedly give him the greatest Commendation. He left the Kingdom to *Hildebrand* his Nephew, whom in the last Years of his Life he made his Partner; but his Government lasted but a short while, seven Months having scarcely pass'd<sup>5</sup>, when the *Longobards* finding that because of his Insufficiency they could not expect a happy and good Government, they turn'd him out of the Throne, and set up *Rachis* Duke of *Friuli*, a Prince adorn'd with excellent Qualities and uncommon Piety.

<sup>1</sup> Erchemp. pag. 5. apud Camil. Pel. hist. Princ. Longob.

<sup>2</sup> P. Warn. de gest. Long. l. 6. c. 58. seu 19.

<sup>3</sup> Erch. apud Pellegr. p. 5. loc. cit. P. Warn. lib. 6. c. 18.

<sup>4</sup> P. Warn. lib. 6. c. 18.

<sup>5</sup> Erch. apud Pellegr. p. 5. loc. cit.



## CHAP.



## C H A P. I.

## Of RACHIS King of the Longobards, and his Laws.



RACHIS, to the unspeakable Satisfaction of all, mounted the Royal Throne in the Year 744. In the Beginning of his Reign, he gave very evident Tokens of a quiet Disposition, and was inclinable by all means to live in Peace; he confirm'd the Peace with Zachary which had been made with Luitprandus some Years before; and following the Example of the other Longobard Kings, would likewise add new Laws to those of his Predecessors, and soften the Rigour of some of them. He having conven'd the States of the Kingdom in Pavia, in the Year 745, publish'd them by his Edict, which, after the manner of his Forefathers, he caus'd to be establish'd over all the Kingdom. We read this Edict as yet intire in the often mention'd Code of the Monastery of the Cave, which contains eleven Chapters. The first begins, *Ut unus quisquis Judex in sua Civitate debeat quotidie in judicio residere*; and the last has this Title, *De Arimanno quomodo cum judice suo caballicare debeat*. From this Edict the Compiler took only nine Laws, which we have in the Volume of the Longobard Laws. We have three in the first Book, one under the Title *De Seditione contra judicem*; and two under the other *De Invasionibus*. In the second Book we have four of them; one under the Title *Debitis & Guadimoniis*; another under the Title *De Prescriptionibus*; another under the Title *De Officio Judicis*; another under that *Qualiter quis se defendere debeat*; and two other in the third Book, one under the Title *De his quæ secreta Regis inquirunt*; and the other under this *Ubi interdictum sit Legatum alicui mittere*, wherein it is strictly forbidden, without the King's Licence, to send Ambassadors to Rome, Ravenna, Spoletium, Beneventum, to France, Bavaria, Germany, Greece and Navarre.

BUT after Rachis had so well improved the Arts of Peace, and so well settled his Kingdom with wise and provident Laws, there did not pass many Years, when he laid them aside; and being seiz'd with an Ambition of enlarging the Bounds of his Kingdom, as his Predecessor had done, whom he had a Mind to imitate, he rais'd an Army, and made War on Pentapolis, and having taken some Places in that Country, he advanc'd into the Roman Dukedom, and at last laid close Siege to Perugia<sup>1</sup>.

IT was at this Time, that Pope Zachary had so many lucky Opportunities, which led him to so many renown'd and noble Undertakings, that his Name deserves gloriously to be extoll'd above all the other Roman Pontiffs; for he had the Art to lay such, and so deep Designs, in order to extend the Authority and Dominion of his See, that nothing like them had ever been so cunningly contriv'd.

<sup>1</sup> Erchemp. apud Camil. Pelleg. pag. 5. loc. cit.



## S E C T. I.

*The Translation of the Kingdom of France from the Merovingian to the  
Carlovingian Line.*

AFTER the Death of *Charles Martel*, *Pepin* and *Carlomannus* his Sons took upon them the Government of the Kingdom of *France*. *Childerick* the last King of the first Race, because of his Insufficiency, retain'd nothing but the Royal Title; but after seven Years had pass'd, *Carlomannus* renounc'd the Government to his Brother, and, accompanied with many *French*, came to *Rome*, and being inflam'd with a fervent Zeal for Religion, would have *Zachary* to inroll him amongst the Clergy; from thence he retir'd to *Monte Soratte*, and there founded a Monastery, which he dedicated to *S. Sylvester* the Pope; where 'tis reported this Pope had hid himself in the Time of the Persecution, before *Constantine* had embrac'd the Christian Religion. But this Place being continually frequented by the *French*, who came either of Purpose, or *en passant* to visit him, in order altogether to withdraw himself from worldly Affairs, he retir'd to *Monte Cassino*, where having dedicated himself to God, he turn'd Monk.

IN the mean Time *Pepin* continu'd to govern the *French* Monarchy alone, with the same Power and Authority, and rather more, than his Father *Charles Martel* had done; for *Childerick* III. the last of the *Merovingian* Race, by reason of his Folly and Unfitness, was less esteem'd than the Kings his Predecessors, who for about a hundred Years had enjoy'd nothing but the Royal Title, by basely allowing themselves to be govern'd by the Mayors of the Palace, who had all the Authority. On the contrary, *Pepin* by his noble Manners, and his glorious Actions, had gain'd the Hearts of all the *French*, who willingly would have acknowledged him for their King, rather than *Childerick*, a stupid and unfit Prince. *Pepin* did not let so fine an Opportunity slip, of transferring the Realm of *France* from the Race of the great *Clovis* to his own House, but made use of all the Art imaginable. But tho' the *French* seconded his Design, nevertheless they were not willing to do it of themselves, being perswaded that they had not sufficient Authority to transfer the Kingdom from the lawful Heir to another House, nor to absolve themselves from the Oath of Fidelity which they had taken to their Prince. *Pepin* weighing the Difficulty of the Matter, and that *Charles Martel* his Father, tho' formidable and renown'd for so many Victories, had not had the Boldness to undertake it; and besides, thinking that so great and so strange an Enterprize, could by no other Means be brought about, not to be thought odious, but rather commendable, than by having recourse to the Authority of the Apostolical See, which at this Time was reputed the Seminary of all Virtue and Sanctity; and if that See should not approve of the Fact, it was able to stir up so many Enemies against him, that he would not be in a Condition to withstand them with his own Forces; he therefore very prudently resolv'd, under the Cloak of the Papal Authority, to cover the Deformity of the Fact, and sent the Bishop of *Wuitzburg* to *Rome* to Pope *Zachary*, and caus'd him to lay before him his own Desire, and that of all the *French*, requesting his Opinion, whether it would not be for the common Benefit of the Kingdom, to transfer the Scepter from a stupid King, to *Pepin* a valiant and wise Prince<sup>2</sup>. And after the Bishop had demonstrated, that by his approving of this Translation, he should acquire more Glory than *Charles Martel* had done by his Victory over the *Saracens*, he requested him to interpose his Authority, and to absolve the *French* from their Oaths, that they might be able to place *Pepin* on the Throne. This was the publick Commission of the Ambassador, but the private Instructions were, to promise if the Pope consented, to defend him against all his Enemies, and especially against the *Longobards*; and that he might rest secure, that *Pepin* would not only protect him, but also grant him greater Advantages to his See.

<sup>1</sup> Erchemp. apud Camil. Pellegr. p. 5. loc. cit.

<sup>2</sup> Paul. Æmil. de reb. Franc.

*ZACHARY* did not let slip so fit and seasonable an Opportunity, which afforded him an Occasion to shew at the same Time, both the Greatness of his Authority, and not only to establish the Temporal Dominion which he began to have in *Italy*, but likewise to extend it beyond the *Roman* Dukedom, and the Exarchate of *Ravenna*. Whereupon he not only gave his Advice to do it, but that there might remain to Posterity, a solemn Document of his Authority, of himself, he likewise added a Decree, by which he made void the Right of *Childerick*, as an insufficient King, and absolv'd the *French* from the Religion of their Oath, and ordain'd that *Pepin* should be put in his Place. As soon as the *French* had obtain'd this, they met at *Soissons*, turn'd out *Childerick*, who shutting himself up in a Monastery, turn'd Monk, and they elected *Pepin*, who was solemnly crown'd by *Boniface* Archbishop of *Mentz*, from whom he also receiv'd the Holy Unction, that thereby he might be more respected by his Subjects; and he was the first King of *France* that made use of it.

SOME *French* Writers, and particularly *Du Pin*<sup>1</sup>, clearly demonstrate, that the *French* sent this Embassy to *Zachary*, in order to consult him only as a Doctor and Father of the Christians, and that they requir'd nothing from him, except his Advice and Approbation, to make their Election the more plausible to all Christendom; so that *Zachary* had no other hand in it than by giving his Opinion and Advice. Others, from the Authority of *Eginardus*<sup>2</sup>, *Reginon*, and from the Annals of *France*, relate, that this Pope did not only approve of the Election, but, as 'tis easy to do more than is requir'd, especially when it makes for the Inlargement of one's own Authority, even went further, and made a Decree for it; which however they say, was of no Consequence or Prejudice to them for the Time to come, as was made clear, when Two hundred and thirty-seven Years after, the *French* with common Consent elected and crown'd *Hugh Capet*, by turning out *Charles* of *Lorraine*, who was the lawful Heir of the *Carlovingian* Race, without being oblig'd to consult the Pope, as had been done by *Pepin*. Whatever be in this, 'tis certain, that these Matters and Treaties were transacted at this Time betwixt *Zachary* and *Pepin*; on the one hand *Zachary* consented to the Translation of the Kingdom, which *Pepin* wanted to be settled on his House, and gave him all Assistance; on the other hand, *Pepin* promis'd to protect the Apostolical See, and to defend it against its Enemies, and particularly the *Longobards*, and procure it greater Advantages<sup>3</sup>. It remains a Question, whether the Apostolical See reap'd more Benefit from *Pepin* and his Arms, which he employ'd in defending it against the Power of the *Longobards*, and establishing the Temporal Dominion in *Italy*; or *Pepin*, from the Authority of that See, which was so propitious to the *French*, that it made his Descendants Masters of *Italy*, and facilitated the driving the *Longobards* out of it.

<sup>1</sup> *Du Pin*, de Antiq. Eccl. disc. Dissert. 7.

<sup>2</sup> *Eginard*. ad A. 750. hoc anno secundum

*Romani Pontificis Sanctionem*, &c.

<sup>3</sup> *Paul. Emil.* de reb. Franc.

## S E C T. II.

*Rachis* abandons his Kingdom, and turns a Monk of *Cassino*.

IN the mean Time, before *Zachary* had concluded these Treaties with *Pepin*, he had not neglected the Interest of his See with *Rachis*, who having march'd thorough the Dukedom of *Rome*, and its Territories, had, as is said, laid close Siege to *Perugia*, and threaten'd to proceed further. The Emperor was at a Distance, and did not mind the Affairs of *Italy*; the Exarch was not in a Condition to defend himself in *Ravenna*, much less to oppose *Rachis*; so that *Zachary*, in order to ward off this Blow, was necessitated to have recourse to his own Authority and Courage: Therefore taking Heart, and well accompanied, he went in Person to the Camp, where *Rachis* was, under the Walls of *Perugia*; and being honourably receiv'd by this Prince, he spoke with such Force and Energy, as to instill so tender a Regard for Piety and Religion into him, that immediately he not only rais'd the Siege of *Perugia*,

*Perugia*, but also yielded to *Zachary* some Castles of *Pentapolis* which he had possess'd. And this Speech made so deep Impression upon him, that being over-aw'd with the Majesty of the Pope, and overcome with the secret Force of Religion, a Year after he went to *Rome*, with *Tasia* his Wife, and *Ratruda* his Daughter, to visit him; and there prostrating himself at his Feet, and renouncing his Kingdom, he would turn a Monk of *Cassino*, together with his Wife and Daughter; and having taken the Habit from the Hands of the Pope, he retir'd to *Monte Cassino*, there to end his Days in that Monastery under the Rule of *S. Benedict*: *Tasia* and *Ratruda* follow'd his Example, who at their own Charges erected from the Foundation a magnificent Monastery of Virgins, not far from *Cassino*, where having put on the Monastick Habit, they led a holy Life<sup>1</sup>.

*RACHIS* spent the rest of his Days in the Monastery of *Cassino*. A Prince remarkable for having govern'd the Kingdom with so much Prudence and Moderation, and made so many provident Laws; but what made him much more immortal and commendable in the Memories of Men, was his laying it down with so many Tokens of Piety and Religion; wherefore the Monks of that Monastery, worship him at this Day as a Saint. At the Time that *Leo Ostiensis* compos'd his Chronicle, there was seen near to that Monastery, a Vineyard, as *Leo* reports<sup>2</sup>, which was commonly call'd the *Vineyard of Rachis*; the Monks of that Monastery affirming, that he planted and cultivated it. The Abbot of *Noce*<sup>3</sup>, afterward Archbishop of *Rossano*, while he was Abbot there, caus'd search to be made for that Spot, which he found altogether barren; he caus'd the Vineyard to be repair'd, of which there was not the least Vestige remaining, and caus'd likewise a Chapel to be built in Honour of him.

*JOHN VILLANI*, a *Florentine*<sup>4</sup>, was of Opinion, that the Statue of Metal, which is now to be seen in the Market Place of *Barletta*, and which is call'd *Eracco*, had been erected by the *Beneventan Longobards* to this Prince. The Authority of this Historian made *Beatillus*<sup>5</sup> also, and, which is more, the Abbot of *Noce*<sup>6</sup>, and some others believe, that it really was the Statue of *Rachis*; which, if we consider the Extension of the Dukedom of *Beneventum* at this Time, would not seem impossible; seeing it extended its Bounds on this Side beyond *Sipontum*, to *Bari*; which Town was comprehended in the Dukedom of *Beneventum*; and tho' it had its own particular Dukes, who immediately govern'd it, nevertheless the Kingdom of the *Longobards* in *Italy* was made up, not only of that Tract of Country which we now call *Lombardy*, and of the other lesser Dukedoms, but especially of these three famous Dukedoms of *Spoletium*, *Friuli*, and this of *Beneventum*, greater than all the rest, which were subject to the *Longobard* Kings, who had their Seat in *Pavia*; it would not seem a strange Thing, that the *Beneventan Longobards* had erected that Statue to *Rachis* their King.

BUT two strong Reasons convince us of the fabulous and erroneous Opinion of *Villani*. The first is, that it appears altogether unlikely, that the *Beneventan Longobards*, would have plac'd a Statue so large and magnificent in *Barletta*, a Town at this Time so small and of no Account, and situated as it were on the Borders of their Dukedom, and not in *Beneventum* the Metropolis City; or in some other magnificent City of that Dukedom, of which they had many; such as *Capua*, *Salernum*, *Bari*, and so many others. *Barletta* at first was nothing else but a Tower plac'd in the Middle of the Way betwixt *Trani*, and the City of *Canna*, so famous for the signal Overthrow given the *Romans* there by *Hannibal*; it serv'd only for a lodging Place for Passengers; and, as is usual, had for a Sign a small Barrel. The Conveniency of the Situation, being seven Miles distant from each of these two Cities, drew some of their Citizens to live there, whence the Place afterwards took the Name of *Barletta*; and the Inhabitants always increasing under the Empire of *Zeno*, and the Pontificate of *Galesius*, *S. Sabinus* Bishop of *Canosa* thought it a fit Place to build a Church in for the Devotion of the Inhabitants, which was erected in Honour of *St. Andrew* the Apostle. 'Tis likewise said, that Pope *Galesius* being in Mount *Garganus*, on account of the miraculous Apparition of *St. Michael*, at the Request of Bishop *Sabinus*, about the Year 493, went down

<sup>1</sup> Erchemp. apud Pel. hist. Princ. Long. p. 6.  
Leo Ostien. Chron. lib. 1. c. 8.

<sup>2</sup> Leo Ostien. Chr. lib. 1. c. 8.

<sup>3</sup> Ab. de Noce ad Ostien. loc. cit.

<sup>4</sup> Villan. lib. 2. cap. 9.

<sup>5</sup> V. Beat. hist. di S. Sabino vescovo di Canosa.

<sup>6</sup> Ab. de Noce loc. cit.

with *Laurence* Bishop of *Sipontum*, *Palladius* of *Salpi*, *Eutychius* of *Trani*, *John* of *Ruvo*, *Eustorius* of *Venosa*, and *Roger* Bishop of *Cannæ*, and consecrated it; after which Consecration, the Inhabitants increasing from Time to Time, it came to be a good Town, many Citizens of *Cannæ* going thither to live for greater Convenience. Such was the State of *Barletta* in the Reign of *Rachis*; it increas'd, and many Ages after began to take the Form of a City, and under the Reign of the *Suevi*, *Manfredus* who lov'd that Part of *Puglia* very much, and where he liv'd for the most part, honour'd it sometimes with his Residence while he was employ'd in building of *New Sipontum*, which from him took the Name of *Manfredonia*. *Barletta* thus honour'd by this Prince, began to vie with its Mother *Cannæ*, and to dispute the Boundaries and Territories, which for many Years had been common to both; whereupon *Charles I.* of *Anjou*, to remove all Disputes which usually arise betwixt Neighbours, made a Division: It was then surrounded with Walls, and this King caus'd the Streets to be pav'd, and the Gates to be built. It was afterwards made the See of the Archbishop of *Nazareth*, and brought to that Magnificency in which we now see it. *John Villani*, who flourish'd in the Reign of *Charles II.* of *Anjou*, and *Joan I.* his Niece, when *Barletta* was become one of the considerable Cities of *Puglia*, believing it had been such in the Reign of *Rachis*, and seeing this Statue lying in the Port of this City, which the Inhabitants call'd corruptly, as they do to this Day, the Statue of *Arachio*, took it to be the Statue of this *Longobard King*. Whence also we see the Mistake of *Scipio Ammiratus*<sup>2</sup>, who writes, that this Statue had been dedicated by the *Barlettans* to the Emperor *Heraclius*, as a Mark of Gratitude, for that Emperor's having made a Mole to their City, for the Convenience of Merchants; whereas in the Time of *Heraclius*, *Barletta* was a small Village, and the Mole was made many Ages after *Heraclius*, by its own Citizens; who no sooner than the Year 1491, transported that Statue, which lay half broke to pieces in the Harbour, to the Market-Place within the City, where it stands at this Day, after they had new vamp'd it as we now see it.

THE other Reason, which proves that it is not the Statue of *Rachis*, is its being represented Beardless, and dress'd after the *Greek* Fashion, having in one Hand a Cross, in the other an Apple, a Symbol of the World. These Marks, as they prove it to be the Statue of some Emperor of the East, so they prove it not to be of *Rachis*, or any other *Longobard King*. In the so often mentioned Code of the Monastery of the Cave, where the Edicts of the *Longobard Kings* of *Italy* are, we see some Pictures in Miniature of some of these Kings, Authors of these Edicts, tho' somewhat spoil'd, and after the manner of Painting in those Times, coarse and simple; nevertheless they are represented with long Beards, military Garments, the Scepter in their Right Hand, and the Crown on their Head, but neither Cross nor Apple to be seen: Whence 'tis probable, that, according to the ancient Tradition of the People of *Barletta*, it may be the Statue of *Heraclius* Emperor of the East.

HE, say they, on account of the great Veneration, which not only he, but all the other Emperors of the East his Predecessors, paid to *Michael the Archangel*, to whom there were so many Churches and Altars erected in *Constantinople*; when the Sanctuary of Mount *Garganus* was become so famous in his Time, that it drew the Bounty of the most potent Kings of the Earth to it, likewise would send and offer to that Church many rich Presents, and among the rest his Statue, to the end that he might eternize the Remembrance of the Worship which he paid to that Saint. They add, that the Ship which carry'd these Presents, being toss'd in the *Adriatick* Sea with Winds and Storms, was wreck'd in that Sea near the Shore of *Barletta*, where the Statue lay for a long Time in the Water; and that at last it was discover'd and brought ashore to the Harbour of that City, where it lay likewise half shatter'd for many Years: In fine, the *Barlettans* in the Year 1491, carry'd it into the City, and plac'd it where we now see it. Certainly the shav'd Beard, the *Greek* Habit, the Cross and the Apple, prove it to be the Statue of some *Greek* Emperor; Tradition, and the Resemblance it bears to *Heraclius*, and the Name, tho' corrupted, by which it has always been call'd by the *Barlettans*, give Ground to believe it is the Statue of that Emperor. The Opinion of *Mazzella*<sup>3</sup>, who believ'd this Statue to be the Emperor *Frederick II's*, is so false and foolish, that 'tis not worth the while to confute it, as being repugnant to all History.

<sup>1</sup> Registr. Caroli I. A. 1292. & A. 1293. | Beltran. descr. del R. di Nap.

<sup>2</sup> Ammir. nel. lib. delle Fam. del R. di Nap.

<sup>3</sup> Maz. descr. del Reg. di Nap. e sue Prov.



## C H A P. II.

*Of Astolphus King of the Longobards, his Expedition to Ravenna,  
and the End of that Exarchate.*



THE Longobards, as soon as *Rachis* turn'd Monk, set *Astolphus* his Brother on the Throne; a Prince gallant in the Field, and wise in the Council, who brought his Kingdom to the highest Pitch of Grandeur; which was the Occasion of his own Fall, and the Ruin of the Longobards in Italy. In the Beginning of his Reign he discover'd an Inclination to be moderate and peaceable; he confirm'd the Peace formerly made betwixt *Zachary* and *Luitprandus*, and *Rachis* his Brother, and granted the Pope all those Conditions which had been stipulated with his Predecessors. This Pope, after having settled the Peace with *Astolphus*, and so advantageously adjusted the Interests of his See, departed this Life in the Year 752. A Pope to whom the Church of Rome is much beholden, who by his wise Conduct rais'd her to so much Grandeur, and augmented her Authority; he left to his Successors very solid and firm Foundations, on which in after Ages they have been able to raise such a towering Superstructure in all the Kingdoms of the West, as gave Jealousy to Princes, and struck a Terror into the People.

*ZACHARY* being dead, the Clergy and People of Rome chose *Stephen II.* but he held that See only three or four Days; for being oppress'd with a severe Lethargy three Days running, he died on the fourth. Immediately there was another chosen, likewise nam'd *Stephen*, who by the antient Writers is also call'd the Second, not reckoning his Predecessor, who died without being consecrated; for in those Times the Election alone did not make a Pope, but the Consecration; so that if any was elected and died without being consecrated, he was not put in the List and Number of the Popes: Thus we see, not to name others, *Echerempertus*, and *Ostiensis* <sup>1</sup>, call this *Stephen* the II<sup>d</sup>, and not the III<sup>d</sup>. However, at present 'tis a settled Point, contrary to what anciently was believ'd, that by the Election of the Cardinals the Pope receives all Authority; and therefore the Writers of these latter Times have labour'd to put this *Stephen* in the Number and List, whereupon they have agreed to alter the Number of the subsequent *Stevens*, by calling the Second Third, and the Third Fourth, and so on to the Ninth, whom they call the Tenth, which occasions great Confusion in comparing the ancient and modern Writers, the latter stily maintaining this Point.

THIS Pope having mounted the Throne, and follow'd the Footsteps of his Predecessors, after three Months of his Pontificate, sent Legates to *Astolphus* with many Presents, in order to establish that Peace which he had already confirm'd with *Zachary*; *Astolphus* ratify'd it, and it was agreed on for other 40 Years.

BUT this Prince, who was no less ambitious than *Luitprandus*, confirm'd this Peace with the Pope, to the end that he might not divert him from the Design he had of subjecting *Ravenna*, with all the rest of the Exarchate, which was yet in the Possession of the Greeks, and was govern'd by the Exarch *Eutychius*. From the Time he mounted the Throne, in order to that Expedition, for the Space of two Years, he had gather'd together all his Forces, and made them more powerful than

<sup>1</sup> Echeremp. apud Pelleg. pag. 5. Ostiens. lib. 1. cap. 8.

ever; and perceiving that *Constantinus Copronimus*, who at this Time had associated his Son *Leo* with him in the Throne, was employ'd in other Expeditions in *Greece* and *Asia*, and did not in the least mind the Affairs of *Italy*, and tho' ever so willing, yet could not so suddenly send Assistance; he in an instant march'd with all his Forces against *Eutychius*, and went directly towards *Ravenna* the Head of the Exarchate, and laid close Siege to that Imperial City. *Eutychius* being thus catch'd napping, and unable to bear an Assault, or defend himself against such a numerous Army, agreed to surrender the Place, without hopes of ever recovering it; being far from any Assistance, and unprovided of Men and Money, he abandon'd every Thing, and return'd to *Greece*. After *Astolphus* took *Ravenna*, and all the other Cities of the Exarchate, *Pentapolis* easily surrender'd to him; who now triumphing over his Enemies, join'd the Exarchate of *Ravenna* to his Kingdom, which his Predecessors had so often in vain attempted to do; for sometimes they gain'd it, sometimes lost it, but never could intirely and firmly unite it to their Crown.

THUS ended the Exarchate of *Ravenna* and its Exarch; a Magistrate who for the Space of 183 Years had maintain'd the Power and Authority of the Emperors of the East in *Italy*: Thus ended likewise the great Lustre and Splendor of that City, which, by the Emperors *Honorius* and *Valentinian*, who neglected *Rome*, had always had the Honour to be made the constant Place of their Residence, as it was afterwards the Residence of the Exarchs, whom the Dukes of *Rome*, *Naples*, and all the other *Italian* Cities of the Empire obey'd, and whose Bishops contended with those of *Rome* for Precedency; now being retaken by the *Longobards* from the *Greeks*, it chang'd its Fortune, and being reduc'd to the Form of a Dukedom, was no otherways treated than the other lesser Dukedoms, of which the Kingdom of the *Longobards* was made up; which was the Occasion of its fatal Ruin, and of the Condition we now see it in. *Marquardus Freerus* <sup>1</sup>, in the Chronology which he compil'd of the Exarchs of *Ravenna*, from *Longinus* the first Exarch, under *Justin II.* to the last, which was this *Eutychius*, writes, that this Exarchate continu'd 175 Years; but from the Computation of the Years which he himself has made of it, we see, that it having, as he says, begun from *Longinus* in the Year 568, and ended in *Eutychius*, after *Astolphus* had taken *Ravenna* according to him in the Year 751, the Exarchate lasted 183, and not 175 Years. And according to those who compute the Fall of *Ravenna* from the Year 752, the Exarchate lasted 184 Years.

<sup>1</sup> Freh. in Leunclav. tom. 1. juris Græco Roman.

## S E C T. I.

### *The Expedition of Astolphus into the Roman Dukedom.*

**A**STOLPHUS after so great and glorious Undertakings, being full of high and elevated Thoughts, now threaten'd to extend his Empire over the miserable Remains which were yet left to the Emperors of the *Greeks* in *Italy*; he being Master of the Exarchate of *Ravenna*, and thinking he had a Right to all that belong'd to the Exarchate, which was the Superiority and Sovereignty over the Dukedom of *Rome*, and all the rest; pretended likewise to command the Cities of the *Roman* Dukedom, and especially the City of *Rome*, in which the Emperors of the East, after the Agreement made betwixt *Luitprandus* and *Gregory II.* had continu'd to have some Vestige of Superiority, by having their Officers still there. Therefore he threaten'd the Lands of the Dominion of the Church, and *Rome* itself, having broke and violated the so many Treaties of Peace concluded betwixt himself and his Predecessors, and the *Roman* Pontiffs, he march'd his Army towards *Rome*, and having taken *Narni*, sent Ambassadors with a severe Message to the Pope, telling him, that he would plunder *Rome*, and put all the *Romans* to the Sword, if they did not subject themselves to his Empire, by paying him a Yearly Tribute of a Crown for each Man.



Man<sup>1</sup>. The Pope being much troubled at so terrible a Message, endeavour'd to pacify him by a conspicuous Embassy of two famous Abbots, who flourish'd at that Time; he sent to him the Abbots of *Monte Cassino* and *S. Vincenzo*, to *Volturnum*, with a great many valuable Presents, charging them to put him in Mind of the Peace lately made, and by Reasoning and Intreaties endeavour to persuade him not to break it, but to turn his Arms another way<sup>2</sup>.

THE Pope from the Beginning of the Irruption which *Astolphus* made upon *Ravenna*, foreseeing these Mischiefs, had acquainted the Emperor *Constantine* with the Designs of the *Longobards*, and had solicited him to send powerful Assistance to the Exarch, in order to put a Stop to them; but *Constantine* intending to cover his Weakness with the Cloak of Authority, gave him to understand, that that alone was enough to hinder the *Longobards* from such an Undertaking; instead of an Army, he sent a Gentleman of his Bedchamber, named *Joannes Silenziarius*, with Orders to the Pope to send his own Letters along with him to *Astolphus*, in order to oblige him to restore what he had taken<sup>3</sup>. The Pope not only sent Letters but also Legates to accompany *John*; but when they arriv'd in *Ravenna* where *Astolphus* was, and deliver'd the Message about restoring what he had taken, that Prince receiv'd it with Contempt, and they were immediately sent back without Success, as they might well have imagin'd; for which Cause the Pope's Legates went with *John* directly to *Constantinople*, to intreat the Emperor anew, in the Name of the Pope, to come himself into *Italy* with a powerful Army in order to save *Rome*, and the other Remains of his Empire in *Italy*, which the *Longobards* were still endeavouring to rob him of. But *Constantine*, who was embroil'd in other Wars, and who minded nothing else, except the calling a new Council this Year 753, consisting of 338 Bishops, for pulling down the Images; was in no Condition to quarrel with the *Longobards*.

THEREFORE *Stephen* seeing that it was in vain to have recourse to *Copronimus*<sup>4</sup>, who could not so much as defend himself against the *Longobards*, and was at a great Distance for protecting his Church; and that on the other hand *Astolphus* had enter'd the *Roman* Dukedom with an Army, was laying all the Country waste, and threatening the *Romans* with Slaughter and Slavery, if they did not surrender to him; at last resolv'd, after the Example of *Zachary*, and the two *Gregories*, to have recourse to the Protection of *France*, and to beg *Pepin's* Assistance. He sent privately a Messenger to *France*, by whom he laid open his Distress to *Pepin*, and his Desire of going to *France* in Person, if he would send him Ambassadors for conducting him thither in Safety. *Pepin* did not fail to send him immediately two of the principal Officers of his Court, *Rodigandus* a Bishop, and Duke *Antony*, in order to conduct him to *France*. The Bishop and Duke being arriv'd at *Rome*, found that the Army of the *Longobards*, after having taken all the Castles in the Neighbourhood of *Rome*, was ready to invest that City; and the Pope's two Legates, with the Emperor's Envoy being return'd from *Constantinople*, had brought nothing but a second Order for the Pope to go in Person to *Astolphus*, and urge him to restore *Ravenna* and the other Cities he had possess'd himself of. There was no likelihood that this Journey would turn to any Account, yet the Pope was willing to obey, in order to make the last Effort, to see if he could prevail with that Prince; but when he saw that all his Labour was lost, and that *Astolphus*, who had forbidden him to speak of any Restitution, was doing what he could to stop him, he suffer'd himself at last to be conducted to *France* by *Pepin's* Ambassadors.

<sup>1</sup> Sigon. ad A. 753.

<sup>2</sup> Erchemp. apud Pelleg. p. 6. loc. cit.

<sup>3</sup> Anast. in vita Stephani III.

<sup>4</sup> Anastas. loc. cit. Cernens ab Imperiali potentia nullum esse subveniendi auxilium.

## S E C T. II.

*Pope Stephen in France, his Negotiations with King Pepin, and the Donation of Pentapolis made by this Prince to the Church of Rome, and the Exarchate of Ravenna taken from the Longobards.*

THE Pope being arriv'd in *France*, was receiv'd by *Pepin* with all Marks of Esteem and Veneration; he ador'd him as Pope and Father of Christianity, and paid him more Honour than he could have done to the most powerful King of the Earth. *Stephen* represented to the King the Necessities and Distress to which the *Longobards* had reduc'd him, and crav'd his Assistance and Protection, for which he offer'd to employ all the Authority of the Apostolical See to his Advantage. *Pepin* then, that he might make himself to be the more respected by his Subjects, and for the better establishing the Kingdom of *France* in his Person and Posterity, would have *Stephen* to consecrate him King with his own Hands, and to anoint him and his two Sons *Charles* and *Carloman* with the holy Unction, which was perform'd in the Church of *S. Denis* <sup>1</sup>. On the other hand *Pepin*, besides assuring him that he would curb the Insolence of the *Longobards*, and make them restore the Places they had possess'd themselves of in the *Roman* Dukedom, promised also to drive *Astolphus* out of the Exarchate of *Ravenna* and *Pentapolis*, and to restore those States when taken from the *Longobards*, not to the *Greek* Empire, to which they belong'd, but to *St. Peter* and his Vicar: *Stephen* commended the generous Offer which he made of other Peoples Goods, and also enlarg'd upon the great Advantage it would be to the Salvation of his Soul; whereupon the Donation was agreed and sworn to by *Pepin*, who likewise made his two Sons *Charles* and *Carloman* confirm it.

This Promise of the future Donation, in case *Pepin* succeeded in driving the *Longobards* from the Exarchate of *Ravenna* and *Pentapolis*, comprehended only these States. *Leo Ostiensis* <sup>2</sup> confounds what *Anastasius Bibliothecarius* wrote concerning the Donation made afterwards by *Charles the Great* to Pope *Adrian*, with this promis'd by *Pepin* to Pope *Stephen*. *Anastasius* relates <sup>3</sup> that *Charles the Great* confirm'd, and perform'd what *Pepin* his Father had promis'd, and rather added to his Father's Donation: he says that *Charles* by a new Instrument gave to *S. Peter* and his Vicar, many Cities and Territories in *Italy*, fixing the Boundaries from *Luna* a City of *Tuscany*, situated on the Borders of *Liguria*, with the Island of *Corfica*, to *Sorano* and *Monte Bordone*, including *Vecetri*, *Parma*, *Reggio*, *Mantua*, and *Monfelicie*; together with the Exarchate of *Ravenna*, as it was anciently, with the Provinces of *Venice* and *Istria*; and all the Dukedoms of *Spoletium* and *Beneventum*. *Leo* <sup>4</sup>, as the Abbot *de Noce* likewise observes <sup>5</sup>, speaking in the eighth Chapter, of the Donation of *Pepin*, makes use of the very same Words of *Anastasius*, which relate to the Donation of *Charles* his Son; and when afterwards in the twelfth Chapter he treats of the Deeds of *Charles*, and of this his Donation, he does not name the Places and Cities, as *Anastasius* does; but as if *Charles* had done nothing else but only confirm'd that of *Pepin*, supposing, that that comprehended all those Places describ'd by him in the eighth Chapter, he says, that *Charles*, *bono ac libenti animo aliam Donationis promissionem instar prioris describi præcepit*. But that this Donation of *Pepin* comprehended nothing else but *Pentapolis*, and the Exarchate of *Ravenna*, which were to be taken from *Astolphus*, is evidently known by the Execution, which was perform'd by *Pepin* himself, when, as we shall relate, he came to *Italy*, and taking them from the *Longobards*, made a Present of them to the Apostolical See; *Leo* writes the same <sup>6</sup>, that *Pepin*, *simul cum præfato Romano Pontifice Italianam*

<sup>1</sup> Ostiens. lib. 1. cap. 8. Pipinum & duos filios ejus Carolum & Carlomanum unxit in Reges Francorum.

<sup>2</sup> Ostiens. lib. 1. cap. 8.

<sup>3</sup> Anast. in Adriano.

<sup>4</sup> Leo Ostien. lib. 1. cap. 8. & 12.

<sup>5</sup> Ab. de Noce in notis ad Lion. cit. lib. c. 8.

<sup>6</sup> Leo Dist. cap. 8.

*veniens, & Ravennam, & viginti alias Civitates supradicto Aistulpho abstulit, & sub jure Apostolicæ sedis redegit.*

WE are likewise convinc'd of this from the Chronicle of the Monastery of S. Clement, in the Island of *Pescara*, which we now read printed in the sixth Tome of *Ughellus's Italia Sacra*; where relating the same Transactions of Pope *Stephen* with *Pepin*, we read that *Pepin* having driven out *Aistulphus*, and freed *Ravenna*, gave it to St. Peter, with twenty other Cities. When afterwards this Author speaks of the Donation of *Charles*, he says, that this Prince *restituit beato Petro, quæ Pater ejus dederat, & Desiderius abstulerat, addens etiam Ducatum Spoletanum & Beneventanum, &c.* But how true that may be which *Anastasius* relates of the Donation of *Charles the Great*, making it to comprehend *Corfica*, the Dukedoms of *Spoletium*, *Beneventum*, *Venice*, *Istria*, and a great many other Places, never taken or possess'd by *Charles*, we shall see by-and-by, when we shall have Occasion to treat of it.

AS soon as these Articles were agreed to betwixt *Stephen* and *Pepin*; this Prince, the Pope having continu'd with him in *France*, immediately interpos'd his most earnest good Offices with *Aistulphus*, which he thrice repeated, to persuade him to restore the Places he had taken; but neither Intreaties nor Threatnings prevailing, at last, spurr'd on by the Pope, he resolv'd to march into *Italy* against him with all his Forces; and being follow'd by *Stephen*, he forc'd the Passage of the *Alps*, put *Aistulphus's* Army that oppos'd him to Flight, and follow'd them at the Heels to the Gates of *Pavia*, where he besieg'd him, and constrain'd him at last to accept of hard Conditions, obliging him to give Hostages, and promise to restore the Lands of the Church which he held in the *Roman* Dukedom; he took *Ravenna* from him, and twenty other Cities, and in this Year 754, he added them to the Dominion of St. Peter<sup>1</sup>, and quickly return'd to *France*.

BUT *Pepin* was no sooner return'd to *France*, than *Aistulphus*, little minding the Hostages which he had put into *Pepin's* Hands, and breaking all the Oaths he had made to him, came with all the Forces of his Kingdom, and laid Siege to *Rome*, after he had terribly destroy'd the Country about it. *Stephen* now seeing himself reduc'd to the last Extremity, had recourse to his Protector in the strongest and most moving Terms possible; he wrote him those three Letters which we have to this Day<sup>2</sup>, in the most submissive Stile that can be imagin'd; and without any Precedent address'd him in the Name of St. Peter, to whom the Donation had been made, directing the Letters to the King, his two Sons, and all the States of *France*, after this manner: *Petrus vocatus Apostolus a Jesu Christo Dei vivi Filio, &c. Viris excellentissimis Pipino, Carolo & Carlomanno tribus Regibus, &c.* where he brings in the Apostle speaking thus, *Ego Petrus Apostolus dum a Christo, Dei vivi Filio, vocatus sum supernæ clementiæ arbitrio, &c.*<sup>3</sup> and conjures him in the Name of God to come to his Relief, otherwise he would be debarr'd from the Kingdom of God, and Life eternal, and so goes on in such a Strain as was most apt to affect a Christian Heart.

LESS than this would have suffic'd to oblige *Pepin* to have recourse again to Arms. He had already assembled his Forces on the first News of the Motion of *Aistulphus*; and with them marching anew towards *Italy*, he defeated *Aistulphus's* Army, which design'd to have disputed the Passage of the *Alps* with him, and threatening their utter Ruin if he continu'd the Undertaking, he oblig'd him to raise the Siege of *Rome*, which had already lasted three Months, and to throw himself into *Pavia* with the Remains of his Army.

IN the mean Time *Constantinus Copronimus* being advis'd of these Transactions about his Dominions between *Stephen* and *Pepin*, and that *Aistulphus* had yielded the Exarchate of *Ravenna* to *Pepin*, in order to give it to the Pope, sent immediately two Ambassadors to King *Pepin*, requiring the Restitution of it as belonging to the Empire; they being at *Marseilles*, whither they had come from *Rome* with a Legate of the Pope, heard that *Pepin* had already pass'd the *Alps*, and defeated the Army of the *Longobards*; whereupon one of the two immediately made the best of his way to King *Pepin*, who was not far from *Pavia*, and ready to besiege it, while the other remain'd with the Legate.

<sup>1</sup> Leo Ost. lib. 1. cap. 8. Ravennam & viginti alias Civitates supradicto Aistulpho abstulit, & sub jure Apostolicæ sedis redegit.

<sup>2</sup> Baron. ad A. 755. & tom. 6. Concil. edit. Paris.

<sup>3</sup> Vid. Franc. du Chesne. tom. 3. hist. p. 705. & seq. Alemann. de Pariet. Lateranens. o. 10.

THE Ambassador was immediately introduc'd to an Audience of the King, in which, after having extoll'd *Pepin* for the two Victories he had obtain'd over the *Longobards*, the common Enemies of the Empire and *France*, and commended his glorious Actions in the Name of his Prince, he open'd his Commission<sup>1</sup>, and represented to him, that without Dispute the Exarchate belong'd to the Empire, and was usurped from it by *Astolphus*, who took all Opportunities of aggrandizing himself at the Cost of his Neighbours, while his Prince was making War against the *Saracens*; that since the King had retaken it from the Usurper, it was just that he should likewise restore to the Emperor what was his; that in fine, the Pope was his Subject, and that seeing he suffer'd him to enjoy peaceably whatever had been given him by the Emperors and private Persons, for maintaining his Dignity, it would not be a just Thing in him likewise to usurp the Lands of his Sovereign; for the rest, *Constantine*, who desir'd nothing but Justice, was most ready also to practise it on his Part; and that seeing the King had been already at great Expences in this War, he offer'd him all that he could desire of an Emperor who was equally liberal and thankful.

THIS new Embassy had no sooner been laid before *Pepin*, who foresaw what the Ambassador was to demand of him, than he very courteously answer'd him, That the Exarchate belong'd to the Conqueror of the *Longobards*, who had acquir'd it *Jure Belli*, as their Predecessors had done a great Part of *Italy* from the Greek Emperors; that it was also notoriously known, that the greatest Part of these People being forc'd to change their Religion, had yielded themselves to King *Luitprandus*; that thus supposing the Right of the *Longobards*, of which there was no more reason to doubt, than of that of the *French* who had conquer'd *Gallia* from the *Romans* and *Westgoths*, he was very well assur'd of his Right; and seeing he had oblig'd *Astolphus* by Force of Arms to yield the Exarchate, of which he was going to take Possession by the same Means, he could dispose of it as he thought fit<sup>2</sup>: And had judged it proper to give the Dominion of it to the Pope, that the Catholick Faith, which had been polluted with so many infamous Heresies of the *Greeks*, might be preserv'd in it intire; and that the ambitious and covetous *Longobards* might not possess it; on which Considerations he had taken Arms against those who oppress'd the Church<sup>3</sup>; and that for all the Treasure in the World he would not alter his Resolution, and that he would maintain the Pope and the Church in the Possession of what he had given them against all the World.

THEREFORE having dismiss'd the Ambassador immediately, without suffering him to reply, he went and laid Siege to *Pavia*, which he invested so strongly, that *Astolphus* not being able to resist any longer, was oblig'd to beg Peace of him, which he obtain'd, on Condition that he would immediately perform the Conditions of the Treaty made the preceding Year, in delivering up the Cities of the Exarchate, of *Emilia*, now call'd *Romagna*, and of *Pentapolis*, which we call *Marca d'Ancona*<sup>4</sup>, into the Hands of *Fulradus* Abbot of *S. Denis* who was appointed *Pepin's* Commissioner. Which was readily perform'd by Commissioners likewise appointed by *Astolphus*: *Fulradus* having made all the *Longobards* to evacuate the Exarchate and all the other Places, and receiv'd Hostages in all the Cities, went and carried the Keys to the Pope, which he laid upon the Sepulchre of the Holy Apostles, with the Donation of *Pepin* attested with all the Solemnity and Forms requisite, and which he likewise caus'd to be subscrib'd by *Pepin's* two Sons *Charles* and *Carloman*, as also the principal Barons and Prelates of *France*. The Exarchate, if we may give Credit to *Sigonius*<sup>5</sup>, comprehended the Cities of *Ravenna*, *Bologna*, *Imola*, *Faenza*, *Forlim Popoli*, *Forli*, *Cesena*, *Bobbio*, *Ferrara*, *Commacchio*, *Adria*, *Cervia*, and *Secchia*. All which were delivered to the Pope except *Faenza* and *Ferrara*.

*PENTAPOLIS*, or *Marca d'Ancona*, comprehended *Arimini*, *Pesaro*, *Conca*, *Fano*, *Sinigallia*, *Ancona*, *Osino*, *Umana*, now demolish'd; *Jesi*, *Fossombrone*, *Montefeltro*, *Urbino*, the *Balnesean* Territory, *Cagli*, *Luceoli* and *Eugubio*, with the Castles and Territories belonging to them, as appears from the special Grant of *Lewis the Pious*, by which this Donation of *Pepin* was confirm'd; of the Truth of which we shall speak in its Place.

<sup>1</sup> Anastas. in vita Step. III.<sup>2</sup> Anastas. loc. cit.<sup>3</sup> P. de Marca de Concord. Sac. & Imp. lib.<sup>4</sup> 3. cap. 11. num. 5.<sup>5</sup> Anast. loc. cit. Leo Ostiens. lib. 1. c. 8.<sup>6</sup> Sigon. ad A. 756.

THE Pope being enrich'd with so many Cities and Dominions, committed the Administration of the Exarchate to the Archbishop of *Ravenna*; whence some have wrote, that the Archbishops of that City took also the Title of Exarchs, not as Archbishops, but as Officers of the Pope, now a Temporal Prince. Thus did the Popes begin to be potent Lords in *Italy*, by adding Principality to the Priesthood, and the Scepter to the Keys. Wherefore the Donation of *Constantine the Great*, particularly with regard to *Rome* and *Italy*, by what we have said in the Second Book of this History, and by what the most learned Historians, Civilians and Divines hold as unquestionable, was a gross Fiction of a noted Impostor of the tenth Century; or, according to *P. de Marca*, much earlier, in the Times of *Adrian* and *Charles the Great*. Neither, how true soever we may suppose it to be, had it any Effect, for the Emperors, and other foreign Kings who succeeded to them, were always from that Time Lords of *Italy* and *Rome*. Neither did the Popes pretend to any Thing in *Italy* but those Patrimonies, which they possess'd by the Bounty of some Prince or private Person, given them for their Maintenance, as is said, and as all other Ecclesiasticks held theirs in other States over all Christendom. It was truly *Pepin*, after the Popes had paved so convenient Ways for making themselves deserve so well at his Hands, who from the Lowness of a mean Fortune, enrich'd them with the Spoils of the *Longobard* Kings, and the *Greek* Emperors, by giving them Cities and Provinces; and, if the Truth was own'd, he was most liberal of them, as generally all those People are, who are not profuse of their own, but of other Peoples Goods. These certainly belong'd to *Constantine* Emperor of the East; and, truly speaking, this Donation ought to have been made, not by *Pepin*, but by *Constantine*, whose Right they were: Whence some have written<sup>1</sup>, that this Donation was made in the Name of *Constantine*; which gave Rise to the Fable of the Donation of *Constantine the Great*. From this Time forth the Popes left off in their Letters and Bulls, to take notice of the Years *Piissimorum Augustorum*, as formerly they had done. And being assur'd of the Protection of *France*, they renounc'd their Obedience to the Emperors of the East, and would no longer be deem'd his Subjects: On the other hand, the Greatness of the Popes was of such Advantage to *Pepin*, that it brought to his Son *Charles* who succeeded him, not only the Kingdom of *Italy*, by driving out the *Longobards*, but also the Empire of the West, which the Pope would restore in the Person of *Charles*, as we shall shew in the following Book.

THE *French*, tho' willing to be reputed Authors of the Greatness and Temporal Dominion of the Apostolical See, which cannot be deny'd them, yet contend, that the Popes had only the *Dominium Utile* of these Cities, which were given to the Church by *Pepin*; but that the Sovereignty remain'd in *Pepin*, and the other Kings of *France* his Successors, which *Sigonius* in his History cannot deny; it being manifest, say they, that the Descendants of *Pepin* had the sovereign Authority, which they exercis'd almost over all *Italy*. And that it was long after that the Popes became Sovereigns of *Rome* and these Provinces; not by the pretended Cession which *Charles the Bald* made of his Claim, Rights and Prerogatives, but by the Declining of the Empire, after it was confin'd to *Germany* alone, just as so many other Princes of *Italy* lawfully possess, at this Day, the Sovereignty which they have acquir'd in the West.

*PETER DE MARCA*<sup>2</sup>, lets us see how, and upon what Foundations the Popes by degrees took upon them the Sovereignty of *Rome*, which was certainly not in these Times. He says, as the Exarchate of *Ravenna* was yielded to the Pope by *Pepin*, by the same Rule, the Superintendency and Government of *Rome* likewise belong'd to him, as it had done to the Exarch of *Ravenna*, to whom the *Greek* Dukedoms, and also that of *Rome* had been subject; the Sovereignty belong'd to the Emperors of the East, the Administration to the Exarchs: Whence the Popes as Exarchs pretended to it. But *Pepin* and *Charles the Great* being made Patricians of *Rome*, the Patriciate imported the having the Care of that City, and we shall see the Pope and the Patrician together taking Care of the Government of it, as Pope *Adrian* and *Charles the Great* did. After *Adrian's* Death, *Leo III.* who succeeded him, left the sole Administration to *Charles*, who from the Patrician was now rais'd to the Imperial Dignity, which carried the Sovereignty of *Rome* along with it, and the

<sup>1</sup> Span. de Imag. contra Maimburg.

<sup>2</sup> P. de Marca lib. 3. cap. 11. num. 7, 11, & 12.

Popes

Popes no more intermeddled in the Government of it, till the Authority of the Emperors, Successors of *Charles*, by piece-meal declining in *Italy*, at last *Charles the Bald*, in the Year 876, yielded all his Claim and Sovereignty over *Rome* to the Apostolical See: Whence it is, that *Constantinus Porphyrogenitus* <sup>1</sup>, describing the State of *Europe* in his Time, about the Year 914, says, that *Rome* held of the Popes *Jure Domini*; whence began the Custom of marking the Years of the Popes in their Bulls, whereas formerly the Years of the Princes and Emperors were mention'd.

THE Abbot *John Vignoli* in our latter Times, to wit, in the Year 1709, has publish'd a small Book, intitled, *Antiquiores Pontificum Romanorum denarii*, wherein, contrary to the Opinion of the *French*, he endeavours to demonstrate, that the Senate and People of *Rome*, after having thrown off the Yoke of the Emperors of the East, subjected themselves to the Roman Pontiffs, by acknowledging them for their Sovereigns; and that they not only had the *Dominium Utile* of *Rome*, but likewise the *Directum*. He pretends to prove it from the Coins yet extant of the Princes; and tho' there may be some more ancient ones, yet he confines himself to those that are still to be seen, struck under *Adrian I.* *Leo III.* and other Popes; and tho' some of them, such as those of *Leo III.* and other Popes, bear the Names of the Emperors, to wit, *Charles the Great*, *Lewis*, *Otho*, &c. as well as the Names of the Popes; yet this gave Occasion to *Le Blanc* a *Frenchman*, to compile a Treatise with this Title, *An Historical Dissertation upon some Coins of Charles the Great, Lewis the Pious, Lothaire, and their Successors, coin'd in Rome*; wherein he confutes the Opinion of those, who pretend, that these Princes never had any Authority in *Rome*, but by the Consent of the Popes; notwithstanding this, the said Abbot *Vignoli* endeavours to demonstrate, that a great deal of the Popes Money had not the Names of the Emperors, such as one Piece of *John VIII.* which is only mark'd with that of this Pope: However that may be, *Le Blanc's* Work shews how doubtful the Opinion of *Vignoli* is, and how much better founded that of the *French* is.

<sup>1</sup> Const. Por. de Themat. lib. 2. Th. X. Roma Regum deposuit Princip. & propriam Administrationem, ac Jurisdictionem obtinuit, eique proprie dominatur quidam suo tempore Papa.

### § E C T. III.

#### *The Laws of Astolphus, and his Death.*

ASTOLPHUS notwithstanding these Losses and Discouragements, turn'd his Thoughts towards the Preservation of his Kingdom; for this end he made new Laws, adding them to those of his Predecessors, which he chang'd and alter'd as the Circumstances of the Times requir'd; therefore in the fifth Year of his Reign, having assembled in *Parva* from diverse Parts the chief Lords and Magistrates of his Kingdom, after the Example of his Predecessors, he publish'd an Edict by which he establish'd many Laws. We have likewise this Edict of *Astolphus* in the Code of the Monastery of the Cave intire, which contains Twenty-two Chapters; the first begins, *Donationes illæ, quæ factæ sunt a Rachi Rege, & Tassia conjuge*; the last has for Title, *Si quis in servitium cujuscunque pro bona voluntate introierit*. The Compiler of the *Longobard* Laws inserted some of these Laws in those Books: we read of three of them in the First Book; one under the Title *De Scandalis*; another under the Title *De Exercitalibus*; and another under this *De Jure Mulierum*: Fifteen in the Second Book, one under the fourth Title; another under that *De Successionibus*; another under the Title *De Ultimis volunt.* Another under Tit. 20.; two under the Title *De Manumissionibus*; two other under that *De Præscriptionibus*; and seven under the Title *Qualiter quis se defendere deb.* And in the Third Book we also read one under Tit. 10. which is the last of the *Longobard* Kings; for *Desiderius* his Successor, in whom the Kingdom was extinguish'd, and conquer'd by the *French*,  
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being employ'd in more troublesome Affairs, could not provide the Kingdom, which he was unfortunately to relinquish, with other Laws.

BUT whilst this Prince, by cruel Necessity having surrendered the Exarchate, and so many other Cities, was altogether intent on contriving new Ways whereby to revenge himself of the Oppression of the *French*, and to renew the War; he went one Day a Hunting, and was assaulted by a wild Boar, or, as others relate, fell accidentally from his Horse, or, as *Erchempertus* says <sup>1</sup>, was struck with a Dart; but however that may be, the Case was so fatal to him, that in a few Days he died without Issue, leaving the Kingdom in the Year 756, full of Calamities and Jealousies.

<sup>1</sup> Erchemp. p. 6. Astolphus post hæc, in venatione Sagitta percussus, mortuus est.



### C H A P. III.

*The Neapolitan Dukedom, Calabria, Brutium, and some other Maritime Cities of these our Provinces, continue in their Allegiance to the Emperor Constantine, and Leo his Son.*



NOTWITHSTANDING the great Blow which the Emperors of the East had got in *Italy*, the *Neapolitan* Dukedom, which at this Time had extended itself beyond its Limits, comprehending likewise *Amalphis*; the Dukedom of *Gaeta*, almost all *Calabria* and *Brutium*; continu'd stedfast in its Allegiance to its ancient Princes, and altho' the Exarchate was lost, and all that was subject to the *Greek* Empire in *Italy*, yet the Emperors of the East continued to have Dominion in these our Provinces. The *Neapolitans* remain'd under the Command of their Dukes, who were likewise call'd Masters of the Soldiers, a Title given the Dukes under the Emperors of the East <sup>1</sup>. This was a *Greek* Magistrate, who was sent from *Constantinople*. *Theodore* was such in this Century in the Year 717, who left a Monument of himself in this City, being said to be the Founder of the Church of SS. *Peter* and *Paul*, now demolish'd, as was read on a Stone which was formerly there, and now in the Church of *Donnaromata*. *Exbilaratus* bore the same Office in *Naples*; as also did about this Time, after the Death of *Astolphus*, *Stephen*, who govern'd this Dukedom twelve Years, and after his Wife's Death, was likewise made Bishop of this City.

WHILST *Stephen* govern'd *Naples* in the Quality of Duke, the Emperor *Constantine*, as is said, call'd a Council in the Year 753, in *Constantinople*, of 338 Bishops, in which Council they made a Decree against the Worship of Images; *Constantine* and *Leo* his Son, who was associated with him in the Empire, by means of their Edicts supported the Decree, and likewise employ'd Force in making it to be observ'd over all the East; they also attempted to have it put in Execution in the West, whence arose those Disorders and Revolts which we have seen; by which the Contentions became more fierce, and the Enmity betwixt the Popes and the Em-

<sup>1</sup> P. Carac. de Sacr. Neap. Monum. cap. 20. §. 2. See Pellegrinus on these Masters of the Soldiers; hist. Long. par. 1. l. 2. p. 31. Ab. de Noce in notis ad Chr. Cassin. l. 2. c. 58. Møn. 1057.

perors of the East was the more exasperated: In this Year 757, Pope *Stephen* dying, was succeeded by *Paul*. He was no less hated than his Predecessors had been by the Emperors of the East, who endeavour'd to get the Decree of this Council likewise to be obey'd in the Dukedom of *Naples*, and all the other Places which had continu'd steadfast in their Allegiance to them. The *Neapolitans*, tho' averse to its being put in Execution, as being more addicted to the Worship of Images than any other People of *Italy*; nevertheless, that they might not be charg'd with Disobedience, were careful in all other Things to shew their Respect, and exact Adherence to the Will and Authority of their Sovereigns; insomuch, that their Bishop *Calvus* dying at this Time, and *Paul* a great Friend and Intimate of the Pope's being ordain'd Bishop of *Naples* by him, the Emperor excepted against him as an Adherent of the Pope's, forbidding him to be receiv'd into that Church, as one that had rendered all his Designs of having the Decree of the Council of *Constantinople* receiv'd in *Naples* abortive. In this the *Neapolitans* adhered to the Will of the Emperor and the *Greeks*, and stopp'd *Paul* from going to *Rome* to be consecrated by the Pope: Nine Months after, *Paul* went privately to *Rome*, where the Pope immediately consecrated him; but being returned to *Naples*, as *Joannes Diaconus* in his Chronicle of the Bishops of this City, relates, the *Neapolitans* would not receive him into the City, but having call'd a Council amongst themselves, they ordered him to go to the Church of *S. Januarius*, not far from the City, where he remain'd for the Space of 2 Years; in the mean Time the Clergy as well as the People generally obey'd him, and own'd him as their Pastor, and he dispos'd of all Matters relating to the Church without any Controul, and perform'd all the Episcopal Functions. At last the Nobles perceiving that by the Absence of their so worthy Pastor, the City languish'd, resolv'd to bring him into it, and with much Rejoycing and Solemnity went to receive him, and put him in Possession of his Bishoprick, who govern'd this Church for other two Years, and died. They excus'd themselves to the Emperor, by alledging, that they could no longer bear the Vacancy of their Church.

BY the Death of *Paul*, the *Neapolitans* in the Year 746, elected the said Duke *Stephen* for their Bishop; who altho' he was elected Bishop, did not quit the Dukedom, but govern'd it together with his Son *Cesarius*, whom he had made his Collegue. *Cesarius* died before his Father, so that *Stephen* govern'd it alone until the Year 791, in which he died. *Theophilactus* succeeded him in the Dukedom. He was his Son-in-Law, having marry'd his Daughter *Euprassia*. *Antimius* succeeded to *Theophilactus* in the End of this Century, of whom 'tis said, that during his Consulship he built the Church of *S. Paul* the Apostle in *Naples*, and the Monastery of *SS. Quiricus and Julitta*. These were the Dukes who govern'd the *Neapolitan* Dukedom in this eighth Century for the Emperors of the East, to whom it was subject. They were likewise call'd Consuls. But how the Dukes of *Naples* came to be call'd Consuls, none of our Writers, so far as I know, have had the Curiosity to inquire into the Reason of it.

THE Title of Consul, which was had in so great Esteem by the *Roman* Emperors, and afterwards by those of the East, and which they look'd upon as an Honour to themselves, about the latter End of the *Greek* Empire, was at last altogether slighted by them and left off. What made them lay it aside was, because they saw the Princes, whom they reputed Barbarians and Usurpers of the Empire, make use of it. *Charles the Great*, to shew that he succeeded to all the Rights and Privileges of the ancient Emperors of the West, amongst his other Titles assum'd this to himself; the other *French* Emperors his Successors did the same: After their Example the *Italian* Emperors *Berengarius* Duke of *Friuli*, and *Guido* Duke of *Spoletium* took it likewise<sup>1</sup>. In fine, even the *Saracens* after they had conquer'd *Spain*, in Imitation of the Emperors of *Constantinople*, would likewise be call'd Consuls. *Abderamus* King of the *Saracens* in *Spain*, who began to reign in *Cordova* in the Year 821. *Mabomet* his Son and Successor in the Kingdom, as the Works of *S. Eulogius* assure us<sup>2</sup>, in their Writs, mark'd not only the Years of their Empire, but likewise of their Consulship. But in the ninth Age of the Church, as the Emperors of the East made other honorary Consuls, so the *Saracen* Kings not only call'd themselves Consuls, but like-

<sup>1</sup> Concerning *Antimius* V. *Chioc. de Vesc.* Nap. pag. 78.

<sup>2</sup> *P. Pagi de Consulib.* pag. 370.

<sup>3</sup> *S. Eulog. in Memoriali Sanctorum, lib. 2.* cap. 1.

wife the chief Magistrates of their Kingdom did the same<sup>1</sup>: Whence it came to pass, that according to the *Greek* Vanity, which could not bear that such a specious Title should be usurp'd by foreign and barbarous Nations, the Emperors slighted it so much, by giving it to their inferior Magistrates, that at last, as the most accurate *Pagi*<sup>2</sup> proves, they left it off altogether about the Year 933; and only a Shadow and Image of that Dignity and Title was continued in many of their Officers, and was at last attributed even to private Persons.

THE *Saracens* were wont to give this Title to their Sea Admirals, whence afterwards it came to be given to those who had the Inspection of the Marts and Sea-Ports; and *Codinus*<sup>3</sup>, *Pachimeres*<sup>4</sup>, and *Gregoras*<sup>5</sup> observe, that the *Pisan* and *Anconitan* Magistrates, who stay'd in *Constantinople*, were call'd Consuls. From whence comes the Consulship of the Sea; and from whence in the Authors of the later Ages, mentioned in the Glossary of *Dufresne*, we see it dispersed in Communities, amongst Judges and different Orders of Persons, down to Tradesmen. It ought not then to seem a new and strange Thing, if in this eighth Century, the Title of Consul, peculiar to the Emperors, and formerly so illustrious and renown'd, be given to the Dukes of *Naples*, who were Officers of the *Greek* Empire, to which this Dukedom was subject.

<sup>1</sup> Eulog. lib. 2. cap. 6.

<sup>2</sup> P. Pagi de Consulib. pag. 370.

<sup>3</sup> Codin. cap. 7. num. 9.

<sup>4</sup> Pachimeres, lib. 2. cap. 32.

<sup>5</sup> Gregoras, lib. 4.



## CHAP. IV.

### Of Desiderius the last King of the Longobards.



Y the Death of *Astolphus*, who left no Issue, the Throne continu'd vacant, because *Rachis* his Brother, tho' alive, was become Monk. *Desiderius* Duke of *Tuscany*, whom *Astolphus*, besides his having that Dukedom, had likewise made Constable of the Kingdom, laid hold of this Opportunity to get himself proclaim'd King, by the Votes of his *Tuscan* Longobards. *Rachis* having heard this, was fill'd with Indignation, and gave way to such Extravagancy, that at any rate he would leave the Monastery, renounce Monachism, and return to his Kingdom; there were not wanting some who encourag'd him in this Resolution, and endeavour'd to have it take Effect: But *Desiderius* having recourse to Pope *Stephen*, to whom he offer'd as a Recompence, if he would assist him at this Juncture, *Faenza*, *Ancona*, *Secchia*, and *Ferrara*, Cities which had not been restor'd by *Astolphus*; the Pope had so much Influence on *Rachis*, that at last he made him easy, and lay aside his Resolution of leaving the Monastery; and as a Reward for his Mediation, receiv'd from *Desiderius* the promised Cities; and after *Desiderius* had been but a short Time fix'd in his Kingdom, *Stephen* ended his Days the 26th of *April* of this Year 757. A Pope, to whom the Church of *Rome* was much more beholden than to his Predecessors; he by his Management had enlarged it with so many fine Cities and States, and left its Affairs in so prosperous a Condition, that his Successors did not fail to improve it, as *Paul* did who succeeded him, and after him another *Stephen*; but *Adrian* much more, who by Treaties which he made with *Charles the Great*, brought its Power to a yet higher Pitch, as we shall see by-and-by.

DESIDERIUS

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*DESIDERIUS* after he had reign'd two Years, would follow the Example of his Predecessors, in taking *Adelgisus* his Son for Collegue; but it was not long before Pope *Stephen* III. or be it IV. who succeeded to *Paul*, suspecting his Proceedings, and believing that all his Motions were in Prejudice of his Dominions, the usual Suspicions, and the accusom'd Jealousy arose betwixt them: At last it came to an open Rupture. King *Desiderius* having caus'd the Archbishoprick of *Ravenna* to be conferr'd on a certain *Michael* his Confident and Domestick, *Stephen* drove him from that See. The King out of Revenge order'd the Eyes of *Christophanus* and *Sergius*, who had been sent by the Pope to *Pavia*, to demand the Estates which belong'd to the Church of *Rome*, to be put out; and foreseeing where these Disputes would end, sought to make a strift Alliance with the *French*, that they might not so readily give Ear to the continual Sollicitations of the Popes: At this Time *Pepin* was already dead, and his Sons *Charles* and *Carloman* had divided the Kingdom betwixt them; who, tho' they agreed well enough at first, yet afterwards became more jealous of one another. *Desiderius* reckon'd it would be a Security for him to enter into Affinity with these two Princes, by offering them his two Daughters in Marriage. *Stephen* having understood this, immediately wrote a very pithy Letter to *Charles* and *Carloman*, in order to dissuade them from these Marriages, threatening if they consented, *Anathematis vinculum, & æterni cum diabolo incendii pœnam* <sup>1</sup>. But in spite of all he could do, they happily married the two Sisters, both Daughters of King *Desiderius*, who understood so well how to gain *Bertrada* the Mother of *Charles* and *Carloman*, that by her Persuasion the Marriages were concluded. The Displeasure of the Pope was no less than the Pleasure of *Desiderius*, who believ'd that by these Means he had put a stop to his getting Assistance. But this Alliance did not continue long, for there were not wanting Means to bring it about, that *Charles* should divorce the Princess his Spouse, under pretence of having found out an Infirmary in her, which made her incapable of having Children; neither was there wanting the Assistance and Authority of the Laws to support so strange a Fact, there being many Bishops ready to declare the Marriage null, and to allow *Charles* the Year following to marry *Ildegarda* of *Suevia*. King *Desiderius* was greatly incens'd at this Divorce, and the Death of *Carloman* happening soon after, Queen *Berta* being left a Widow with two Sons, and afraid that she was not safe in *France*, and that *Charles* might take an Opportunity of destroying his Nephews, as he had robb'd them of the Kingdom, went rashly and put herself and her two Sons under the Protection of *Desiderius* her Father, who willingly took hold of this Opportunity, in order to be able some Time or other to revenge himself upon *Charles*, for having a little before sent him back his Daughter.

*DESIDERIUS*, having the Sons of *Carloman* in his Hands, endeavour'd to form a powerful Party, and to divide and disconcert *France*, that being taken up with its own Misfortunes, it might not be in a Condition to mind the Affairs of *Italy*. In the mean time *Stephen* dying, *Adrian* I. was elected in the Year 772, who in the Beginning of his Pontificate treated of a Peace with *Desiderius*; and they agreed betwixt themselves not to disturb one another; therefore *Desiderius* believing that this new Pope would be of different Sentiments from his Predecessors, thought for the more easily attaining his Ends, to persuade him to consecrate the two Sons of *Carloman* Kings; he left no Stone unturn'd, both by Prayers and Promises, to oblige him to come and anoint the two young Princes, and to get them to be acknowledged Kings of *Austrasia*. After the Example of *Pepin* and his Sons, the Ceremony of Anointing had by Degrees been introduc'd amongst Christian Princes, which by the People was reputed a Mark and Token of Principality; and that those who had been anointed, ought to be acknowledg'd for just and lawful Kings, and by all own'd as such. But *Adrian*, who inwardly was harbouring the same Maxims with his Predecessors, and was no less suspicious of the Power of the *Longobards* in *Italy*, would by no means disgust King *Charles*, but was always Proof against the continual Instigations of *Desiderius*; therefore he being much offended, and at last losing all Patience, believing that he should be able to obtain by Force, what he had not succeeded in by Intreaties, invaded the Exarchate, and in an instant having taken *Ferrara*, *Comachio*, and *Faenza*, design'd to lay Siege to *Ravenna*. *Adrian* did not fail to smooth him by his Legates, and to endeavour to get Restitution by

<sup>1</sup> Tom. 6. Conc. col. 1717.

their Means, of the Cities; neither would *Desiderius* have been obstinate in refusing to do it, provided that the Pope would have come himself, with whom he was desirous to speak, and treat of a Peace. But *Adrian* rejecting the Invitation, and all Treaties, was obstinately resolv'd never to appear before him, until first he had got Restitution of the Cities he had seiz'd. Thus by Degrees the Popes began to deny that Respect and Honour to the Kings of *Italy*, which formerly their Predecessors vouchsafed to bestow upon them. *Desiderius* being more provok'd at this haughty Proceeding of *Adrian*, immediately commanded his Army to march into *Pentapolis*, where he ravag'd *Sinigaglia*, *Urbino*, and many other Cities of the Patrimony of *St. Peter*, even to the Neighbourhood of *Rome*. This was what hasten'd the fatal Ruin of the *Longobards*; for *Adrian* did not fail to have his recourse to *France*, and not only to demand Assistance from *Charles*, but also to invite that Prince to come and conquer *Italy*; and because the *Longobards* had stopp'd all the Passages by Land, he sent a Legate by Sea to urge his coming.

ON the other hand, *Desiderius* did not fail, as soon as he was advis'd of this recourse, to shew King *Charles* the Inclination, which, he said, he had always had to live in Peace with *Adrian*, complaining grievously of his Obstinacy, that he having offer'd him Peace, and desir'd to speak with him, the Pope refus'd to comply; and besides he did not neglect by his Letters to sundry Princes, and publick Manifesto's, to defend himself against the Accusations of *Adrian*, who had represented him to the *French* as the Destroyer of *Tuscany*, as barbarous, inhumane, fierce, cruel; and accused him as guilty of many Crimes: So that in order to purge himself of these Accusations, *Desiderius* found it necessary to send Ambassadors into *France* to *Charles*, to assure him that he had settled Peace with the Pope, and given him back all that he could pretend to.

BUT *Charles*, who wanted nothing more than so fair an Opportunity of revenging himself upon *Desiderius*, who by keeping his Nephews, did all he could to divide his Kingdom, and who could not expect to have a better Occasion of driving the *Longobards* out of *Italy*, receiv'd the Invitation made by *Adrian* with incredible Satisfaction. He was at this Time (on account of the so many Victories which he had gain'd in *Aquitain*, and in *Saxony*) famous and formidable in *Tbionville* on the Banks of the *Moselle*; there he receiv'd the Pope's Legate, and withal gave Audience to the Ambassadors of *Desiderius*, of whom he soon rid himself, by sending them back without concluding any thing: He accepted of the Pope's Proposal with much pleasure, and immediately putting himself at the Head of a powerful Army, forced his Passage over the *Alps* at two different Places, by cutting in pieces the *Longobards* that oppos'd him.

*DESIDERIUS* on the other hand made haste himself in Person with his Army to stop him; but being met by *Charles*, the main Body of his Army was defeated, and forc'd to retire, whereupon he resolv'd to defend himself in *Pavia*, in which he shut himself up. *Charles* immediately laid close Siege to it; and in the mean time with a Part of his Army assaulted *Verona*, into which City *Adalgisus* had retir'd in order to defend it, together with *Berta* and her two Sons. When this Prince saw himself straiten'd, despairing of his Father's Condition, and of being able to defend the Place, he chose to leave it and fly, rather than to fall into the Hands of *Charles*, and after having wander'd up and down for a long Time, seeing at last, that all was lost to the *Longobards*, he made his Escape by Sea to *Constantinople*, where he was receiv'd by the Emperor *Leo*, Son of *Copronimus*, with much Satisfaction, and entertain'd by him. As soon as the People of *Verona* saw *Adalgisus* leave the Place, they surrender'd to *Charles*, who taking *Berta* and her two Sons, sent them immediately to *France*, and it was never known what became of these two unhappy Princes afterwards. All the other Cities of the *Longobards* being subverted by the Means and Contrivance of the Pope, yielded of themselves to *Charles*. *Pavia* only held out, which being defended by *Desiderius*, continu'd still in its Allegiance.

*CHARLES* having laid close Siege to *Pavia*, would go to *Rome* to keep the Feast of *Easter*; the Excess of Gladness which *Adrian* discover'd, the Honours which were done him by the *Romans* and the Clergy, every Thing being directed by the Pope, were incredible. He was proclaim'd King of *France* and of the *Longobards* at the same Time, and a Patrician of *Rome*, being met a Mile without the Gates of *Rome*, and receiv'd by all the Nobility and Magistrates, and by the Clergy in their several Orders, carrying Crosses, and singing Hymns. After the Rejoicings and

Feasting  
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Fasting they came to the main Point, *Charles* was requir'd by the Pope to confirm the Donations which *Pepin* his Father had made to the Church of Rome; which he did most frankly, and with a good Will, causing *Eterius* his Notary to draw up a new Instrument of Confirmation, subscrib'd by himself, by all the Bishops and Abbots, by the Dukes and Great Men that had come along with him, *Super Altare B. Petri manu propria posuit*, according to *Ostiensis* <sup>1</sup>.

*ANASTASIUS BIBLIOTHECARIUS*, as is said, magnifies this Donation of *Charles* very much; and to the Exarchate of *Ravenna* and *Pentapolis*, he adds the Island of *Corfica*, all that large Country which from *Luna* stretching along into *Sorano* and *Monte Bordone*, comprehends *Vercetri*, *Parma*, *Reggio*, *Mantua*, and *Monfelize*; the Provinces of *Venice* and *Istria*; and the Dukedom of *Beneventum* and *Spoletium*. The Chronicle of the Monastery of *St. Clement* relates, that *Charles* added to the Donation of *Pepin* only these two Dukedoms. *Sigonius* afterwards, and other more modern Writers, are not satisfy'd with that, they add the *Sabinian* Territory, situated betwixt *Umbria* and *Latium*, part of *Tuscany* and likewise of *Campania*. *Peter de Marca* <sup>2</sup>, which is wonderful, who also writes like the vain-glorious *French*, who so much magnify this Donation, in order to cry up the *French* Generosity, adds all *Campania*, and with it the City of *Naples*, *Aprutium*, and also *Puglia*; pointing by that at the Origin of our Papal Investiture. Others add to these *Saxony* likewise, at this Time subdued by *Charles*; moreover that he also gave away Provinces which were not his own, and which he never acquir'd, to wit, *Sardinia* and *Sicily*; and that of all these Provinces and Dukedoms, he only reserv'd the Sovereignty to himself. But neither the ancient Annals of *France*, nor the Series of subsequent Matters, nor the Archives of the *Vatican* have ever been able to shew us the Instrument of this Donation, on which many others of less Consequence depend; which is a Demonstration that all these Relations are fabulous, and that *Charles* did no more than confirm *Pepin's* Donation of the Exarchate and *Pentapolis*. Yet some again have written, that he likewise augmented it, because he made many Places of the Exarchate and *Pentapolis* which were possess'd by the *Longobards*, together with the Patrimonies which the Church of *Rome* had in the Dukedoms of *Spoletium* and *Beneventum*, in *Tuscany*, *Campania*, and elsewhere, which were likewise possess'd by the *Longobards*, to be restor'd. And in this Sense *Paulus Æmilius* <sup>3</sup>, and other Authors have said, that *Charles* not only confirm'd the Gifts of *Pepin* his Father, but likewise augmented them; of which the History of Things that fell out afterwards is a convincing Proof; for *Charles* under the Name of the Kingdom of *Italy* possess'd *Liguria*, *Corfica*, *Æmia*, the Provinces of *Venice*, and of the *Alpes Cottia*, *Piemont*, and the *Genouese* Country, which he had taken from the *Longobards*, and added to his own Dominions; neither do we read that this Part of *Italy* had ever been in the Possession of the Popes.

THIS will more evidently appear when we find that these three famous Dukedoms of *Friuli*, *Spoletium*, and our *Beneventum* were never in the Possession of the Popes; as shall be clearly shewn in the following Book of this History, to wit, that these three Dukedoms had their own Dukes; neither did *Charles* pretend to any Thing in them, but that Sovereignty which the *Longobard* Kings his Predecessors had had; but our Dukes of *Beneventum* threw off the Yoke altogether by denying any Allegiance to him, and liv'd free and independant; and it was very many Years after, that the City of *Beneventum* was exchang'd with the Church of *Bamberg*, and given to the See of *Rome*, but not the Dukedom, which was always possess'd by our Princes.

FROM *Charles's* having caus'd the Patrimonies which the Church of *Rome* possess'd in the *Alpes Cottia*, the Dukedom of *Spoletium* and *Beneventum* to be restor'd, arose the Mistake of those Writers, who by confounding the *Alpes Cottia* with the Province, the Patrimony of *Beneventum* with the Dukedom, have written that *Charles* gave these Dukedoms and that Province to *St. Peter*: So that what we read in *S. Adrian's* Letters concerning the Dukedoms of *Spoletium* and *Beneventum* being given to *St. Peter*, ought to be understood of nothing else but these Patrimonies; as when the Emperor *Lewis the Pious*, *Otho III.* and the other *Otho*, King of *Germany*, confirm'd the *Beneventan*, *Salernitan*, and *Neapolitan* Patrimonies,

<sup>1</sup> *Ostien. lib. 1. cap. 12.*

<sup>2</sup> *P. de Marca de Concord. Sac. & Imp. lib. 3. cap. 10. num. 5.*

<sup>3</sup> *P. Æmil. rer. Franc. pag. 18.*



to *Paschal I.* and *John XXII.* as also the Emperor *Henry IV.* did to *Paschal II.* they meant nothing else but these Lands and Possessions, which the Roman Church, as the Patrimony of *St. Peter*, possess'd in these our Provinces, which our ancient Writers call'd *Justitias Ecclesiæ* <sup>1</sup>. Therefore only the Exarchate of *Ravenna*, *Pentapolis*, and some other Places of the Roman Dukedom, became subject to the Dominion of the Church of *Rome*, *Charles* reserving the Sovereignty to himself; but in *Rome* itself, and the Roman Dukedom, there were in these Times Vestiges remaining of the Dominion of the Emperors of the East, who, weak as they were, kept always their Officers there, and were likewise acknowledg'd as Sovereigns until the Time of *Leo III.* the Successor of *Adrian*, that the People of *Rome* put themselves under the Allegiance and Subjection of King *Charles*, whom they raised from a Patrician to be Roman Emperor. I do not mention the Islands of *Sicily* and *Sardinia*, which were never conquer'd by *Charles*, but were long in the Possession of the Greek Emperors, till the *Saracens* robb'd them of them.

*CHARLES* then having thus satisfy'd the Pope and the Romans, return'd to the Camp before *Pavia*: Having nothing more to do but to reduce this City under his Obedience, he employ'd all his Power in order to make himself Master of it, because it being the chief City of the Kingdom, and once in his Hands, the *Longobards* would give over all Hopes of getting Footing again in the lost Cities. Therefore he besieg'd it more closely, stopping all the Passages by which it could expect Relief. *Desiderius* held it out to the utmost Extremity, the People being not only afflicted with Famine, but also with the Plague, which still consum'd them; at last in the Year 774, he was forc'd to surrender the Place, himself, his Wife and Children, to the Discretion of *Charles*, who sent them all to *France*, where they ended their Days in *Corbie*, never after having been heard of. Thus in one Campaign *Charles* made himself Master of the greatest Part of *Italy*, but not of these Provinces of which our Kingdom is now compos'd, nor of the Dukedoms of *Beneventum* and *Naples*, nor of the other Cities of *Calabria* and *Brutium*, which remain'd long under the Dominion of the Emperors of the East, as we shall see in the following Book.

THUS the Popes began to transfer Kingdoms from one People to another; whence it came to pass, that the same Footsteps being more cunningly and dextrously follow'd by their Successors, they became terrible to Princes, who in order to have them for their Friends, little minding the Sovereignty of their Dominions, and their own Dignity, subjected themselves to them so as to become their Vassals, and Tributaries to that See. Thus likewise ended the Kingdom of the *Longobards* in *Italy*; a Kingdom, tho' in its Beginning rude and unpolish'd, yet afterwards it became so mild and civiliz'd, that for the Space of Two hundred Years that it lasted, it was envied by all other Nations. *Italy* being once accusom'd to the Government of the *Longobard* Kings, did not look upon them any more as Strangers, but as its own natural Princes; for they had no other Kingdoms or Dominions in any other Part of the World, but *Italy* was now become their own Country; for which Reason it could not be said to be in Slavery, and ruled by a foreign Nation, as it was afterwards, when, by deplorable and frequent Changes, it was subjected to various Nations, and groan'd long under the heavy Yoke of Bondage. It was truly a wonderful Thing, says *Paul Warnefride* <sup>2</sup>, and also the Abbot of *Wesperg*, that in the Kingdom of the *Longobards* there was no Violence committed, no Treason hatch'd, no Body unjustly dispossest, none oppress'd with Taxes; there were no Robberies, no Theft, every Body went whither he pleas'd most secure. The Popes, and especially *Adrian*, who could not abide to see them in *Italy*, as being a

<sup>1</sup> In the Charter of Confirmation, made by *Ortho* the Great to the Pope in the Year 562, related by *Baronius* An. 962. num. 3. we read expressly these Words: *Sicuti, & Patrimonium Beneventanum, & Patrimonium Neapolitanum, & Patrimonium Calabriae superioris, & inferioris, de Civitate autem Neapolitana cum castellis, & territoriis & finibus, & insulis suis sibi pertinentibus, sicut ad easdem respicere videntur: Nec non Patrimonium Siciliae, si Deus nostris illud tradiderit manibus; simili modo civitatem Cajeram, & Fundum cum omnibus*

*corum pertinentiis, &c.* *Binius* in notis ad *Con. Lateran. An. 1112. tom. 7. Concil. par. 1. fol. 544.* relates such another Precept of the Emperor *Henry IV.* made to *Paschal II.* wherein we likewise read: *Jurejurando firmavit de Apostolici ipsius vita, & honore de Membris, de Mala Captione, de Regalibus; etiam Patrimonii B. Petri, & nominatim de Apulia, Calabria, Sicilia, Capuanoque principatu factis Sacramentis.*

<sup>2</sup> *P. Warnef. hist. Long. lib. 3. cap. 8.*

People who endeavour'd to break all their Measures, describ'd them to the World as cruel, inhumane, and barbarous; whence it was, that amongst the People and Writers of the following Century, they got the Name of unciviliz'd and cruel. But their very prudent and just Laws, which consuming Time hath left us, are sufficient Documents of their Humanity, Justice, and civil Prudence. It hath far'd with them as it did with the *Roman* Laws, that tho' the Empire was ruin'd, yet their Authority and Force were the same in the new Dominions which were establish'd in *Europe*; even so, tho' the Kingdom of the *Longobards* was at an End, yet their Laws remain'd in Force in *Italy*.



## C H A P. V.

*Although the Longobards were expell'd Italy, yet their Laws were preserv'd in it. Their Justice and Wisdom.*



**A**LTHO' the Laws of the *Longobards* came short of the *Roman*, yet if we should put them into the Ballance with those of other Nations, which since the Fall of the Empire have had Dominion in *Europe*, they will be found to excel them all, if we consider either the Utility and Justice of them, the prudent Methods they took to establish them, or the Judgment of the most grave and prudent Writers who have commended them. The Methods they took, and the great Prudence and Maturity which their Kings practis'd when they had a Mind to establish them, deserve all Praise and Commendation. They, as we have seen, first conven'd the States of the Kingdom, to wit, the Nobles and Magistrates in *Pavia*; the Ecclesiastical State was not known amongst them, neither had it Place in the publick Deliberations; as little had the Commonalty, which as *Cæsar* said, speaking of the *Gauls*, *Nulli adhibebatur Consilio*: There they maturely and diligently examin'd what was most just and profitable; and that being once establish'd, was afterwards publish'd by their Kings in their Edicts. A Method, according to the Opinion of *Hugo Grotius*<sup>1</sup>, perhaps better than what the *Roman* Emperors themselves took, whose Laws depending solely on their Will, which was liable to be impos'd upon and byass'd, occasion'd so much Inconstancy and Alterations, that we see *Justinian* alone, in one and the very same Thing, has alter'd his Opinion and Judgment three or four times. It was a Custom amongst the *Longobards*, before they made Edicts for publishing their Laws, to examine and discuss them by the States of the Kingdom; by which they reap'd many Advantages. First, that there was no Danger of their establishing any Thing that would prove hurtful to the Publick, when there were so many Eyes, and so many prudent Men present, from whom the Harm that might result, could not be conceal'd. Secondly, That what was establish'd by common Consent, was with a willing Mind observ'd by all. And lastly, That they were not so liable to be alter'd, but when a most urgent Cause requir'd it; as we have seen done by *Rotaris's* Successors, who, *facto periculo*, and after long Experience, knowing some of the Laws of their Predecessors to be a little harsh and severe, and not well adapted to their Times, which were become more docile and civiliz'd, alter'd and chang'd them, with the Advice of the States. Which wise and prudent Custom is highly praised and com-

<sup>1</sup> Hug. Grot. in Prolegom. ad hist. Got.

mended in the *Swedes*, a Northern People, by that wise Lady *Brigid*, to whom we now pay the Honours which are only due to Saints.

IF then we will consider the Justice and Utility, especially of those Laws which are adapted to the Affairs and Business of private Men, and their Security, such as Matrimony, Guardianship, Contracts, Alienations, Testaments, the Successions to those who die without making Wills, and the Security of Possessions; we cannot but reckon them both useful and prudent.

IN the second Book of that Volume <sup>1</sup>, there are many provident Laws concerning Matrimony which are admir'd. The Well-dispos'd was not to be join'd to the Libertine, nor the Noble to the Ignoble; whence the Widows of Kings, who were of a Rank superior to all, did not match with any but those of Royal Dignity. But *Justinian* took *Theodora* from the Stage, to the great Dishonour of Princely Dignity. Those who were not born of lawful Wedlock, were not made Knights, nor admitted into the Magistracy, nor even to be Witnesses. Extravagant Gifts betwixt Man and Wife were forbidden; therefore most wise was that Law of *Luitprandus*, which put a Stop to the Morning Gifts which the Husbands were wont to give to their Wives the first Morning after their Marriage, which the *Longobards* call'd *Morgongap* <sup>2</sup>; the Husbands frequently, being inflam'd with Love, and intic'd with the Allurements of their new Spouses, were wont to give them all: *Luitprandus* <sup>3</sup> prohibited so great Extravagancy, and ordain'd that they should not exceed the fourth Part of their Substance. And from the Example related by *Du Cange*, we see, that throughout the whole eleventh Century this Law was observ'd. And 'tis truly new and singular what the Abbot *Fontani* relates in his Book against *P. Germonius*, which he publish'd from Private Memoirs in the Year 1162, that a certain *Folco*, of *Civildale* in *Friuli*, gave to his Wife *Gerlint* all he had, *Omnia sua propter pretium in mane quando surrexit de lecto*. Adulteries were severely punish'd. Marriages betwixt Kindred, according to the Prescription, not only of the Civil but of the Canon Laws, were prohibited; and *Luitprandus* <sup>4</sup> himself bears Witness, that he was mov'd likewise to forbid them by his Laws, *Quia*, as he says, *Deo teste, Papa urbis Romæ, qui in omni mundo caput Ecclesiarum Dei, & Sacerdotum est, per suam Epistolam nos adhortatus est, ut tale Conjugium fieri nullatenus permetteremus*.

SOME are scandaliz'd, that in this second Book of the Laws of the *Longobards* <sup>5</sup>, Concubinage should be allow'd, it being forbidden to have at the same Time a Wife and a Concubine, as much as to have two Wives, all Polygamy being also prohibited amongst the *Longobards*. But besides that this Law was made by the Emperor *Lotharius*, and not by any of the *Longobard* Kings; this Wonder arises from the not knowing that amongst the *Romans* Concubinage was lawful <sup>6</sup>, and not only tolerated, but allow'd, and therefore it was call'd *Semimatrimum*, and the Concubine was on that account call'd *Semiconjux* <sup>7</sup>; and the Man might lawfully have for his Companion either a Wife or a Concubine, but not at the same Time both a Wife and a Concubine, because that was reckon'd Polygamy, as much as the having two Wives <sup>8</sup>. This Custom was likewise continu'd afterwards, when by the Means of *Constantine the Great*, the Empire had embrac'd our Religion, who tho' he put a Restraint upon Concubinage, yet he did not abolish it; and it was retain'd for many Ages by the Christians of many Nations of *Europe*; of which among others, a Council of *Toledo* makes us certain, where it was likewise enacted, that a Man, whether he be of the Laity or of the Clergy, shall content himself with one, either a Wife or a Concubine, but not to keep them both at the same time <sup>9</sup>. But tho' the *Latin* Church afterwards forbad Priests to marry, and consequently to keep Concubines, yet seeing the Ecclesiasticks, because of their Incontinency could not live single, they still kept Concubines. In order to abolish this Custom, their keeping of them was severely prohibited in several Councils; these Prohibitions had little Effect, and came to no account, so little were they observ'd; and the Priests could by no means wean themselves from this Practice, therefore the Prohibitions were repeated: There was not a Council that met, which did not with severe Threats

<sup>1</sup> LL. Longob. in lib. 2. tit. 4, 5, 6, 7, 8, 9.

<sup>2</sup> Vide Grot. in Lexico.

<sup>3</sup> Luitprand. LL. Long. lib. 2. tit. 4.

<sup>4</sup> Luitpr. leg. 4. de proh. Nupt.

<sup>5</sup> LL. Long. lib. 2. tit. 13. l. 7.

<sup>6</sup> L. si qua illust. C. ad S. C. Orf.

<sup>7</sup> Cujac. in Parat. in Pand. tit. de Concub.

<sup>8</sup> V. Connan. l. 8. comment. Arnif. de Jur. Connub.

<sup>9</sup> Gratian. in Decret. dist. 34. cap. 4, & 5.

always

always urge the same, hating Concubinage, and declaring openly that it was worse than Adultery, Incest, and more heinous than any other Vice: Whence in the following Age, the Name of Concubinage, which formerly had been reputed lawful, became odious and horrible, as much as it is at this Day. In the Kingdom of *Italy*, not only under the *Longobards*, but likewise when it came under the Dominion of the *French*, this Practice still continu'd. Concubinage was also reputed lawful amongst other Nations of *Europe*; and *Cujacius* testifies, that likewise in his Time, it was kept up amongst the *Gastons* and other People near the *Pyrenean Mountains* <sup>1</sup>. In the East Concubinage was prohibited by the *Novellæ* of *Basilius* of *Macedon* <sup>2</sup>, and of *Leo*; but these had no Force in the Provinces of *Europe*, which had shaken off the Yoke of the Empire, and obey'd their own Princes, independantly of the Emperors of the East; which would require to be treated of apart, but thus far is sufficient for our Purpose.

THERE was prudent Provision made concerning Guardianship; the Pupils were equally intrusted with the Kindred of the Father and of the Mother; but the King was the principal Tutor to noble Pupils <sup>3</sup>: Whence proceeded the Law amongst us, by which the King appointed the Guardians of Barons, and the Writs of Guardianship were taken from him. They likewise gave to Women a perpetual Tutor on account of their Weakness, whom they call'd *Mundualdo*, who was much the same with that Tutor among the ancient *Romans*, under whose Authority the Women were, of what Age soever, and even tho' married; whence it is, that to this Day in some Places of our Kingdom there is some Vestige thereof remaining.

AS to Contracts, Equity and Justice was the main Scope, the Contracts of those come to Age, which Age of Majority was compleat at eighteen Years, were very firm, and not liable to Restitution. Creditors and Buyers were secure against being deceiv'd and deluded by tacit *Hypothecs*, or Mortgages, or by private Trustees; forasmuch as all Contracts, Sales, Pledges, and also Wills were executed in the Sight and Presence of the Magistrates, and in the View of the People. The Method of succeeding to those that died without making Wills was most plain; he that was nearest of Kin, was the same as the Heir, except only that the Children and their Descendants were prefer'd to Parents.

LAW Suits, which amongst the *Romans* were very expensive and troublesome, amongst the *Longobards* were soon determin'd, and not chargeable. The Forwardness of the Litigious was curb'd by Pledges and Sequestrations. Nothing was more easy and expeditious for the Judges; in Controversies about Matters of Fact the Plaintiff carried his Witnesses with him, and the Defendant his, and he gain'd the Cause who had the greatest Number and Authority on his Side. In doubtful and ambiguous Cases, they had recourse to the Sanctity of Oaths, which were administered to the Defendant, but with great Caution; that is to say, he produc'd Witnesses of his good Fame, who gave Oath, and attested his Probity and Religion, and that they themselves, without scruple, would give Credit to his Oath <sup>4</sup>. It was seldom that there happen'd Questions of Law, and if there did, they were decided, not from the infinite Volumes of Interpreters, but from the plain and simple Meaning of their Laws, and the just and reasonable Part of them. The Remedy against being disturb'd in Possession was ready, and the Restitution quick, the Judge going to the Place to view the Damage, immediately gave Reparation.

IN taking Cognizance of Criminal Matters there were two Things wisely observ'd. The Violation of the Rights of Society, and of those of private Persons: For the last, there were two Penalties appointed; by the one the private Damage was repair'd, which they call'd *Wedrigeldium*, that is to say, what was given by Retaliation; by the other the Publick Peace was repair'd, which they on that account call'd *Fedra*, and it was given to the King, or the Community of any City. *Hugo Grotius* <sup>5</sup> commends this Custom of their not shedding the Blood of the People on slight Occasions, but only for heinous and capital Crimes and Offences. The lesser Crimes were compounded for Money, or the guilty Person was to be under Servitude to the Offended.

THE Estates of condemn'd Persons were safe to their Children, and were not liable to Confiscation. In criminal Cases they admitted of no Appeals, which did

<sup>1</sup> Cujac. loc. cit. Audio tamen eum retinere districtæ Vascones & Pyreneos.

<sup>2</sup> Novel. Basil. Maced. apud Leuncl. Jur. Gr. Rom. lib. 2. num. 2. tom. 1.

<sup>3</sup> Grot. in Prolegem. ad hist. Got.

<sup>4</sup> V. Struvium hist. Jur. Crimin.

<sup>5</sup> Hug. Grot. in Prolegom. ad hist. Got.

not surprize *Grotius*, because it ought to be so in other Cases, seeing that Equals were conscientiously and gently judg'd in the Courts by their Peers. Whence came that Law among us, that in Capital Cases Barons could not be judg'd but by those whom we call *Pares Curiae*.

THE Rites and Solemnities which they made use of in Manumissions and Adoptions were conformable to their Manners, bold and warlike. Manumissions, as *Paul Warnefride* relates, were made *per Sagittam*, Adoptions *per Arma*, as Alienations were *per glebæ Festucæve conjectionem in sinum emptoris*.

THAT ancient Custom of the *Longobards* displeas'd many, that in some doubtful and ambiguous Cases, and for heinous Offences, they committed the Decision of them to a single Combat, which they call'd a *Duel*. The *Duel* was truly a very ancient Custom amongst the *Longobards*, which afterwards passing into a Law, was for a long Time practis'd, not only by them, but by many other Nations who learn'd it from the *Longobards*. In effect, their History is full of these Duels; that of *Adalulphus* was remarkable, who had accus'd Queen *Gundeberta* of Adultery<sup>1</sup>, and failing in the Proof, he, in order to be reveng'd of her, had recourse to *Arialdus* her first Husband, to whom he accus'd her falsely, that she with *Datus* Duke of *Tuscany* had conspir'd against his Life and Kingdom, which caus'd that unfortunate Princess to be imprison'd. At which *Clotharius* King of *France*, whose Kinswoman she was, being offended, he sent Ambassadors to *Arialdus*, pressing him in the strongest Terms to set her at Liberty; to which the King answer'd, that he had most just Cause to keep her in Prison; and the Ambassadors denying what he had laid to the Queen's Charge, and urging that the Authors of such Falshoods were Lyars; at last *Ansoaldus*, one of them, desir'd the King to let the Doubt be decided by *Duel*. *Caribertus* appear'd for the Queen, and the Impostor *Adalulphus* for the King, the last was vanquish'd, the Queen was set at Liberty, and restor'd to her former Honour. This Manner of clearing one from an Imputation, was so much commended amongst all Nations, that *Cujacius*<sup>2</sup> says, even amongst Christians, as well in Civil as Criminal Cases, the *Duel* was long practis'd, and our *French Normans* whilst they held this Kingdom, frequently made use of it; altho' by the *Longobard* Kings themselves it was reputed a cruel and unreasonable Experiment; yet these People being long accusom'd to such a Practice, and thinking it less mischievous to allay the Wrath and Passions of those bold Spirits, by committing the Affair to the Hazard of a few, than to see whole Families go together by the Ears, look'd not on this Practice as a Grievance, but rather as necessary to be kept up. *Luitprandus* was a most prudent Prince, and knew better Things, but after the Example of *Solon* (who being ask'd if he had given to the *Athenians* the best Laws he could devise; answer'd, the best that could be suited to their Customs) he in one of his Laws plainly declares his Thoughts, saying, tho' he was uncertain of God's Approbation, and knew that many suffer'd unjustly by Duels, *Sed propter consuetudinem gentis nostræ Longobardorum legem impiam vetare non possumus*<sup>3</sup>. The Christian Religion put a Stop to this Custom afterwards, but has not been able to root it out altogether; so that the same is still practis'd to this Day: The Design of our Religion is to extirpate such bad Customs, but we resist, and hinder its taking Effect. Afterwards *Frederick II.* and the Kings his Successors, forbad it with us under severe Penalties, and other Princes did the like.

THAT other Trial by red hot Irons, boyling or frozen Water<sup>4</sup> likewise displeas'd; but that ought not to be imputed to the *Longobards* only, but to all other Nations of *Europe*, and more to Christians than others, who retain'd it for a long Time, and more obstinately stuck to it; forasmuch as they believ'd they had the Custom from *Moses* himself, who commanded a certain Potion to be given to Women accus'd of Adultery, in order to know whether they were Guilty or Innocent. It was not then to be wonder'd at, if the *Longobards* by carrying the Thing further, establish'd Laws concerning it, by which in determining Controversies it was appointed to make use of red hot Plough-Shares, or cold or boiling Water. This Error was kept up by the Credulity and Stupidity of the People, who had such Confidence in this Tryal, that they easily gave credit to all the fabulous Accounts they met with in History, and took them for certain Truths. Strange and

<sup>1</sup> Sigon. ad A. 632.

<sup>2</sup> Cujac. lib. 1. de Feud. tit. 1. §. Si autem controversia: & hoc genere purgationis diu usi sunt Christiani, tam in civilibus, quam in cri-

minalibus Causis, re omni duello commissa.

<sup>3</sup> Libi 1. l. 23. tit. 9. de Homicid. liber. hom.

<sup>4</sup> Vide Struvium hist. Jur. Crimin.

wonderful Things were told, which were not really true, but the Effects of Imagination, heated to that Degree, as made them fancy they saw People thrown into the Fire without being burnt, and plung'd into a River without being drown'd. Famous is that Fact amongst Historians of the innocent Countess, which happen'd during the Empire of *Otho*, who being falsely accus'd by the Empress, purg'd herself by red hot Iron, which did not hurt her. But that other is much more famous and remarkable, which fell out in *Florence* in the Time of *Alexander II.* of *Aldobrandinus*, who in the Sight of all the People came safe and sound out of the Flames, whence he got the Name of *Pietro Igneo*. It was not without reason then, that the Emperor *Frederick* amongst his military Laws, likewise order'd the Practice of this Proof in dubious Cases, as *Radevicus* and *Cujacius* testify <sup>1</sup>. But afterwards when the Uncertainty of it was more maturely consider'd, and that many innocent Persons suffer'd greater Punishment than could have been inflict'd upon them if they had been legally convicted as Guilty; and that on the other hand the Guilty escap'd free, and that it was a bold tempting of Providence: at last it was prohibited by the Popes. And *Cujacius* <sup>2</sup> relates, that this Custom was left off and disus'd in *Lombardy* before it was so in any other Country. And with us it was likewise forgot; and tho' the People of *Bari* retain'd the *Longobard* Laws, from which the Book of their Customs was compil'd, yet they confess, that from the Time of King *Roger* such a Custom had been quite left off: *Ferri igniti, aquæ ferventis, vel frigida, aut quod libet judicium, quod vulgo paribole nuncupatur, a nostris civibus penitus exulavit* <sup>3</sup>.

THE Custom of making Christians Prisoners, and taking a Ranfom for their Liberty, appear'd to some to be both savage and cruel, as was practis'd by the *Greeks* on the Citizens of *Croton* and other Cities; of which *S. Gregory* loudly complain'd. But this Custom, as we have related in the foregoing Book, was at that Time indifferently practis'd every where; neither are there wanting Writers who maintain it as just.

FOR these Reasons we read in the most grave Authors, that the *Longobards* were commended above all other foreign Nations, for a wise and prudent People, and who knew better than any other how to make Laws with so much Judgment and Forefight. Not to mention *Grotius* <sup>4</sup> who prais'd them so much on that account, nor *Paul Warnefride*. *Gunterus*, who was Secretary to the Emperor *Frederick I.* and a famous Poet in those Times, sings thus of the *Longobards* in his *Ligurino*.

*Gens astuta, sagax, prudens, industria, solers,  
Provida consilio, legum, jurisque perita.*

NEITHER is the Style in which these Laws are written, so insipid or unpolish'd, as our Writers have represented it: They were judg'd by the incomparable *Grotius*, a Subject well worthy of his Labour and bright Talents; he was preparing a Commentary on them, as also on all the Laws of the other Northern Nations; but being snatch'd from us by untimely Death, could not bring it to Perfection: yet he left us an Index <sup>5</sup> of all the Nouns, Verbs, and other Vocables of the *Longobards*, by which we may see the many Mistakes our Writers have fallen into, who have pretended to interpret them. And *Jacobus Cujacius* <sup>6</sup> in his Book of Fiefs, which in a great measure depend on these Laws, frequently shews us many Words of them which are reputed barbarous and unpolish'd by most Interpreters, who give them another Meaning, to be either *Greek* or *Latin*, or depending by true Analogy on these Languages; such as the Word *arga*, which we meet with frequently in these Laws, and which is reckon'd barbarous by them, and to signify *cornutus*, as *Maxilla* among others, in *consuetud. De Bari* <sup>7</sup> explains it, but *P. Warnefride* make it to signify

<sup>1</sup> Cujac. lib. 1. de Feud. loc. cit. Tertium genus purgationis est periculum aquæ ferventis, vel frigida, vel laminæ condentis, quo etiam diu usi sunt Christiani, ducto more, argumento nescio an bono, a portione illa quam stupri infimulatis mulieribus dari jussit Moses, quod usque eo processit, ut & leges Scriptæ jubere adhiberi ignitos vomeres, vel aquam frigidam; aut calidam litium dirimendarum causa, ut Longobardæ sæpe, & milites Frederici Imperatoris apud Radevicum.

<sup>2</sup> Cujac. loc. cit. Quod tamen primum omnium exolevit in Longobardia.

<sup>3</sup> Consuet. Bar. Rubr. de Immunit. §. Monomachia.

<sup>4</sup> Hug. Grot. in Prolegom. ad hist. Got.

<sup>5</sup> We have this Index in Grotius his History of the Goths.

<sup>6</sup> Cujac. de Feud. lib. 1. tit. 2.

<sup>7</sup> Maxilla in Consuet. Bar. rub. de Arga. Istud nomen Arga, est Longobardorum, & idem importat, quod vocare aliquem cornutum. Vide Carol. du Fresne in Lexic. Latino barbar.



*iners, ineptus, stupidus, and inutilis*, and derives the Word from the Greek *ἀργός*, which signifies the same according to *Cujacius* <sup>1</sup>, and he confirms it from the Authority of *Didimus*. And *astalium facere* which we often meet with in these Books, signifies nothing else but to deceive, and to fail in Duty, by not assisting the Prince or fellow Soldier in Time of Battel, when Assistance is most wanted, and they in danger of their Lives. So likewise to do a Thing *asto animo*, which we often read in these Laws, is the same as to do it *animo vafro*. *Plautus* in *Pænulo*.

*Mea soror ita stupida est sine animo asto.*

And *Accius* in *Nonius* :

*Nisi ut asto ingenium lingua laudem.*

Likewise this other Word *Strigæ*, which we meet with in these Laws in *Festus*, is the same with *Maleficæ*; we find it also in *Plautus* in *Pseudolo*,

*Strigibus viris convivis intestinaque exedunt.*

which the *Longobards* by the proper Word of their Nation likewise call'd *Masca*, and which we now call *Maga*, or *Strega*.

THE Use of the *Talenone*, as explain'd by *Festus*, *Vegetius*, and *Isidorus* is likewise clearly expounded by these Laws <sup>2</sup>. The *Talenone*, as the Law declares, was nothing else but a Beam pois'd upon a Fork of Wood, by which they drew Water in Buckets from the Wells.

THE calling unmarried Women, *Virgins in Hair*, comes from the Custom of the *Romans*, who distinguish'd the Virgins from those who were married, because these cover'd the Head, and the Virgins went uncover'd, and let their Hair be seen.

*GALEN* believ'd that neither Horses, nor any fourfooted Animal except Dogs, could ever become mad. On the contrary, *Absyrtus* and *Hierocles Mulomedici* <sup>4</sup>, and likewise *Porphyrius*, in Opposition to his Opinion, wrote, that these likewise might be mad. The *Longobards* in their Laws were of their Opinion, and rejected that of *Galen* as false. Many such other Vestiges of their Erudition appear in these and many other Words of that kind, which to some seem barbarous, altho' they be deriv'd from the *Greek* and *Latin* Languages, and are scatter'd up and down in these Books, of which there's no need for making a longer Catalogue; every Body may see and observe them in the Index which *Grotius* made of them, which we lately mention'd.

<sup>1</sup> P. Warnefr. lib. 6. cap. 8.

<sup>2</sup> Cujac. loc. cit.

<sup>3</sup> LL Longob. lib. 2. tit. de Homicid. liber. bom. l. 24.

<sup>4</sup> For the Mulomedici vide G. Gotofred. in Cod. Th. sub tit. de Cursu Publico.

<sup>5</sup> LL. Longobard. de Pauperie, lib. 2.

## S E C T. I.

*The Laws of the Longobards retain'd long in the Dukedom of Beneventum, and afterwards spread over all the Provinces of which our Kingdom is now compos'd.*

THE Excellency of these Laws above all others of foreign Nations, and their Justice and Wisdom, may easily be perceiv'd when we find, that tho' the *Longobards* were driven out of the Kingdom of *Italy*, and succeeded in it by the *French*, yet *Charles* King of *France* and *Italy* preserv'd them intire; so that he not only confirm'd them, but likewise to the Body of these added some of his own, which also

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as *Longobard* Laws he order'd to be observ'd in *Lombardy*, and the other Parts of *Italy* subject to him.

HE added many others to the Edicts of the *Longobard* Kings his Predecessors, which he establish'd not as Emperor or King of *France*, but as King of *Italy*, or of the *Longobards*. And as the *Longobard* Law was of no Force in *France*, so likewise the *Salick* or *French* Law was not introduc'd into *Italy*, by *Charles* or his Successors: Whence we see the Error of *Sigonius*<sup>1</sup>, who makes three Laws to flourish in the *French* Empire in *Italy*; the *Roman*, the *Longobard*, and the *Salick*. Unless perhaps he means, that among the *French* only, who came into *Italy* with *Charles*, this last had Force and Authority. *Pepin* his Son and Successor in the Kingdom of *Italy*, and the other Kings and Emperors who succeeded them, such as *Lewis*, *Lothaire*, *Otho*, *Coutrade*, *Henry*, and *Guido*, not only preserv'd them intire and in force, but added other Laws of their own to them; for which Cause it was that the ancient Compiler of these Laws collected in three Books, not only the Laws of these five *Longobard* Kings, but likewise those of *Charles the Great*, and his Successors, down to *Coutrade*, which they as Lords of *Italy* establish'd; all which were call'd *Longobard* Laws.

BUT with us they were preserv'd and long observ'd for other more important Reasons. In the Dukedom of *Beneventum*, which comprehended the greatest Part of these our Provinces, which now make up the Kingdom, under the *Longobard* Kings their Authors, they were obey'd with the utmost awful Respect. The Kings had the Sovereignty of it, and the Dukes who govern'd it were subordinate to them; and *Desiderius* the last King, as we have said, had created *Arechis* his Son-in-Law Duke of it. But tho' the *Longobard* Kings fail'd in *Italy*, yet the Dukes did not fail in the Dukedom of *Beneventum*; but *Arechis*, as we shall relate in the following Book, having thrown off all Subjection to the *French*, govern'd it with absolute and independent Authority. He took upon him to adorn himself with the Scepter, Crown, and Purple Garment, and made himself to be anointed, and rais'd to be a Sovereign Prince, wherefore he maintain'd it independent of any other Sovereign; by which means the *Longobard* Laws got the better footing and force in this Dukedom, in which they were constantly preserv'd by the succeeding *Beneventan* Princes. And the Principality being afterwards divided into three Parts, to wit the *Beneventan*, *Salernitan*, and *Capuan*, which comprehended almost all the Kingdom, the *Longobard* Laws were the more diffus'd. The *Neapolitan* Dukedom, and the other Cities of *Calabria* and *Brutium*, *Gaeta*, and some other maritime Cities, which continu'd for some Time under the Dominion of the *Greeks*, were later in receiving these Laws. These Places, as being subject to the Emperor of the East, were govern'd by their own Laws; and what these were shall be examin'd in the Seventh Book, where we shall treat of their *Novella*, and their so many other Collections. But when the *Greeks* were driven out by the *Normans*, and all these Provinces reduc'd under the Dominion of one single Person; the *Normans* having succeeded the *Longobards*, retain'd their Laws, and spread them over all, even in the Cities which they took from the *Greeks*, as we shall see in the following Books; whence it came to pass, that by these Laws, having been preserv'd in *Italy* under other Princes, who were not *Longobards*, they continu'd the longer, and took deeper Root in these our Provinces. Whence likewise it came to pass, that tho' the *Roman* Laws were preserv'd intire, and that every one could live under what Law he pleas'd, either *Roman* or *Longobard*<sup>2</sup>; nevertheless, for many Ages, so great was the good Luck of the *Longobard* Laws, that it behov'd the *Roman* Laws to succumb to them; for in *Italy*, and these our Provinces, the Introduction of a great Number of feudal Tenures, and consequently of many Barons, who observ'd no other Laws but those of the *Longobards*, occasion'd all the Nobility, by their Example, to observe the same Laws; so that except the Ecclesiasticks, who in Obedience to the Edict of *Lewis the Pious*<sup>3</sup>, liv'd (of what Nation soever they were) according to the *Roman* Laws only, all others, both by Tradition and ancient Custom, observ'd the *Longobard* Laws; and when by the Ignorance of the Age, all the Codes wherein they were registred were neglected, yet they continu'd amongst the common People, who are

<sup>1</sup> Sigon. de R. Ital. lib. 8.

<sup>2</sup> In LL. Longob. lib. 2. tit. 58.

<sup>3</sup> Ed. Lud. Pii in LL. Longob. lib. 2. l. 37.  
In LL. Ripuar. cap. Eccl. jure Romano vivit.

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the last in laying aside the ancient Usages of their Forefathers, either in what concerns the Laws or the Customs, as we shall see more distinctly in the following Books.

AND whence it likewise came to pass, that in our Kingdom with regard to the new Constitutions which were afterwards introduc'd by the *Norman*, *Suevian*, and *French* Princes, the *Longobard* Law was call'd *Jus Commune*, like that of the *Romans*<sup>1</sup>; but with this Difference, that the *Jus Commune* of the *Longobards* was the Predominant, and in greatest Force; that of the *Romans* of less Authority, and to which they had recourse when the *Longobard* fail'd, which happen'd but seldom. For this Cause it came likewise to pass, that the *Longobard* Law was quoted in the Tribunals, commended by all, and reckon'd the Source of all other Laws, which the new Princes were about establishing: So we see that the Popes made often use of them in their Decrees, and approv'd of them<sup>2</sup>. The Feudal Law which now in all Nations of *Europe* is one of the most noble Parts of the *Jus Commune*, was founded upon, and supported by the *Longobard* Laws, as not only *Andrea d'Isernia*, and Bishop *Liparus* among others have written, but the incomparable *Hugo Grotius* likewise observes.

THE very Constitutions of *Frederick II.* of our Kingdom, are almost all taken from the *Longobard* Laws, as besides our own Writers, *Grotius* likewise tells us<sup>3</sup>. The Customs of *Bari* are deriv'd from the *Longobard* Laws, as we shall shew when we shall have occasion to treat of them.

BUT 'tis worth our Observation, and what will more plainly shew us the Authority and Credit which they retain'd in these our Provinces for a long Time, to find that after the *Roman* Jurisprudence was again restor'd in the Academies of *Italy*, in the Time of *Lothaire II.*; and the *Pandects* had been found in *Amalphis*, and got footing likewise in our Academy, in the Reign of *Frederick II.* the Use and Authority of these Laws did not fail for all that. On the contrary, our Writers then more than ever took greater Pains and Care in commenting on them; just as *Gregory* and *Hermogenian* did, who, when they saw that *Constantine the Great* intended to abolish the ancient Heathen *Roman* Laws by new ones of his own, compil'd their Codes, by which they prevented the Loss of the ancient *Roman* Jurisprudence: So we see that *Carlo di Tocco* did not comment on them till the Reign of *William* King of *Sicily*; and that other Comment which we have on them of *Andrea da Barletta*, Attorney General to *Frederick II.* makes it evident, that to the Reign of this Prince, the *Longobard* Laws in our Kingdom were superior to the *Roman*; and in later Times still more, which may be gather'd from the Comment of *Biasè da Marcone*, who flourish'd under King *Robert*.

IF our Writers had follow'd the Light of History, and distinguish'd the Times as they ought to have done, they had not stuffed their Commentaries with so much Trumpery, as to say (not knowing the Authors of those Laws) they were made by certain Kings, who were call'd *Longobards*, that is to say *Apulians*, who having come from *Sardinia*, at first settled in *Romagna*, and from thence went to *Puglia*, as *Odofredus*, *Baldus*, *Alexander*, and *Franciscus de Curte* have written, and, which is more surprizing, were follow'd by *Nicolas Boerius*, who chose rather to believe these Dreams, than to give ear to true History.

NEITHER would *Luca di Penna*, afterwards follow'd, as often falls out, inconsiderately by *Carovita*, *Maranta*, *Fabio d'Anna*, and others of our Writers, have had occasion to declaim against the Law of the *Longobards*, and to call it stupid, barbarous, and unpolish'd, and Riff-raff rather than Law. He did so, because he knew not how to distinguish the Times in which he wrote, from those of past Ages, in which these Laws were reputed the most polish'd and prudent of all that ever had flourish'd in *Italy*: He wrote in the later Times in the Reign of Queen *Joan I.* by whom in the Year 1366. he was made Judge of the High-Court, when the Authority and Splendor of the *Roman* Laws still increasing, it began then to be a Question among the Advocates which of the two Laws ought to have the Preference; whereupon he finding that some against his Opinion, stickled hard in favour of the *Longobard*, he baul'd out against them, and loaded these Laws with a

<sup>1</sup> Const. Guliel. Puritatem.

<sup>2</sup> Gregor. c. devotil. 12. q. 2.

<sup>3</sup> Grot. in Prolegom. ad hist. Got. jam vero,

quæ in Regno Neapolitano, Siculoque valent Constitutiones à Frederico II. collectæ, pene omnes fluunt e legibus Longobardorum.

multitude of reproachful Names. And it was not till the Reign of the *Aragon* Family, that these Laws came in difuse and fail'd intirely in our Kingdom, when the *Roman* were restor'd, of which *Matthæus de Afflictis* is a good Evidence; who, tho' he says, that in his Time he never observ'd the *Longobard* Law to get the better of the *Roman* in our Tribunals, yet declares to have heard from the old Advocates, that in ancient Times the contrary was observ'd. But in the Progress of this History we shall have more fit Opportunities to treat at large of the alternate Fortune of these Laws.



## C H A P. VI.

### *Of the Ecclesiastical Polity.*



**I**N this eighth Century the Churches of the West were in great Confusion, and that of *Rome*, which ought to be a bright Example to the rest, was in the greatest Disorder. *Paul* having died in the Year 767, *Constantine* Brother to *Toto* Count of *Nepi*, usurp'd the Chair; who by Violence and Management had got himself first to be elected Pope, and afterwards to be ordain'd Subdeacon, Deacon and Bishop: Some Officers of the Church of *Rome*, not able to suffer this Violence, had recourse to *Desiderius* King of the *Longobards*, and having got Assistance, return'd to *Rome* with a Band of arm'd Men. *Toto* attack'd them, but being kill'd in the Scuffle, *Constantine* was turn'd out, and *Philip* a Priest and Monk was elected in his Place; but he not being found sufficient for the Post, was oblig'd to retire into a Monastery, and *Stephen* IV. with common Consent, was elected in the Month of *August* of the Year 768. After whose Election, *Constantine* was ignominiously depos'd, and treated after a cruel manner, was imprison'd, and had his Eyes put out. *Stephen* not finding himself secure, sent a Deputy into *France*, in order to regulate what concern'd the Affairs of the Church of *Rome*. *Charles* and *Carloman*, to whom the Deputy, their Father *Pepin* being dead, consign'd the Letters, sent twelve Bishops to *Rome*, who convening a Council with one *Italian* Bishop, confirm'd *Stephen*, and declar'd *Constantine's* Election void. *Stephen* got Possession of the See; but grievous Disputes arising afterwards between him and *Desiderius*, on account of the Election of the Archbishop of *Ravenna*, and other Matters above related, *Desiderius* laid Siege to *Rome*, and exercis'd so much Severity, that the Pope being terrified, died the first Day of *February* in the Year 772, leaving *Adrian* his Successor.

**N**EITHER did there happen less Disorders in the Elections to other lesser Sees. The Favour of Princes, Violence, Sollicitations, and Simony had the greatest Share in them. Discipline was almost intirely laid aside; great Ignorance and Licentiousness prevail'd amongst the Bishops and the Clergy. There was no Lewdness which they were not guilty of; they kept Women in their Houses, went to the War, inroll'd themselves among the Soldiers, serving for Pay; and throwing off the Yoke, refus'd any more to obey their Bishops. The Popes becoming powerful Lords in Temporals, by the Donation made to the Church of *Rome* by *Pepin* and *Charles* his Successor, began to extend their Authority over Princes. *Zacharias* by having had a great hand in the Translation of the Kingdom of *France* to the *Carlovingian* Line, and *Adrian* of that of the Kingdom of *Italy* to the *French*, had made themselves dreadful. They set their Minds more on Temporal Matters than on Divine and Sacred; and the other Bishops following their Example, the ancient Discipline was corrupted, and altogether neglected.

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ON the other hand, the Temporal Princes seeing so much Depravation of Manners, labour'd with all their Might to reform the Clergy and the Church; and besides that, having so fair an Opportunity, concern'd themselves more in the Election of Bishops, and other Ministers of the Church, and in disposing of their Revenues, than formerly. *Leo Isauricus*, and the other Emperors of the East his Successors, would have themselves esteem'd as Moderators, not only of the Ecclesiastical Polity and Discipline, but likewise of the Doctrine: They publish'd Edicts concerning the Adoration of Images; and except only the Ministry of Sacrificing, they would be reckon'd Monarchs and Presidents of the Church: They presided in the Synods, and gave them Sanction; made Laws, and regulated the Ecclesiastical Orders; made themselves Judges of Controversies, and of the Bishops and Clergy, how they were to proceed in Elections to vacant Sees, and how they were to give their Votes; translated Bishops from one See to another; advanc'd and degraded the Sees as they thought fit, from a Bishoprick to a Metropolitan and Archbishoprick, dispos'd of Dignities and Sees of the Hierarchy; divided the Diocesses after their own way, and erected Churches into new Bishopricks or Metropolitans. Whence began the assigning of many Churches to the Patriarchate of *Constantinople* by taking them from that of *Rome*, which was compleated in the following Century; among the rest, as shall be told in its Place, they took *Sicily*, *Calabria*, *Puglia*, and *Campania*, which that Patriarchate retain'd, till by the Means of our *Normans*, and particularly *Roger I.* King of *Sicily*, they were restor'd to that of *Rome*; and greater Extravagancies were seen in the following Times when their Empire began to decline, when they endeavour'd intirely to subject the Priesthood to the Empire, concerning which we may see *Joannes Philosacus* <sup>1</sup>, and *Tomasinus* <sup>2</sup>, who discourse at large of it.

ALTHO' the Princes of the West were not so daring, nevertheless under the specious Pretence of reforming the Irregularities of the Clergy, and the lost Discipline, they concern'd themselves much more than became them in the Protection and Guardianship of their Churches; and in the Beginning of this Century they no less deform'd the State of them than the Ecclesiasticks had done. *Charles Martel*, after having taken upon him the Government of the Kingdom of *France*, instead of remedying the Disorders that prevail'd, seiz'd on the Goods of the Churches; he gave the Abbacies and Bishopricks to Laicks; gave the Tythes to the Soldiers; and suffer'd the Ecclesiasticks and Monks to go on in their Lewdness.

IN *Italy* and these our Provinces which were subject to the Dukes of *Beneventum*, the *Longobard* Kings and Dukes, on account of the continual Hatred they bore the Popes, as first Favourers of the *Greeks*, and afterwards of the *French*, occasion'd no less Disorders. King *Desiderius* by reason of the Disputes he had with *Stephen IV.* about the Election of *Michael* to the Archbishoprick of *Ravenna*, whom the Pope turn'd out; in order to be reveng'd upon him, caus'd the Eyes of *Christophanus* and *Sergius* his Creatures, to be put out, and afterwards put *Christophanus* to Death, and so frighted the Pope, that it hasten'd his Death.

THE *Longobards* as well as the *Goths* and the Emperors of the East their Predecessors, were very careful in retaining all the Prerogatives which the Right to Empire gave them. It was in their Power to declare the Churches Sanctuaries, and to prescribe Laws for what Crimes the Subjects could claim Sanctuary, and for what those that fled to them could be protected in them. King *Luitprandus*, imitating the Emperors of the West, of whom there are many Constitutions remaining in the *Theodosian* and *Justinian* Codes concerning that Matter; ordain'd likewise, that Homicides, and others guilty of Capital Crimes, should not have the Benefit of Sanctuary <sup>3</sup>. He injoin'd the Bishops, Abbots, and other Governors of Churches or Monasteries not to receive them, nor to hinder the Secular Magistrate from taking them out, nor to be assistant in making their Escape, nor conceal them; and that if they hinder'd their being taken out, they were to pay a pecuniary Mulct of 600 *Soldi* <sup>4</sup>. Our *Longobard* Kings likewise retain'd the Power of making Laws concerning Matrimony <sup>5</sup>, of putting a Stop to it, where either Decency, Kindred or

<sup>1</sup> Filofac. de Sacr. Episc. aut. c. 7. §. 7.

<sup>2</sup> Tomasin. vet. & nov. Eccl. disc. p. 1. l. 1. c. 52. n. 6.

<sup>3</sup> L. 2. De his, qui ad Eccl. confugiunt. tit.

39. lib. 2. in LL. Longob.

<sup>4</sup> L. 4. cit. tit. 39. lib. 2.

<sup>5</sup> Launogius Regia in Matrim. potest. par. 3. art. 2. cap. 7.

**Affinity** were Obstacles, and of prescribing the Age fit for contracting it ; and of declaring the Illegality of Marriages and Contracts, and the Bastardy of Children, and of establishing whatsoever regarded the greater Decorum and Decency of these Matters, as is clear from their Laws <sup>1</sup>.

THE Emperors of the East, who at this Time govern'd the Dukedom of *Naples*, a great Part of *Calabria*, *Puglia*, and many maritime Cities of these our Provinces, which were likewise Enemies to the Popes, exercis'd an absolute Authority over the Churches of those Cities which were subject to them. *Constantine* and *Leo* his Son, would have their Edicts for abolishing Images obey'd in them ; they would not allow *Paul* elected Bishop of *Naples* to be admitted, because he was a Favourite of the Popes, which was the reason that the *Neapolitans* did not receive him within their City : Neither was there ever greater Deformity seen in the Church of *Naples* than at this Time. We find *Stephen* at the same time that he was Duke of it, and govern'd the Dukedom under the Emperor, when his Wife died, was made Bishop, and not laying down this other Charge, administred both divine and human Things at the same Time. *Theophilactus* his Son-in-Law succeeded him in the Dukedom ; when a new Pastor was to be chosen, *Esprassia* the Daughter of *Stephen*, and Wife of *Theophilactus*, being offended with the Clergy, who had shewn much Gladness and Contentment upon the Death of her Father, swore that none of them should be elected Bishop ; and the Duke her Husband, whether it was in order not to vex her, or for Covetousness sake, delay'd the Election ; so that the *Neapolitans*, both Clergy and People, being wearied with the long Vacancy of their Church, went in a Body, and call'd out aloud before the Ducal Palace, that they might give them for Bishop whomsoever they pleas'd. Then *Esprassia*, full of Indignation and Rage, pitch'd upon a Laick from among the People, call'd *Paul*, whom she gave them for Bishop, neither durst any of them be so bold as to contradict it ; they took *Paul*, and having shav'd him, elected him Bishop, who went to *Rome*, and the Pope, through the Corruption of the Age, made no Difficulty to consecrate and confirm him <sup>2</sup>.

THERE being such Depravation of Manners, and Things having gone to such Excess, not only the Prelates of the Church, but likewise the Secular Princes rous'd themselves at last in order to apply a Remedy. After the Death of *Charles Martel* in *France*, *Carloman* and *Pepin* his Sons having divided the Kingdom, tho' they had not the Dignity of Kings, contriv'd to order Matters so, that in some measure Discipline might be restor'd. *Carloman* Prince of *Austrasia*, in the Year 742. caus'd a Council to be call'd in *Germany*, where, with the Consent of the Bishops, he publish'd many Regulations for reforming the Discipline and Manners ; he forbid the Ecclesiasticks to go to War ; order'd the Curates to be submissive to their Bishops ; caus'd some Ecclesiasticks convicted of the Crime of Uncleaness to be degraded, and to undergo Penance : And in the other Assembly which he caus'd to be held in *Leptines* near to *Cambray*, besides confirming all these, he likewise prohibited Adultery, Incest, unlawful Marriages, and Pagan Superstition.

*PEPIN* Prince of *Neustrasia*, likewise for his Part labour'd all he could in order to reform the Ecclesiastical Discipline ; he call'd a Meeting of 23 Bishops, and many Great Men in *Soissons*, in the Year 744, in which all the Canons of the preceding Councils were confirm'd ; and he ordain'd that they should be inviolably observ'd ; that Synods should meet every Year ; that Priests ought to be subject to their Bishops ; that the Clergy should have no Women in their Houses, except their Mothers, Sisters, or Nieces ; nor Laicks Virgins dedicated to God. In the following Years 752, 755, 756, and 757, such other Assemblies were held, in which were establish'd other Regulations concerning Discipline. And *Carloman* especially caus'd such Assemblies to meet, in which also were establish'd many Points for the maintaining of Discipline, by reviving the ancient Canons, and making of new Rules concerning the pressing Affairs of the Church. These Assemblies were not properly Councils, they were not only compos'd of Bishops, but likewise of the Lords and Great Men of the Kingdom call'd by the Princes. The Bishops drew up the Articles for the Ecclesiastical Polity, and the Lords those that concern'd the State ; and afterwards they were authoriz'd and publish'd by the Princes, that they

<sup>1</sup> LL. Longob. lib. 2. tit. de prohibit. Nupt. lib. tit. 1. de Sponsalib.

<sup>2</sup> Jo. Diac. de Epif. Neap. Chioc. de Epif. Neap. A. 795.



might have the Force of Laws. These Articles were call'd Acts or Decrees. And this was the manner in which the Discipline of the Church of *France*, and likewise that of *Germany* was regulated under the second Race of those Kings in this Century.

IN *Italy* also there were many Canons establish'd by some Popes for restoring the decay'd Discipline. Pope *Zachary* held two Councils for that end in *Rome*, the one in the Year 743, compos'd of about 40 *Italian* Bishops, wherein was renew'd the Prohibition so often made against Bishops, Priests and Deacons cohabiting with Women, and other Provisions were made; the other was in the Year 745, compos'd of seven Bishops, and some Priests, wherein were discuss'd some Accusations against the Bishops, and some Opinions concerning Idolatry were handled; and it was declared, that the Names of many Angels that were invoc'd were unknown, and that they knew the Names of three only, to wit, *Michael*, *Raphael*, and *Gabriel*. Likewise *Paulinus* Bishop of *Aquileja* held a Council there in the Year 791, wherein, after a Confession of Faith he establish'd 14 Canons concerning the Discipline of the Clergy, Matrimony, and the Duty of Monks, and other Affairs.

IN the East, after the Empress *Irene* took the Government of the Empire upon her, she set about restoring of Discipline; she resolv'd to have a new Council call'd, in order to examine what had been ordain'd in that which *Constantinus Copronymus* had conven'd in the Year 753, concerning the Worship of Images; with which she acquainted Pope *Adrian*, that he might give his Consent to it, to which he sent two Priests as his Representatives. The Meeting of the Council began in *Constantinople* in the Year 786; but being disturb'd by the Officers of the Army and the Soldiers, who were stirr'd up to it by the Bishops who were against the Worship of Images, it was translated to *Nice* in the Year 787.

THE Pope's Legates had the first Place there; *Tarasius* Patriarch of *Constantinople* the Second; the Deputies of the Bishops of the East the Third: After these *Agapetus* Bishop of *Cesarea* in *Cappadocia*, *John* Bishop of *Ephesus*, *Constantine* Metropolitan of *Cyprus*, with 250 Archbishops and Bishops, and more than a hundred Priests and Monks. Two Commissioners likewise from the Emperor and Empress assisted there, and in many Speeches the Doctrine of Image Worship was fully debated, and many Regulations were establish'd concerning it. There were 22 Canons made, as well concerning Doctrine as Ecclesiastical Discipline; there was a Rule laid down for the Examination of Bishops, prescribing their not to be admitted if they were not qualified to instruct the People, and if they were not skill'd in the Psalter, the Evangelists, and the Epistles of St. *Paul* and the Canons. All Elections of Bishops or Priests made by Princes were declared void; and the Election of a Bishop was committed to the neighbouring Bishops; those Bishops were to be severely proceeded against, who should take Money for deposing, or fulminating Excommunications. It was ordain'd that all Churches and Monasteries should have Oeconomists; that Bishops and Abbots could not sell or give away the Possessions of their Churches or Monasteries without Necessity. That the Houses of Bishops and Monasteries should not be us'd as Inns; that a Clergyman could not be appointed to two Churches; that Bishops and other Ecclesiasticks were not to wear gaudy Apparel. The Building of Oratories or Chapels was forbid, if there were not a sufficient Fund for defraying the Charges. Women were discharg'd from living in Bishops Houses, or Monasteries of Men. The taking any Thing for Orders, or for being admitted into Monasteries was prohibited, under the Pain of Deposition with respect to Bishops and Priests: As for Abbesses, and Abbots who were not Priests, they were to be turn'd out of the Monasteries; however, those who were receiv'd into the Monasteries, or their Relations, were allow'd to give voluntarily either Money or any Thing else; nevertheless under this Condition, that those Gifts were to remain with the Monastery, whether the Person entering continu'd in the Monastery or left it, provided that the Superiors were not the Cause of his leaving it. Monasteries of the one half Men, and the other half Women were forbidden to be erected, but with regard to those already establish'd; the Monks and Nuns were order'd to live in two different Houses, that they might not see, nor have Familiarity with one another. Monks were not allow'd to leave their own Monasteries and go to others; and lastly eating with Women, when it was not for the Good of their Souls, or when they entertain'd a Relation, or travell'd, was prohibited.

SUCH

SUCH and so many Provisions were made at this Time, in order to restore the decay'd Discipline in some measure: Where Vice abounded, there was need of many Laws for suppressing it; but these were not sufficient to cure so many Diseases: Therefore some Bishops, in order to reform their Clergy, made their Priests live in common in a Cloister, to whose Care the Church is indebted for the Order of the *Regular Canons*, of which *Codegandus* Bishop of *Metz* seems to have been the Institutor or Restorer. The Churches of our Provinces, part of which were under the Emperors of the East, and part under the *Longobard* Dukes, had recover'd a little Discipline, but not so much, but that by reason of the Rudeness and Ignorance of the Age, they were likewise in great Disorder, and few Vestiges of the ancient Discipline remain'd in them.

## S E C T. I.

*Of the Collection of the Canons.*

WE must place the Collection of *Isidore Mercator* or *Peccator* in this Century; it is in *Latin*, and compos'd of various Canons of Councils held in *Greece*, *Africa*, *France*, and *Spain*, and of many Decretal Letters of diverse Popes, down to *Zachary*, who died in the Year 752<sup>1</sup>. *David Blondell*<sup>2</sup> shews the Imposture of many of these Letters attributed to sundry Popes, whose they are not; and *Peter de Marca*<sup>3</sup>, tho' he condemns the Method of this Author as too severe, however he confesses the Forgery and Imposture. 'Tis likewise doubtful who the Author of this Collection was: *Hincmare*<sup>4</sup> Archbishop of *Rheims*, makes *Isidore* of *Sevil* Author of it; and relates, that *Ricolphus* Bishop of *Mentz*, who govern'd that Church from the Year 787 to the Year 814, carried it from *Spain* to *France*, where, under the Reign of *Charles the Great*, many Copies were made, and spread over all. But by what we have said in the foregoing Book, and by what *Baronius* himself and *Marca* say, *Isidore* Bishop of *Sevil* cannot be said to be the Author of it, for he died in the Year 636, seeing this Collection likewise comprehended the Epistles of *Zachary*, who died in the Year 752. Others<sup>5</sup> therefore ascribe it to *Isidore* Bishop of *Sepulveda*, who died in the Year 805; who, according to the Custom of those Times in which the Bishops out of Humility were wont to subscribe themselves in Councils and elsewhere *Peccatores*, has been call'd *Peccator*; and afterwards through the Fault of the Transcribers, in some Copies of this Collection, instead of *Peccator*, we read *Mercator*. *Emanuel Gonsalez*<sup>6</sup> relates, that this Collection of *Isidore Mercator*, was publish'd under the Name of *Isidore* of *Sevil*, in order to give it the greater Authority, or because there was truly another Collection begun by him, which afterwards was compleated by *Mercator*, who inserted many other Letters into it down to the Time of *Zachary*.

THIS new Collection of *Isidore* did not only appear at this Time, but there was another likewise seen under the Title *Capitula Papæ Adriani*, which was publish'd in *France* by *Ingilrammus* Bishop of *Metz*, in the Year 785. But this Collection, as *Hincmare* Archbishop of *Rheims* testifies<sup>7</sup>, was not receiv'd in the Rank of Canons, for which we ought to consult *Peter de Marca*<sup>8</sup>. In *Rome* likewise in this same Century there appear'd another Collection of the ancient *Formula*, intitled, *Diurnus Romanorum Pontificum*; which the Popes made use of only in their Dispatches.

<sup>1</sup> Doviât. hist. Droit Canon. par. 1. cap. 21.<sup>2</sup> Blondel. in Pseudo Isidoro ædit. an. 1628.<sup>3</sup> Marca de Concor. Sac. & Imp. lib. 3. cap.

s. n. 1.

<sup>4</sup> Hincmar. in Opusc. c. 24.<sup>5</sup> Baron. A. 865. num. 5. Mariana lib. 6.

de reb. Hisp. cap. 5. Chronic. Juliani Tol. Paris. ædit. a Laurentio Ramires.

<sup>6</sup> Gonsalez in Apparatu de Orig. & Progr. Jur. Can. num. 46.<sup>7</sup> Hincmar. in Opusc. c. 24.<sup>8</sup> P. de Marca loc. cit. num. 4.

## S E C T. II.

## Of Monks and Temporalities.

OUR Princes and Great Men did not leave off making great Donations to the Churches, and founding new Monasteries, and enriching those already built. This was truly the Age of Monks; the Ignorance of the Laicks as well as of Priests was at its highest Pitch: There remain'd only a little Learning amongst the Monks, when they easily led the People by the Nose to do whatsoever they pleas'd; the many Miracles, the so many new invented Devotions to some particular Saint, their instructing the People, by reason of the Ignorance and Lewdness of the Priests, had such Effect, that it drew them the awful Regard and Respect of every Body. King *Luitprandus* not only built many Churches where he used to stay at any time, but likewise large Monasteries. It was he that built the Monastery of *St. Peter* without the Walls of *Parva*, which in the Time of *Paul Warnefride*<sup>1</sup>, on account of its Riches, was call'd *Calum aureum*. He likewise built in *Bardum*, on the Top of the *Alps*, the Monastery of *Berceto*; and besides that, he built a Church of admirable Workmanship in *Holoma*, in Honour of *S. Albanus the Martyr*, where he also caus'd a large Monastery to be erected. With great Magnificence he appointed Churches in all Places; and he was the first that built a Chapel within his own Palace, in Honour of our Saviour, and appointed Priests and Clerks, who every Day sung the Holy Offices there: Whence the Royal Chapels began to shine with greater Dignity and Splendor with us, and afterwards were adorn'd with many Prerogatives and Immunities by the Popes, in order to please the Princes; and not only the Chapels but their Chaplains were rais'd to that Pitch, which we shall see in the following Books of this History.

OUR Dukes of *Benevento*, following the Example of their Kings, founded not only in *Benevento*, but likewise in all their large Dukedom, new Monasteries, and enrich'd those already built, and especially that of *Monte Cassino*. *Arechis* enlarg'd that of *S. Sophia* in *Benevento*, and heap'd profuse Donations upon it. At this Time in the Year 707, the famous Monastery of *S. Vincent* in *Vulturno*<sup>2</sup> was so magnificently built by those three renown'd noble *Beneventan Longobards*, *Paldo*, *Taso*, and *Tuto*, that in after-times it even vied with that of *M. Cassino*, and its Abbots were rais'd to so great Dignity, that they were employ'd in the most important Affairs of the See of *Rome*, and of the most potent Monarchs of the West. No less did the Monasteries multiply in this Dukedom, than in that of *Naples*, and in the other Cities subject to the Emperors of the East, as well those of the Order of *S. Benedict*, as those of *S. Basil*; not only of Men, but likewise of Women. In *Naples* Duke *Stephen*, who was also Bishop, built many Churches and Monasteries, and endow'd them with ample Privileges and Revenues; such as that of *S. Festus the Martyr*, now annex'd to that of *S. Marcellinus*, as also that of *S. Pantaleon*, of which there's no Vestige remaining; and rebuilt that of *S. Gaudiosus* in a more magnificent Form<sup>3</sup>. *Antimius* Consul and Duke founded others, to wit, those of SS. *Quiricus* and *Julitta*, the Church of *St. Paul*, which he annex'd to the Monastery of *St. Andrew*; and thus did not only the Bishops and Dukes of *Naples*, but also the other Officers and Prelates of the other Cities of these Provinces of which the Kingdom is now compos'd, which may be seen in *Ughella's* elaborate Work of *Italia Sacra*. By which means the Monks and their Riches increas'd exceedingly; and the Growth of their Power and Reputation, by reason of the Ignorance of others, and the Learning which they preserv'd among them, the best way they could, in a Time of such gross Ignorance, was no less.

<sup>1</sup> P. Warnefr. lib. 6. cap. 18.<sup>2</sup> Otiens. lib. 1. cap. 4. V. Pellegr. in Serie pag. 470. where we read the Chronicle of Abbot Autpertus.

Abbat. Cassin. Theodemar. V. Ughel. tom. 6.

<sup>3</sup> Chioc. de Epif. Neap. in Steph. A. 764.

SO many Monasteries therefore being founded, the Monks become very rich, and seeing themselves so considerable, endeavour'd now more than ever altogether to shake off the Yoke of the Bishops. 'Tis true the Monasteries began in the preceding Century to exempt themselves from the Jurisdiction of the Bishops; but, according to *Alteferra*<sup>1</sup>, that was practis'd but very seldom. The Instance which *Zachary* gave in this Century of the Monastery of *M. Cassino*, was the Occasion that the rest from time to time made themselves all free. The Splendor of this Monastery in those Days inhanc'd all the Favour of the Popes; who, as if they had been so many Conjurors, to know that out of it, as out of the *Trojan Horse*, so many Popes their Successors were to come, never gave over heaping Privileges and Prerogatives upon it. What made it the more august was, that besides *Rachis*, *Carloman*, and many Royal and Illustrious Personages had been Monks in it; therefore *Pertinax* countenanc'd by the two *Gregory's* the Second and the Third, repair'd it in that magnificent manner; and *Zachary*, vying with his Predecessors, would needs endow it with greater Privileges. With his own Hand he would consecrate it, and having gone thither accompanied with thirteen Archbishops, and Sixty-eight Bishops, he made the Consecration the more august and magnificent. The Monks were ready to receive him, who was to exempt so famous and illustrious a Monastery altogether from the Jurisdiction of the Bishop of the Diocese in which it was; *Zachary* willingly granted it ample Immunity, and caus'd a special Grant to be drawn up, by which not only that Monastery, but every Thing that belong'd to it, wheresoever situated, was exempted from the Jurisdiction of all Bishops, *ita ut nullius juri subiaceat, nisi solius Romani Pontificis*, which are the Words of *Leo Ostiensis*<sup>2</sup>. Besides which he likewise adorn'd it with other Pre-eminences; that in all Councils the Abbot of *Cassino* should not only take Place of all the other Abbots, but likewise give his Vote before them; that being elected by the Monks he should be consecrated by the Pope; that the Bishop entering within his Jurisdiction could not celebrate or perform any Sacerdotal Function, unless he was invited by the Abbot, or the Overseer; that it should not be allow'd to exact Tythes of him, nor to interdict his Priests, nor to call them to Synodal Councils; that the Abbots of this Monastery could confer Orders, consecrate Altars, and receive the Chrism from any Bishop whatsoever. He moreover confirm'd to them by his *Precept*, the Possession of all Goods and Lands which had been acquir'd by the Bounty of so many *Lombard* Princes, and fundry Great Men. The other Popes his Successors, following his Footsteps, augmented these Privileges, of which the Abbot *de Noce*<sup>3</sup> has compos'd a long List.

THE other Monasteries under other Rules, and their Abbots of no less Fame and Worth, easily obtain'd of the Popes to be receiv'd into the Protection of *St. Peter*, and to be immediately subject to the Pope, because that Exemption added much to the Power of the Popes, and greatly extended their Authority over all the Nations of the West; for the Erection of many great Monasteries, govern'd by famous Abbots, who on account of their Erudition eclips'd the Bishops, occasion'd Disputes among them; therefore the Abbots, in order to free themselves of their Subjection, had recourse to the Pope, and easily obtain'd Exemptions, by putting themselves immediately under the Papal Jurisdiction. They got other Privileges besides this, such as of making the Lectors of their Monasteries, of being ordain'd by the *Chorepiscopi*, and a great many more. Whence it came that the Popes acquir'd many Defenders of their Authority and Power; for the Monks, by obtaining so many Privileges and Prerogatives, in order to preserve them, were oblig'd to support the Authority of the Granter; which the Monks, who were the most learn'd Set of Men of the Age, did to very good Purpose; by which means in a few Years all the Monasteries were exempted. And in process of Time the Chapters of Cathedral Churches, being for the most part Regular Clergy, on the same Pretences likewise obtain'd Exemption; and in fine the *Clunian* and *Cistercian* Congregations were all intirely exempted, which makes a great Addition to the Authority of the Popes, who came to have their own Subjects in every Place, how distant soever from *Rome*, who, as they were defended and protected by the Papacy, in return were zealous Defenders and Protectors of the Pope's Authority. *S. Ber-*

<sup>1</sup> *Altefer. Ascetic. lib. 7. cap. 12.*<sup>2</sup> *Ostiens. lib. 1. cap. 4. vid. Ab. de Noce,* who testifies that this special Grant is as yetpreserv'd in *Archivis Cassin.*<sup>3</sup> *Ab. de Noce in Excurs. hist. ad Chron. Ost. lib. 1. cap. 4.*

ward, tho' a *Cistercian*, did not approve of the Expedient, and often complain'd of such Irregularities, not only to *Arrigus* Archbishop of *Sens*<sup>1</sup>, but likewise desir'd Pope *Eugene* III. himself to consider, that all these Doings were gross Abuses, and that he ought not to approve that an Abbot should refuse to submit himself to his Bishop, or a Bishop to his Metropolitan. *Richard* Archbishop of *Canterbury*<sup>2</sup> exclaim'd against the same to *Alexander* III. But these Gentlemen not being acquainted with State Politicks, were not minded, nor any Ear given to their Complaints: On the contrary, in after-times by keeping on in the same Course, they went further; for afterwards the Mendicant Orders not only obtain'd full Exemption from Episcopal Authority, wheresoever they might happen to be, but likewise Power to build Churches in any Place, and also to administer the Sacraments in them: And in the latter Ages they carried this so far, that every private Priest, with little Charges, obtain'd Exemption from the Superiority of his Bishop, not only in Cases of Correction, but also to get himself ordain'd by whomsoever he pleas'd; and in short not to own the Bishop on any account: And altho' in the Council of *Constance*, on the earnest and repeated Complaints of the famous *Gerson*<sup>3</sup>, very many Exemptions were annull'd; and last of all in the Council of *Trent*<sup>4</sup>, so many Grievances were in some measure redress'd: Nevertheless the Court of *Rome* has not wanted Ways and Means, *salva auctoritate Concilii*, to put Matters on the Footing we see them yet stand on.

THIS aggrandizing of the Monastick State, brought not only great Riches to the Monks, but consequently much greater to the Court of *Rome*, where they at last center'd. The Popes not only encourag'd them in their Acquisitions, and kept the Sources always open, but likewise by severe Anathema's prohibited the Alienation of them, and threatned those who should dare to disturb them. Through the Ignorance and Superstition of the People, Pilgrimages were more frequent; Prayers and Sacrifices, in order to liberate the Souls of the Dead from Purgatory, were much more recommended and practis'd. Therefore in this Age great Care was taken about Singing, Ceremonies, and Officiating well: Bells began to be common in all Churches and Monasteries. And the particular Devotions to Saints, of whom there were innumerable Lives and Miracles compos'd, drew many in to make Donations to their Churches and Monasteries. But the Monks, not satisfied with this, but being encourag'd by the Popes, incroach'd likewise upon the Tythes due to the Bishops and the Parish Priests. They pretended, and made their credulous Votaries believe, that seeing they apply'd themselves much more than the Priests to the Care of their Souls, as knowing better how to instruct them in the Christian Doctrine by Preaching and Sermons; therefore they ought not to pay the Tythes to the Priests, but to them; and in effect for a long Time they made a very great Havock, not inferior to that which *Charles Martel* made in *France*; so that in the following Centuries it cost a great Struggle to recover them, and restore them to their proper Priests, from whom they had been purloin'd.

NO other Province of the World, has made appear so much, of what Importance the Riches of the Monks were to *Rome*, as ours has done; the greatest Commendams, the greatest Benefices which she bestows on her Cardinals and other Prelates, for maintaining the Pomp and Splendor of her Court, proceed, and have their Rise from nothing else but from the Profusion of our Princes and devout People. The richest Monasteries are given for that end in Commendam: Those which Time has consum'd, have remain'd Funds for the great Revenues which they draw out of them; and the Rents of so many Monasteries of which there are scarcely any Vestiges remaining, are all carried to *Rome*. Whence the Popes, vying with the Princes, who invest their Vassals with their Feodal Tenures, bestow Benefices on theirs; and as we have got a new Body of Laws concerning Fiefs, so likewise we have got a new Jurisprudence concerning Benefices, which takes up as many Volumes as the Feudal; but of that in a more proper Place.

<sup>1</sup> S. Bern. ep. 12. & l. 3. de Confid. ad Eugen.  
<sup>2</sup> P. Blesen. Ep. 68.

<sup>3</sup> Gerson. tract. de Potest. Eccl. conf. 10. & de statib. Eccl. confid. 9.

<sup>4</sup> Sess. 4. de Refor. c. 4. and elsewhere.





Power and Authority which they had enjoy'd under the *Longobard* Kings his Predecessors. He retain'd only the Sovereignty of the Exarchate of *Ravenna*, *Pentapolis*, and the *Roman* Dukedom, which he adjudg'd to the Church of *Rome*. All the other Provinces, such as *Lyguria*, *Æmia*, *Venetia*, *Tuscania*, and the *Alpes Cottie*, he retain'd under the Title of a Kingdom<sup>1</sup>, which is that Part of *Italy* that afterwards was call'd *Lombardy*.

HE allow'd the other lesser Dukes the free Government of their Dukedoms, contenting himself with the Oath of Fidelity which they swore to him; neither did he give away their Dukedoms to others, but for Felony, or in case they died without Sons; and when this Conveyance from one to another was made, it was call'd *Investiture*: Whence it came, that Fiefs were not granted but by *Investiture*, as was afterwards observ'd with respect to other Feudatories and Vassals, Counts, Captains, and others, who were call'd *Varvasours*. The Cities of those Provinces, of which his Kingdom, afterwards call'd *Lombardy*, was compos'd, were govern'd by Counts, to whom he granted all Jurisdiction. For preserving the Borders of the Kingdom those Magistrates were likewise appointed, from whom some will have it, that the Title of Marquiss had its rise; for the *French* and *Germans* call their Borders Marches: The Counts who were appointed to govern them, were likewise afterwards call'd *Marquises*; tho' some say, that this Word is otherwise deriv'd, as we shall relate by-and-by. These were the ordinary Magistrates that were appointed for the Government of the Cities, and the Borders of the Kingdom. There were likewise some extraordinary Magistrates, to whom greater Authority and Jurisdiction was given, than commonly was allow'd to the Counts; they had the Inspection of the Administration over all the Kingdom, and were call'd *Messengers*. They divided and distinguish'd the Fields of each City, which under the *Longobards* were too confus'd, and occasion'd many Disputes among the People about their Boundaries; they appointed every one its own, and for the most part, by following Nature, caus'd Mountains, Bogs, Rivers, Rivulets, Valleys, or other perpetual and lasting Limits to serve for Marches, that Time might not alter and confound them.

HE likewise oblig'd the Cities to take an Oath of Fidelity to him; and impos'd a kind of Tribute upon them, and upon the Fiefs, Churches and Monasteries, which they were to pay him, particularly when the Kings came from *France* to *Italy*: These Tributes were call'd, *Foderum*, *Paratam*, & *Mansionaticum*, which afterwards were in part, and at last altogether remitted for him and his Successors, by his Generosity. He likewise had a Mind that *Italy* should retain some Shadow of Liberty; and as the Custom of *France* was, that when the King resolv'd to deliberate upon weighty Matters, which concern'd the Good of the Kingdom, he conven'd all the States, as well the Ecclesiastick, as that of the Barons and Great Men of the Realm, so he also introduc'd it into *Italy*; thus every time that he return'd hither, he was wont to call a general Parliament of the Bishops, Abbots, and Barons of *Italy*, in which the weighty Affairs of the Kingdom were consult'd. The *Longobards* had only one State, compos'd of Barons and Judges. The *French* in the Time of *Charles the Great* had two, that of the Ecclesiasticks, and of the Nobility; the third State has been added since. Which Custom lasted in *Italy* till the Time of the Emperor *Frederick I.* whence it was, that the Emperors of the West, upon their Arrival in *Italy*, were wont frequently to call those Assemblies, and often at *Roncaglia*, a Place not far distant from *Placentia*<sup>2</sup>, where they publish'd many Laws, as shall be shewn more particularly in the Progress of this History.

THE Affairs of *Italy* being thus settled by *Charles*, he left a strong Garrison in *Parvia*, and in the Year 774. return'd to *France*, whither he carried *Desiderius* and his Wife, in order to make his Triumph more Majestick. Every Body would have believ'd that *Italy* under the Government of so great a Prince, and when the Arms of the *French* were so famous and formidable over all *Europe*, would have continu'd long in Peace and Quiet. But the three famous Dukes of *Friuli*, *Spoletium*, and especially our Duke of *Beneventum*, scorning to be subject to foreign Kings, and thinking that it ill suited with their Dignity, the Kingdom of the *Longobards* being extinct in *Italy*, to be under the Government of the *French*, resolv'd to shake off the Yoke intirely, and to make the Dominion of their Dukedoms which they held

<sup>1</sup> Sigon. pag. 163. de R. Ital. Ipse sibi nomine Regni retinuit.

<sup>2</sup> V. Franckenstein. dissert. de Majumis, Maicampis, & Roncallis. V. Dufresne in Lexic. under

under the *Longobard* Kings, from Dependent, Absolute and Sovereign. Besides they were Favourers of *Adalgisus*, the Son of *Desiderius*, who had retir'd to *Constantinople*, where he stay'd with the *Greek* Emperor, by whom he had been honour'd with the Title of *Patrician*; and they keeping a secret Correspondence with him, he had engag'd the Emperor to furnish him a Fleet in order to come to *Italy*.

THE first was *Rodgandus* Duke of *Friuli*, who whilst *Charles* was employ'd in the Wars with the *Saxons*, renounc'd his Allegiance, and set up for Sovereign in his Dukedom. But the King being disengag'd from the *Saxon* War, and return'd to *France*, considering that this Revolt might be of dangerous Consequence, if he did not crush it in the Bud, resolv'd to go to *Italy* anew, and being arriv'd in *Friuli* with a powerful Army, defeated that of the Rebel, and *Rodgandus* being taken, he caus'd him to be beheaded for an Example to others. He did not give the Dukedom to another, but for that Time extinguish'd it, and added the Cities of it to his Kingdom, giving each of them a Count for Governor, as he had done to all the other Cities of *Lombardy*. Thus ended the Dukedom of *Friuli*, the first that was erected under *Alboinus*; the first likewise that was extinguish'd by *Charles the Great*. However 'tis true, if we may give credit to *Paulus Æmilius* <sup>1</sup>, that *Charles* restor'd this Dukedom, by making a certain *Henry*, a *Frenchman*, Duke of it; but it did not last long, neither is it so much mention'd afterwards as those of *Spoletto* and our *Benevento*.


*HILDEBRAND* Duke of *Spoletto*, being frighted by so terrible an Example, and induc'd by the Prosperity of *Charles*, who had gain'd innumerable Victories, both in *Spain* and *Saxony*, thought it his best way, by paying him extraordinary Respect, to keep himself in his Favour, and subject himself to him, as formerly he had done to the *Longobard* Kings his Predecessors.

<sup>1</sup> Paul. Æmil. de reb. Franc.



## C H A P. I.

### *Of the Dukedom of Benevento, its Extent and Polity.*

 HE Dukedom of *Benevento* was the only one, which will appear incredible, that could not be subdu'd by so potent and glorious a Prince; it alone remain'd free from the Dominion of the *French*, tho' *Charles* and *Pepin* his Son, whom the Father made King of *Italy*, had often imploy'd their Power and all their Art to reduce it. But if we will consider its flourishing Condition, its Extent, and the Power it had attain'd to in those Days; it will appear neither strange nor wonderful, that the *French* were not able to conquer it.

WHEN *Desiderius* and the *Longobards* were vanquish'd in *Italy*, the Dukedom of *Benevento* was govern'd by *Arechis* his Son-in-Law; its Borders had never been so far extended as they were during his Government; it comprehended almost all that which we now call the Kingdom of *Naples*; and excepting *Gaeta*, the Dukedom of *Naples*, whose Dominion reach'd only from *Cuma* to *Amalphis*, and some other Cities of *Brutium* and *Calabria*, which were as yet subject to the Emperor of the East, all was under the Dominion of the *Beneventan Longobards*. According to the Limits which the most careful *Pellegrinus* <sup>1</sup> has assign'd it, towards the West it

<sup>1</sup> Pellegr. in dissert. de finib. Ducat. Benev.

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reach'd to the Confines of the Dukedoms of *Rome* and *Spoletto*, comprehending *Sura*, *Arpino*, *Acre*, *Aquino*, and *Cassino*; and the *Longobards* would have extended its Limits further that way, had it not been that the Popes, sometimes with Gifts, sometimes with Intreaties, had stopp'd them, and made them desist from making any further Progress.

TOWARDS the South it had *Gaeta* for its Boundary; which City had never been conquer'd by the *Longobards*; it had hitherto, with many other maritime Cities, continu'd under the Dominion of the *Greeks*<sup>1</sup>; and tho' *Charles the Great* took it from them, yet he gave it to the Church of *Rome*, as he was wont to do with the Spoils of the *Greeks*: Nevertheless by the Means of *Arechis* it was again restor'd to the *Greeks*; whence proceeded the many Complaints which Pope *Adrian*<sup>2</sup> made of the *Longobards* to *Charles the Great*. But many Years had not pass'd, when the Popes, who are very careful in keeping what they once get Possession of, pretended that it belong'd to them; so that *John VIII.* tho' it was in the Possession of the *Greeks*, did not stick to give it to *Pandolphus* Count of *Capua*; and *Terracina*, which likewise belong'd to the Consulship of our *Campania*, as we have seen, and subject to the *Greeks*, was also given to the Popes, of which we shall have occasion to discourse particularly. Nevertheless the Dukedom of *Benevento* on this Side reach'd to *Cuma*, comprehending *Minturno*, *Vulturno*, and *Patria*, by the Ancients call'd *Clanum*, Places not far from *Capua*, which was now under the Dominion of the Dukes of *Benevento*, and govern'd by Counts whom they sent thither. The *Beneventans* once invaded and took *Cuma*, but as we have said, were with a great Slaughter repuls'd, and it was retaken. They could not take *Miseno*, altho' not far distant from their Borders; nor the other Cities of the *Tyrrhenian* Sea, such as *Stabia*, *Sorrento*, and *Amalphis*, which at this Time were united to the *Neapolitan* Dukedom; but all the other Cities and inland Places of *Campania*, from the Time of *Grimoaldus*, were subjected to the Dukedom of *Benevento*, such as *Teano*, *Caudio*, *Sarno*, *Nola*, which at this Time was call'd *Cimiterium*, and likewise *Salerno*. It also extended its Confines from *Salerno* beyond *Cosenza*, excepting *Acropolis* and the Promontory, which is now commonly call'd the Cape of *Licosa*, and the other maritime Places with *Reggio*, which continu'd under the Dominion of the *Greeks*; all the other inland Places of *Lucania* and *Brutium*, to wit *Pesto*, *Conca*, *Cassano*, *Cosenza*, and *Laino*, and other Cities, were subjected to the Dukedom of *Beneventum*.

IT extended itself no less towards the East: Once *Autaris* carried his victorious Banner to *Reggio*; but, as we have said, this was an IncurSION like that which the *Longobards* afterwards made to *Crotone*. This Point of *Italy* was always preserv'd by the *Greeks*, neither did the *Beneventan Longobards* extend their Dukedom on this Side further than *Cosenza* and *Cassano*; but on the other Side they possess'd *Taranto*, and had likewise a great Part of *Calabria*, and excepting *Gallipoli* and *Otranto*, they reach'd as far as *Brindisi*.

TOWARDS the North they possess'd all *Puglia*, not only the Inland but likewise the maritime Places, from *Bari* to *Siponto*, and the Promontory of *Gargano*, with all the adjacent Country, was under their Dominion. On this Side they could not conquer the Island of *Tremiti*, because the *Longobards* not having Sea Forces could not come at it. *Charles the Great* got it afterwards, whither he sent *P. Diaconus* into Exile. Their Borders were extended further on this Side; for besides the inland Places of *Puglia*, such as *Lucera*, *Termoli*, *Ortona*, and some maritime Cities, and all that Part which we now call *Apruzzi*, all was subject to this Dukedom, as was *Chieti* with the adjacent Country, and all the other inland Places of that Part of *Sannio*, which afterwards was call'd the *Contado di Molise*, such as *Supino*, *Bojano*, *Isernia*, and other Cities, and all the County of the *Marfi*, which bounded with that of *Sora*.

THESE were the Boundaries of the Dukedom of *Benevento*; it comprehended almost all these four Provinces into which this Part of *Italy* was divided by *Constantine the Great*, and the other Emperors his Successors; to wit, *Campania*, *Sannio*, *Puglia* and *Calabria*, *Lucania* and the *Brutii*: In short, excepting the *Neapolitan* Dukedom, *Amalphis*, *Gaeta*, and some other maritime Cities of *Calabria* and the *Brutii*, it comprehended all that is now call'd the Kingdom of *Naples*; and of the

<sup>1</sup> Constant. Porphyr. de Admin. Imperio, | *§urium die 7 Julii.*  
cap. 27. Auctor. Itinerarii S. Willibaldi apud | <sup>2</sup> Epist. Hadr. 73.

twelve Provinces, of which this Kingdom is now compos'd, nine were comprehended in the Dukedom of *Benevento*: These are now *Terra di Lavoro*, the *Contado di Molise*; the hither *Abruzzo*, *Capitanata*, *Terra di Bari*, *Basilicata*, the hither *Calabria*, and both the Principalities. Therefore this Part on account of its Extent was call'd by the *Greeks*, and *Latin Writers* of this Age, *Italia Cistiberina*, and the *Greeks* were wont also to call it *Longobardia Minor*, to distinguish it from the greater, which in *Gallia Cisalpina*, on both Sides the *Po*, was subject to the *Longobards*, which at this Day retains the Name of *Lombardy*. Thus did *Constantinus Porphyrogenitus* <sup>1</sup>, *Cedrenus* in many Places, and *Zonara* on *Basilius Macedo* call it; and *Porphyrogenitus* in his *Themata* <sup>2</sup> speaking of the Irruption of the *Saracens* into *Bari*, calls it simply *Longobardia*: Whence it came to pass, that *Beneventum* being exalted to be the Head of so large a Dukedom, as *Pavia*, the Head and Seat of the *Longobard Kings*, was by the *Latins* call'd *Ticinum*; so this City, as being the Head and Seat of the lesser *Lombardy*, by the *Latin Writers* of this and the following Age, was also call'd *Ticinum*, which the most accurate *Pellegrinus* in his Preface to the Anonymous <sup>3</sup> *Salernitanus* shews.

AT this Time *P. Diaconus* <sup>4</sup> thought *Beneventum* deserv'd to be call'd *Civitas Opulentissima*, and Head of many Provinces; a City reputed then the most polite and magnificent of all the Cities of our Provinces; and it rais'd its Head much higher, when *Arechis* by building the *Citta Nova* close by it, made it much larger, and more populous. And when Learning was almost quite lost in *Italy*, and except among the Monks, there was nothing but gross Ignorance; *Beneventum* alone, in the midst of so much Barbarity, took care to preserve Learning. The Anonymous *Salernitanus* <sup>5</sup> relates, that in the Time of the Emperor *Lewis*, there flourish'd Thirty-two Philosophers in *Beneventum*: *Tempore quo Lodovicus præerat Samnitibus, triginta duos Philosophos Beneventum habebat*. Not that they were truly such, as the careful *Pellegrinus* observes, but according to the Custom of those Times, all those were call'd Philosophers who profess'd human Learning. *P. Warnefride*, Deacon of the Church of *Aquileja*, notwithstanding his being so much attach'd to his *Longobards*, by which he had so often offended *Charles the Great*, yet in Consideration of his Learning always found Favour, and had no other Punishment inflict'd upon him, but Banishment to *Tremiti*. From the Name then of so magnificent a City this vast Dukedom took its own; whence likewise it came to be call'd the Province of *Beneventum* by *Leo* <sup>6</sup> *Ostiensis*, or absolutely *Beneventum*, according to *Erchempertus* <sup>7</sup>: Whence those Bishops who were sent by *Arechis* to meet *Charles the Great*, in order to soften him, are call'd by the Anonymous *Salernitanus*, *Beneventani Antistites*, just so as *S. Gregory the Great* call'd those who were set over the Churches of the Dukedom of *Naples*, *Neapolitani Episcopi*.

THIS Extent, with respect to the Administration, likewise occasion'd a new Polity, and a Division of the Dukedom into small Provinces, which were call'd *Contadi*, or *Gastaldati*, each of which had a separate Government, and the Cities of the Dukedom were under the Direction of many Officers, it being impossible for the Duke alone to have the immediate Direction of them; therefore the Administration of many of them was given to the *Longobard Lords* who had signaliz'd and distinguish'd themselves in the Wars, and these were call'd *Comites* or *Gastaldi*, inferior however to the Dukes, on whom they depended; whence the Counts had their Rise in our Country. *Mitola* having behav'd himself so well in the War against *Constans*, for a Reward of his Valour was made Count of *Capua* by *Grimoaldus*, as we have said: And thus from Time to Time many Cities of this Dukedom were given to Counts, to be govern'd by them with full, tho' dependent Authority; neither were they remov'd from the Government and Administration of them, but for Felony, or at Death: And in process of Time it became a Custom, that if their Male-Line was not extinct, the Counties were not transferr'd to another Family.

IN this manner were the Counties and Fiefs introduc'd among us: Formerly the Word Count did not denote Dominion, but Office; they were call'd Counts, because their particular Office was to preside in the Assemblies, or Meetings of Men

<sup>1</sup> Lib. de Administ. Imp. cap. 29.

<sup>2</sup> Const. Porph. de Them. lib. 2. Them. XI.

<sup>3</sup> Pag. 164. num. 9.

<sup>4</sup> Paul. Diac. lib. 2. cap. 11. five 20.

<sup>5</sup> Anonym. Salern. in hist. Longob. apud Pelleg. in Prefat. ad Anonym. Benev.

<sup>6</sup> Lib. 1. cap. 19.

<sup>7</sup> Erchemp. apud Pell. num. 1.

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who were sent upon some Expedition; they distributed Justice, and presided in the Publick Courts for deciding Controversies amongst the People committed to their Charge, which is clear from the *Longobard Laws* <sup>1</sup>. The Government of the Cities and the Country about them, was given to them, not as Proprietors, but Officers: Sometimes Counties were given for Life, and sometimes for a certain and determinate Time; however the *Longobard Princes* were wont to confirm them Yearly, in order to keep them always in Subjection and Dependent, that being Tenants at Will, they might not be induc'd to plot any Thing in prejudice of the State. But when by long Experience they were sure of their Fidelity, and that the County committed to their Charge had been govern'd with great Uprightness and Justice, it began to be a Custom among the Princes, of whom they deserv'd well, to give them in Fief and Dominion, that which formerly they held as Officers; however this was restricted to their own Persons: Whence, as our *Marinus Frescia* well observes <sup>2</sup>, the Counties did not go to Heirs; therefore we often read in old Charters such a one call'd *Comes & Dominus*, which imports, that for his signal Service and Fidelity he had obtain'd the County in Fief and Seignory, which formerly he had only the Administration of. Afterwards in process of Time, out of Compassion, it became usual, that the Fief went to Sons, but never to Heirs; for if the Fiefs were taken from the Sons, they would be reduc'd in an instant to extreme Misery and Poverty, which would ill suit with the Nobleness of Blood: On the contrary, would stain and extinguish it altogether. Thus did Fiefs and Counties begin in these our Provinces under the *Beneventan Longobard Princes*, before they were in those which were subject to the *Greeks*. Therefore the Counties into which the *Beneventan Dukedom* was divided, multiplied very much afterwards; the first was the County of *Capua*, which, as we shall shew, became thereafter a very large and noble Principality; next to it the Counties of *Marfi*, *Sora*, *Molise*, *Apruzzi*, *Consa*, and many others which gave Names to the Provinces into which the Kingdom is now divided. Therefore the Princes of *Beneventum*, by reason of the Number of their Counts, appear'd in greater Splendor; from many of which the most illustrious Families of the Kingdom derive their Origin; such as the Counts of *Aquino*, *Tiano*, *Penna*, *Acerenza*, *S. Agata*, *Alife*, *Albi*, *Bojano*, *Cajazza*, *Calvi*, *Capua*, *Celano*, *Cbieti*, *Consa*, *Carinola*, *Fondi*, *Ifernina*, *Larino*, *Lefina*, *Marfi*, *Mignano*, *Molise*, *Morono*, *Penna*, *Pietrabbondante*, *Pontecorvo*, *Presenzano*, *Sangro*, *Sesto*, *Sora*, *Telesse*, *Termoli*, *Trajetto*, *Valve*, and *Venafro*; that as *Charles the Great* was said to have been the greatest Maker of Count Palatines, so were our *Beneventan Princes* the greatest Makers of Counts.

FROM the Time of the coming of *Alczecus* Duke of *Bulgaria*, the *Castaldati* were also introduc'd; the *Castaldi* were inferior to Counts, and as the incomparable *Cujacius* accurately observes, they were not properly Feudatories; they were as Guardians who got the Cities or Villages *jure Castaldia*; they held them not *jure Feudi*, as if they were perpetually to enjoy the Profits of them, but the Government and Administration of them were given for a Time, with this Clause, *during Pleasure*; and it was in the Option of the Granter to resume them at Pleasure, as *Grimoaldus* did when he gave *Supino*, *Bojano*, *Ifernina*, and some other Places in their Neighbourhood in *Castaldato* to *Alczecus*, and therefore he would not allow him to be call'd Duke, but *Castaldus*: whence we often read in *Erchempertus* <sup>3</sup>, and *Ostiensis*, that those who were made *Castaldi* aspir'd afterwards to be Counts, as *Atenulphus* pretended, who from being *Castaldus* of *Capua*, by the Help of *Athanasius* Bishop and Duke of *Naples*, was made Count of that City <sup>4</sup>. Whence we clearly see, that the Office of the *Castaldi* was not so mean, and confin'd only to the Government of the Kings Houses or Courts, or Villages and Farms, but likewise extended to that of Cities. Those to whom the Charge of Farms and Villages was committed were also wont to be call'd *Castaldi*; and of this Sort the *Longobard Laws* make mention in many Places <sup>5</sup>, as also our feudal Laws: This Title came likewise to be given to those who had the Charge of the Revenues of the Church, who by *Urban II.* <sup>6</sup> are call'd Administrators of the Ecclesiastical State; whence the Monasteries of Nuns also had their *Castaldi*, of which besides

<sup>1</sup> Lib. 2. tit. 52.

<sup>2</sup> Freccia de Subfeud. pag. 71.

<sup>3</sup> Erchemp. num. 65 & 66. Ostiens. lib. 1. c. 48.

<sup>4</sup> Erch. num. 62.

<sup>5</sup> Lib. 1. tit. 34. & lib. 2. tit. 17.

<sup>6</sup> Causa 1. quæst. 3. can. 8. Salvator Dufresne in Lexic.

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more ancient Instances related by *Pellegrinus*, *John Boccacio* can give us sufficient Testimony, with which Office, as a Reward of his continual Labour, *Masetto da Lamporechio* was honour'd by the Nuns of that Place; besides, those were call'd also *Castaldi*, who were set over particular Cities by publick Authority, and who had the Care and Civil Government of them; and besides the Charge of publick Affairs, they were wont to preside in the Courts of Justice, for which they had Salaries appointed by the Publick, and some Revenues assign'd them, which were by our Feodal Laws said to be due to them *nomine Gastaldia*. They were by their Office to do Justice to, and oversee the People under their Command, and to decide their Controversies after the same manner that the Counts did, which is evident from the *Longobard Laws*<sup>1</sup>; which they did not do without the Advice of one or more Lawyers<sup>2</sup>, who were their Assessors: Therefore the Custom which continues in our Kingdom, of giving Assessors or Judges to Governors, is more ancient than some have believ'd. But the *Castaldi*, besides the Civil Power, had sometimes likewise the Military, which is manifest from a Law of *Rotaris*'s<sup>3</sup>, and from what *Anastafius Bibliothecarius* relates of the War of *Cuma*, in which near Three hundred *Longobards* with their *Castaldus* who led them on, and had the Charge of that Expedition, were kill'd by the Duke of *Naples*: By all which, if we will not believe what *Cujacius* says of the Difference betwixt these *Castaldi* and real Feudatories; to wit, that those as Guardians were appointed for a Time, and not perpetually, we shall not know how to distinguish the Counts from the *Castaldi* by more clear Marks. And tho' *Camillus Pellegrinus*, not liking the Opinion of *Cujacius*, has endeavour'd to distinguish them by saying, that tho' the *Castaldi* agreed with the Counts in many Things, nevertheless their proper Office was to have the Inspection of publick Matters, deriving it from the Etymology of the Words *Guaß* and *Halden*, Words of the German Idiom, which the *Longobards* often made use of<sup>4</sup>, which means nothing else but *Hospitum tenere*, which *Vito Amerpachio* observes in his Notes on the *Capitularia* of *Charles the Great*; and *Hospitum* not being applicable to a private House, but to that of the Magistrates or Town-Hall, therefore he is of Opinion, that the particular Charge of the *Gastaldus* relating to publick, and not to private Matters, he was by that distinguish'd from the Count: Nevertheless be that Derivation as it will, and tho' originally this had been the Office of the *Castaldi*, yet seeing afterwards they were put over intire Cities, with the adjacent Countries, and had, as we have seen, all Power both Civil and Military committed to them as the Counts had; these two Offices will always be confounded, if we say not, that the one was for a Time, and the other perpetual, and given *proprio Jure Feudi*; and tho' in the Beginning they were on the same Footing with the Counts as to the Duration of their Office, nevertheless in process of Time, the Counts were not depriv'd of the County, but either for Felony or Death, and afterwards it was seen to descend to their Male Children. There was also another Mark whereby they were distinguish'd, for the Title of Count denoted Dignity, and that of *Castaldus* Office; whence we often read in old Charters, *Dignitate Comes, munere Castaldus*.

HOWEVER tho' the Dukedom of *Beneventum* was divided into many Counties, and *Castaldati*, as it was into Provinces, which is manifest from the *Capitularia* of *Radelchisis* Prince of *Beneventum*; yet their Number and Extent have not appear'd from Historians: however the most remarkable were those of *Taranto*, *Cassano*, *Cosenza*, *Laino*, *Lucania*, or *Pesto*, *Montella*, *Salerno*, and that of *Capua*; the largest were those of *Capua* and *Cosenza*; that of *Capua* reach'd towards the West to *Sora*; that of *Cosenza*, on the other hand as far as *S. Euphemia* and *Tropea*. There was also the *Castaldatus* of *Chieti*, which comprehended many Cities and Towns; that of *Bojano* with the adjacent Places, establish'd by *Grimaldus* in the Person of *Alczecus* the *Bulgarian*, which Two hundred Years thereafter, was possess'd by *Guandalpertus*<sup>5</sup>. This special Grant was transferr'd from *Bojano* to *Molise*, in its Neighbourhood; whence it was first call'd the County of *Molise*, and afterwards the Province of the County of *Molise*, which Title it retains to this Day. There were those of *Telesse*, *S. Agata*, *Avellino*, and *Acerenza*, *Bari*, *Lucera*, and *Siponto*; and in short, there were *Castaldi*, or Counts appointed to all

<sup>1</sup> Lib. 2. tit. 52. l. 19. ex Pepini Regis Const.<sup>2</sup> Camill. Pel. dif. Duc. Ben. in antiq. Prov. &c. pag. 81.<sup>3</sup> Lib. 1. tit. 14.<sup>4</sup> L. 15. tit. 14. lib. 1. LL. Long.<sup>5</sup> Erchemp. num. 29.



the most conspicuous Cities of this Dukedom; in the Distribution of which there is no regard had to the ancient Polity or Disposition of the Provinces, according to the Division made of them under *Constantine* and his Successors; that fail'd altogether, and a new one arose.

IN this flourishing Condition was the Dukedom of *Beneventum* when the *Lombards* were vanquish'd and defeated in *Parvia*. But Military Discipline had not decay'd among the *Beneventan Lombards*; they had always been kept in Exercise by the *Neapolitan Greeks*, with whom they had continually cruel and obstinate Wars; for the *Lombards* always endeavour'd to reduce the Dukedom of *Naples* under their Dominion, as they had done almost all the other Parts of these Provinces, which now make this Kingdom; the Power and Bravery of the *Neapolitans* was the more conspicuous, in that they were oblig'd to fight with unequal Forces, and to contend with an Enemy as near, as numerous and powerful: They resisted with so much Intrepidity and Valour, that the *Beneventans* were not able to subdue this Dukedom; and it was but in the latter Times that they made it Tributary. After having shewn in what State the *Beneventan Lombards* were, when their Kings were driven out of *Italy*, it will now be fit that we likewise give an Account of the Fate and Dominion of the *Greeks*, which they as yet had in these Parts, and which they continu'd to keep in the same manner that the *Beneventans* did, after that *Charles the Great* had made himself King of *Italy*.



## C H A P. II.

### *Of the Dukedom of Naples, its Extent and Polity.*



THE Empire of the East, after the Invasion of the Barbarians, who had made themselves Masters of *Egypt*, *Africa*, *Syria*, *Persia*, and other large Provinces of *Asia*, was confin'd to *Asia Minor*, *Greece*, *Thrace*, and a small Part of *Italy*, with the neighbouring Islands; and there was no further regard had to the ancient Distribution of its Provinces, for its Form being chang'd, new Divisions into Districts, some greater, some lesser, were introduc'd, and were call'd *Themata*, which had their particular Governors. *Constantinus Porphyrogenitus* compos'd two Books of them; in the first he number'd the *Themata*, or Provinces of *Asia*, which were seventeen; in the second those of *Europe*, whose Number was twelve. Amongst the *Themata* of *Europe*, *Sicily* is the tenth, and *Lombardy* eleventh. Which Name of *Lombardy* the *Greeks* gave to that small Remnant which they had of *Italy*, according to their Vanity and Custom of retaining the Name at least of what others had made themselves Masters of in that Empire; as for the rest, the greater *Lombardy* had been possessed by the *French*, as the lesser by the *Beneventan Lombards*. The Countries which *Constantinus* reckon'd under the *Thema* of *Lombardy*, which were subject to the Empire of the East, are those of the Dukedom of *Naples*, which City he therefore likewise honours with the Title of Metropolis, as being the Head of a not despicable Dukedom, and the ancient *Calabria*, which it still was Master of. The *Bruttii* together with *Reggio*, *Girace*, *Sancta Severina*, *Crotone*, and other Cities, quibus *Prætor Calabriae dominatur*, which are his Words<sup>3</sup>, are ascrib'd to the *Thema* of *Sicily*.

<sup>1</sup> Constant. Porph. de Themat. Im Orient.

<sup>2</sup> Const. loc. cit. Th. XI. Neap. Metropolis.

<sup>3</sup> Const. loc. cit. Them. X.

AFTER

AFTER the Exarchate of *Ravenna*, which was the chief Magistracy that the Emperors of the East had remaining in these Western Provinces, and on which all the other Dukedoms depended, was extinguish'd in *Italy*; the *Greeks* not having any other Thing left in the West, but *Sicily*, *Calabria*, the Dukedom of *Naples*, that of *Gaeta*, and some other maritime Cities, appointed a new Magistrate for the Government and Administration of these Countries, whom they call'd Patrician or Deputy; and to each *Thema* they sent a particular Patrician to govern it. *Constantine* <sup>1</sup> himself in his other Book *De Administando Imperio*, jumbling as usual, true Facts with fabulous; and not remembring what he had wrote in the second Book of his *Themata*, says, that from the Time that the Seat of the Empire was translated to *Constantinople*, there were two Patricians sent to *Italy* by the Emperor of *Constantinople*, one to govern *Sicily*, *Calabria*, *Naples*, and *Amalphis*; and the other, *Beneventum*, *Capua*, *Pavia*, and the other Places of that Province; and that each of them paid a yearly Tribute to the Emperor's Exchequer: He adds likewise, that *Naples* was the ancient Seat of the Patricians, and that whoever govern'd this City, had also *Sicily* under his Jurisdiction; and that when the Patrician came to *Naples*, the Duke of *Naples* went to *Sicily*. Altho' this Account be repugnant to all History, for after the Imperial Seat was translated to *Constantinople*, *Italy* was not govern'd by Patricians, but *Consulares*, *Correctores*, and *Præsides*, all of them under the *Præfectus* of *Italy* or of *Rome*; and it was not till towards the End of the Empire of *Justin*, that its Polity was alter'd, when the Dukes were introduc'd, and the Exarchate of *Ravenna* establish'd by *Longinus*, neither did the Duke of *Naples* ever afterwards concern himself in the Government of *Sicily*; this Dukedom being comprehended, together with the ancient *Calabria*, in the *Thema* of *Lombardy*: Nevertheless, what he says of the Patrician who was appointed for *Sicily*, his having likewise the Administration and Government of *Calabria*, and of all the other Places which were yet subject to the Emperors of the East, if we will have regard to the Time of *Charles the Great*, in which we now are, is not at all fabulous.

FROM the Extent of the Dukedom of *Beneventum* as above describ'd, we may easily know what was remaining to the *Greeks* in ancient *Calabria* and the *Bruttii*, and how far the Dukedoms of *Naples* and *Gaeta* extended, which for a long Time continu'd under their Dominion. In ancient *Calabria* the *Greeks* had at this Time remaining, after they lost *Taranto* and *Brindisi*, only the Cities of *Gallipoli* and *Otranto*; but in the *Bruttii*, besides *Reggio* they possess'd many other Cities, such as *Gerace*, *Sancta Severina*, *Crotone*, and other Towns of that Province. They as yet likewise possess'd *Amantea*, *Agripoli*, and the Promontory which we now call the *Cape of Licosa*. All these Places, tho' they had particular Magistrates, by whom they were immediately govern'd, yet they were at this Time intirely assign'd to the Government of the Patrician of *Sicily*; for formerly only the *Bruttii* on the Mediterranean or Lower Sea, on this Side of the *Fare* belong'd to *Sicily*, as being nearest to it; forasmuch as the ancient *Calabrians* of the Upper Sea, which we now call the *Adriatick*, as also *Naples* and *Amalphis*, were not of that *Thema*, but as *Porphyrogenitus* himself says in the second Book of his *Themata*, they belong'd to the *Thema* of *Lombardy*; but the *Greeks* having afterwards lost *Taranto* and *Brindisi*, and (excepting *Gallipoli* and *Otranto*) all the other Towns of ancient *Calabria*; the Cities which they had in this Province, with those remaining to them in the *Bruttii*, and in that Part of ancient *Lucania*, which we now call the *Hither Calabria*, and in the Dukedom of *Naples*, belong'd to the *Thema* of *Sicily* <sup>2</sup>, together with *Gaeta*; so that the Patrician who was appointed for the Government of it, as *Porphyrogenitus* says, had also the Superintendency of *Calabria*, *Naples*, and *Amalphis*; which, however strange it may seem with respect to *Amalphis* and *Naples*, yet it is not to be doubted as to *Gaeta*, which is evident from the Epistles of Pope *Adrian*, who, after *Charles the Great* had yielded *Gaeta* to him, which a little before he had taken from the *Greeks*, and which *Arechis* had got to be restor'd to them, writing to *Charles the Great*, complains of the *Beneventan Longobards*, calling them *Nefandissimi*, who being Confederates of the Patrician of *Sicily*, had robb'd him of that City, and subjected it to that Patrician, who resided then in *Gaeta* <sup>3</sup>. Neither could the most accurate *Pellegrinus* deny, in relating this Place of *Adrian*, but that then, besides

<sup>1</sup> De Admin. cap. 27.

<sup>2</sup> Pellegr. in Differ. de Finib. Ducat. Ben. pag. 72.

<sup>3</sup> Adrian. Ep. 73. Pellegr. in Fin. Duc. Ben. ad Meridiem.

that Island, many other Cities on this Side of the *Fare* belong'd to the Government of the Patrician of *Sicily*, and of which he had the Superintendency. But as for *Naples* 'tis said, that by the Death of *Antimius*, who succeeded *Theophilus* in the *Neapolitan* Dukedom, Disputes having arisen about the Election of a new Duke; the *Neapolitans* being divided into Factions, in order to appease them they were forc'd to have recourse, not to the Exarch of *Ravenna*, as formerly, but, there being no such Officer, to the Patrician of *Sicily*, who in order to quell the Disturbance sent *Theoclistus* to be their Duke; but he was soon turn'd out by the Emperor, for these Disputes reach'd *Constantinople*, and *Theodorus Protospatarius* was quickly sent to be Duke, to whom *Theoclistus* was oblig'd to yield the Place. Whence *Capacius*, or whoever was the Author of the *Latin* History of *Naples*, infers, that our Dukes were either directly sent from *Constantinople*, or were chosen by the *Neapolitans*, who expected the Confirmation of their Election from the Emperor; which *Camillus Pellegrinus* has clearly demonstrated.

FROM this Superintendency, which in those Times we see belong'd to the Patrician of *Sicily*, over these Provinces on this Side of the *Fare*, I believe, if it be allow'd to make Conjectures about Things so obscure, that afterwards our *Norman* and *Suevian* Princes deriv'd the Custom of calling this Part on this Side of the *Fare* also by the Name of *Sicily*; whence afterwards the Popes, for the clearer Distinction, call'd this Kingdom *Sicily* on this Side of the *Fare*, and the other *Sicily* beyond the *Fare*. From the Time of the *Normans* the Name of *Sicily* was certainly common to both these Kingdoms; and if there be not an Error in that Charter of *Roger the Norman*, related by *Ughellus* <sup>1</sup>, which was granted about the Year of Christ 1115, and written in the *Greek* Language, in Favour of the Church of *S. Severina* in *Calabria*, we see from that Time the Name of *Sicily citra Farum*, was in use; for *Roger* is there call'd *Comes Calabriae*, & *Siciliae citra Farum*. Which afterwards our *Norman* Kings, and commonly the *Suevian* follow'd, for in the Time of these Kings, the Name of the Kingdom of *Sicily* comprehended not only that Island, but likewise this our Kingdom; of which in another Place we shall discourse more at large.

NEITHER ought we to pass over in this Place another strong Conjecture of the most accurate *Pellegrinus*, who suspects that the Change and Transferring of the Names of these two Provinces comes from this, to wit, that what according to the ancient Distribution was call'd *Brutium*, and Part of *Lucania* was afterwards call'd *Calabria*; and on the other hand, the ancient *Calabria* losing its old Name, was first call'd *Longobardia*, or *Puglia*, and afterwards *Terra d'Otranto*, and *Terra di Bari*; for as we have said, the *Greeks* before the coming of the Emperor *Constans* to *Beneventum*, had Possession of *Sicily* and the neighbouring *Brutii*, and extended their Dominion, besides *Cosenza*, over all this Coast as far as *Agripoli*, and the maritime Cities of *Campania*, *Amalphis*, *Sorrento*, *Stabia*, *Naples* and *Cuma*, to *Gaeta* on the Coast of the lower Sea; and on that of the upper Sea, they retain'd almost all the ancient *Calabria*, and its maritime Cities, *Taranto*, *Brindisi*, *Otranto*, and *Gallipoli*, as far as *Bari*; all these Places were describ'd in two *Themata*, and divided into two Provinces. The I. was *Sicily*, and the neighbouring *Brutii*. The II. comprehended all the other Places, tho' much separated and divided from one another, which pass'd under the Name of the ancient *Calabria*, and afterwards *Lombardy*, which at this Time was the richest and largest Province they possess'd. But after *Constans* was defeated, and his Army put to Flight by *Grimoaldus*, the *Greeks* were almost intirely ruin'd in that Province; for except *Gallipoli* and *Otranto*, all the Cities of *Calabria*, as well Inland as Maritime, were possess'd by *Romualdus* Duke of *Beneventum*, and incorporated into his Dukedom. But the Emperors who succeeded *Constans*, according to the wonted Vanity of the *Greeks*, that the Provinces of the Empire might not seem to be diminish'd in Number, the ancient *Calabria* not being intirely lost, there remaining still *Otranto* and *Gallipoli*, they retain'd the same Name, and applied it to the neighbouring *Brutii*. And since the Seat of the Prætors of this Province had been settled by the *Greeks* in *Taranto*, which City was now possess'd by the *Beneventan Longobards*, it behov'd them to translate it elsewhere, and to a Place where their Dominion was largest, whereupon it was remov'd to *Reggio* amongst the *Brutii*; thus *Reggio* being appointed the Seat of the chief Magistrate who govern'd that Province, *Brutium* likewise got the Name of *Calabria*, as did

<sup>1</sup> Ughel. tom. 9. Ital. Sacra in Archiep. S. Severin.

also a Part of *Lucania*; so that in the following Times they were oblig'd to divide it into two Provinces, which were call'd the *Hither* and *Further Calabria*; and thus was *Brutium* call'd *Calabria* by the *Greeks*. The *Longobards*, as it happens amongst Neighbours, after their Example call'd those inland Places which they possess'd in *Brutium*, likewise *Calabria*; and the Places of the ancient *Calabria*, from *Taranto* to *Brindisi*, which they had taken from the *Greeks*, they call'd no more by this Name, but *Puglia*, as being adjacent to the ancient *Puglia*, which was before in their Possession: And on the other hand, what the *Greeks* had lost in the ancient *Calabria* on the upper Sea, and which was in the Hands of the *Longobards*, they call'd no more *Calabria*, but *Lombardy*; and thus did this Province lose its ancient Name, which was given to another.

SUCH in these Times was the Distribution and Polity which the *Greeks* practis'd in the Places that had remain'd to them in these Provinces. But now it remains that we give a particular Account of the State of the *Neapolitan* Dukedom in this Century, and how far it extended its Borders, and how it has been able to contend with the *Beneventans* for its Liberty.

THE Dukedom of *Naples*, after *Theodorus*, *Sergius*, *Crispanus*, *Joannes*, *Exbiteratus*, and *Petrus*, had successively govern'd it, was at this Time under the Administration of *Stephen* Duke and Consul, who, as we have said in the foregoing Book, after his Wife's Death was by the *Neapolitans* elected, and by *Stephen III.* confirm'd Bishop of *Naples*, who, notwithstanding this new Dignity, not very consistent with that of Duke, did not give up the Government of the Dukedom; but only for aiding and supporting him in his Old Age, he procur'd from the Emperor *Constantine*, Son of *Irene*, who at that Time reign'd in the East, that his Son *Cesarius* should be given him for his Colleague and Successor; but altho' he had him for Colleague, he could not be his Successor, being snatch'd away by untimely Death, in the Flower of his Age, which was a great Affliction to his Father; who for a Monument of his Grief erected him a Tomb, on which in Acrostick Verses (for in these, at this Time, all the Sharpness of Wit and Skill of Poets consisted) he laments his Misfortune, and extols the Praise and Worth of his beloved Son. The Stone of this Tomb was formerly seen in the Churchyard of *S. Januarius* without the Walls of this City, and is not as yet lost, as the late Writer of the *Latin History of Naples* believes, but by some unknown Accident has been transported to *Salerno*, and is to be seen in the Church of the *Minor Conventuals*; and tho' he had never read *Cbioccarelli*, *Camillus Pellegrinus*, and *Maza*, who relate it, he might have seen it with his own Eyes in *Salerno*, not far from *Sorrento*.

UNDER the Government of *Stephen*, the Borders of this Dukedom reach'd towards the West as far as *Cuma*; the Islands *Enaria*, now call'd *Ischia*, *Nisita*, and *Procida*, with the other maritime Places of that Neighbourhood, such as *Pozzuolo*, *Baja*, *Miseno*, and the fabulous Mouths of the *Stygian* and *Avernian* Lakes, and the *Elysian* Fields were comprehended within its Limits. Towards the South the maritime Cities of that Coast, such as *Stabia*, which is now call'd *Castellamare*, *Sorrento*, and *Amalphis*, with the Island of *Caprea*, were included in it.

*AMALPHIS*, as also *Sorrento*, were not only in the Time of *Arechis*, but even to the Time of *Sicardus* Prince of *Beneventum*, comprehended in the *Neapolitan* Dukedom. *Amalphis* had not as yet been disjoin'd from it, as it was afterwards, when being made a separate Dukedom, it extended its Bounds so much, that it became one of the most flourishing and powerful States that was in all these Provinces, whose Inhabitants were famous and renown'd for their Skill in Navigation, over all the Nations of the East, of which we shall have a more fit Occasion to discourse elsewhere. Hitherto, and for many Years after, laying aside idle Stories, 'tis clear, that *Amalphis* was united to the *Neapolitan* Dukedom, and under the Government of the Dukes of *Naples*; for one of the Efforts which *Arechis* made upon the Dukedom of *Naples*, was the Expedition against *Amalphis*, to which he laid close Siege with a powerful Army, and burnt all the open Places in its Neighbourhood; and if the *Neapolitans* had not gone to the Relief of that City, which was in their Dukedom, and with incredible Valour had not put to flight, and dispers'd the *Beneventans*, part of whom they made Prisoners, and kill'd a great many, certainly *Amalphis* had been taken and subjected to *Arechis*. *Adrian*, who took this Attempt of the *Longo-*

\* Châocar. de Ep. Neap. in Steph. Camil. Pel. hist. Princ. Long. in Tumul. Mazza de reb. Salerbards

bards against the *Greeks* in ill Part, gave a distinct Account of the Success of it to *Charles the Great*, which Letter of his is to be seen at this Day <sup>1</sup>, in which he calls the People of *Amalphis* plainly of the Dukedom of *Naples*. For which Cause the *Neapolitans* run to their Assistance.

IN the Time of *Sicardus* Prince of *Beneventum*, *Amalphis* as well as *Sorrento* was subject to the Dukedom of *Naples*, which is manifest from the *Capitularia* of this Prince, printed among the Monuments of our *Longobard* Princes, by *Camillus Pellegrinus*, wherein *Sicardus* promises to the Duke of *Naples* to observe those Capitulations, which had been agreed upon after a bloody War, as well for *Naples*, as for his other Cities, to wit *Sorrento*, *Amalphis*, and for all the other Castles subject to the Duke of *Naples*. And in *Erchempertus* <sup>2</sup> we likewise read, that the Duke of *Naples* sent the Inhabitants of *Amalphis* to fight against the *Capuan Longobards*, in order to oblige the Prince of *Salerno*, with whom he had entred into a Confederacy against the *Capuans*. The Anonymous *Salernitanus*, in a History not as yet printed, in many Places takes it for granted, and says, that the *Amalphitans* had their annual Counts, who were appointed to govern the City, and were subject to the Dukes of *Naples*, as the most accurate *Pellegrinus* also testifies. However 'tis certain, that *Sorrento* was afterwards subject to the *Longobards*, because we read, that *Landulphus* created a Son of his Duke of this City <sup>3</sup>.

BUT how far the Dukedom of *Naples* reach'd towards the East and North, may be easily determin'd, for it could not extend itself over the inland Places Northwards, as being all possess'd already by the *Beneventans*; and *Capua* being likewise in their Possession, much confin'd its Limits on that Side; and on the other hand *Nola*, *Sarno*, and *Salerno* were also subject to them. It could only keep these open Fields and some Places round about, which by the Garrison of the City, and the Strength of their Arms they were able to defend. Only *Nocera*, which we now call *Nocera de Pagani*, an inland City, maintain'd itself under the Dukedom of *Naples*, so that in the Year 839, *Radelchisus* Prince of *Beneventum* having sent *Dauserius* into Exile, he went to *Nocera*, *ut potè urbi tunc Juris Ducatus Neapolitani*, as *Pellegrinus* says <sup>4</sup>: Just so as the *Romans*, who being exil'd, fulfill'd their Sentence in going to *Naples*, and other confederated Cities. The maritime Cities of this Province stood their Ground, because they were defended by the Sea, and by reason of their Situation, were inaccessible to the *Longobards*, who had no Naval Forces, for which Cause they made their greatest Conquests over the inland Cities.

THIS Dukedom retain'd also a Polity like unto that of *Beneventum*; for its Cities had their particular *Rectores*, by whom they were immediately govern'd, who were likewise call'd Counts, and were subordinate to the Dukes of *Naples*; the Anonymous *Salernitanus* says the same of *Amalphis*: *S. Gregory the Great* gives us a certain Testimony of the Count of *Miseno*, and he makes mention of this Count in one of his Epistles <sup>1</sup>; as for *Sorrento*, *Stabia*, *Cuma*, and the other Places, tho' we meet with no Vestige of it in Authors, however we ought to believe, that they were also govern'd by such a Magistrate. The Dukes of *Naples* certainly appointed the Count of *Aversa* in the Time of the *Normans*, because they founded that City. But these Counts were not Feudatories, as they were in the Dukedom of *Beneventum*: They were purely Officers, and for a certain Time, because Fiefs were not known among the *Greeks*; whence it came that the Provinces of *Calabria* and *Bru-tium*, as well as *Naples*, knew them later than those which compos'd the Dukedom of *Beneventum*. But with what Laws *Naples* and its Dukedom, and the other Cities which were under the Dominion of the Emperors of the East, were govern'd in these Times, whether by those of *Justinian*, whose Pandects were afterwards found in *Amalphis*, or by the Laws of the other Emperors of the East his Successors, we shall have a more fit Opportunity to relate in another Place, when we shall give an Account of the new Compilations made by the Emperors of the East in Emulation of *Justinian*.

SUCH was the State of these Provinces which now make up the Kingdom of *Naples*, when *Charles* King of *France*, after having vanquish'd and subdu'd the *Longobards* in *Pavia*, and put in Fetters *Desiderius* the last King of that Nation,

<sup>1</sup> Ep. 18.

<sup>2</sup> Erchemp. num. 26, & 27.

<sup>3</sup> Pellegr. in Stem. Princ. Long.

<sup>4</sup> Ibidem.

<sup>5</sup> L. 11. indit. 6. epist. 31.

took

took upon him the Title of King of *Italy*, and of the *Longobards*, whereby he pretended to exercise all that Sovereignty over the Dukedom of *Beneventum*, which the other *Longobard* Kings his Predecessors had done.



## C H A P. III.

*How Arechis chang'd the Dukedom of Beneventum into a Principality, and endeavour'd to free himself altogether from Subjection to the French.*



**A**RECHIS, to whom *Desiderius* had given *Adelperga* his Daughter in Marriage, and created him Duke of *Beneventum*, disdaining to be Vassal to *Charles*, as he had been to his Father-in-Law, and as his Predecessors had been to the preceding Kings of the *Longobards*, and scorning to subject himself to foreign Princes, shook off the Yoke, and trusting to the Strength of his own State, and the Hearts of his *Longobards*, dropt the Title of Duke, and assum'd that of Prince, that thereby he might the more plainly declare his Sentiments, which were to be free, and not subject to another. He was the first who call'd himself Prince of *Beneventum*, and it was the first Time that this Title was introduc'd into these our Provinces, which as to Antiquity is posterior to that of Duke, Count, or Marquis, but in Dignity and Prerogative much superior. The Anonymous *Salernitanus*<sup>1</sup>, tho' not a fabulous Writer, as *Baronius*<sup>2</sup> unjustly accuses him, yet with respect to some Facts, of a Childish Wit and Learning, relates of *Arechis*, that when he was but a private Man, there happen'd to him a prodigious Accident, which prognosticated this new Dignity of Prince, to which he was to be advanc'd; he says, that one Day in the Church of *St. Stephen* in *Old Capua*, when many *Longobard* Barons, according to their Custom, all arm'd with Swords, were assembled with Duke *Luitprandus*, who at that Time govern'd *Beneventum*; among the rest *Arechis*, then a Youth, was present, and when every one was praying, *Arechis* began with a low Voice to repeat the *Miserere*; and being come to this Versicle, *Spiritu principali confirma me*, he perceiv'd his Sword to tremble, as if some Body had shaken it: *Arechis*, full of Astonishment and Fear, after the Prayer was ended, told his Friends what had happen'd to him. Upon which one, who was reputed the wisest, broke Silence, and said to him: *T'hou art not to leave this unstable Life, for what I can foresee, before the Lord advance thee to a principal Dignity.* Which afterwards, adds the *Salernitan*, the Event prov'd, for after the Death of *Luitprandus*, *Arechis* was unanimously proclaim'd Prince of *Beneventum*, and rais'd to that illustrious Dignity.

**B**UT, whoever may take Pleasure in these and the like Puerilities, with which the *Salernitan* has stuffed his History, 'tis evident from *Erchempertus*<sup>3</sup>, *Ostiensis*<sup>4</sup>, and all the Chronicles which we have of the Dukes and Princes of *Beneventum*, that *Arechis* was the first among us, that assum'd the Title of Prince. He did not stop there, but in order to give the greater Proof of his absolute Empire, adorn'd himself with Royal Badges; cloathing himself with Purple and the Royal Mantle, grasping the Scepter, and putting the Crown upon his Head; and that nothing of Royal

<sup>1</sup> An. Salern. par. 1. num. 3. apud Pellegr.

<sup>2</sup> Baron. ad. A. 787. num. 101. V. Pellegr.

de Anon. Salern.

<sup>3</sup> Erchemp. num. 2.

<sup>4</sup> Ostiens. lib. 1. cap. 9.



Dignity might be wanting, he likewise caus'd himself to be anointed by his Bishops, as the Kings of *France* and *Spain* were us'd to do; and in fine, he ordain'd, that the Dates of his Writs should be marked after this manner: *Dat. in Sacratissimo vestro Palatio*. And as on the solemn Proclamation of Christian Princes, the Custom was to place their Images in the Churches, in which these Ceremonies were perform'd, so likewise *Arechis* caus'd his Pictures with a Crown upon them, to be plac'd in the Churches of his Dominions; and with an absolute and independent Sway he began to govern these Provinces. He likewise assum'd the Power of making Laws, and we have as yet his *Capitularia*, in which he made many Regulations; in some Heads conforming himself to the *Longobard* Laws, and in others derogating from them; and what the *Longobard* Kings did over all *Italy*, he pretended to practise in his Principality.

IN the Code of the Monastery of the Cave several Times mention'd, among the Edicts of the *Longobard* Kings, we also read one of this Prince, which contains seventeen Chapters. The first begins, *Si quis homo*; and the last ends, *Si quis hominum*. *Camillus Pellegrinus*<sup>1</sup> translated it intirely in his History of the *Longobard* Princes, marking wherein it was conformable to, and wherein it was different from the *Longobard* Laws. The other Princes his Successors follow'd his Example, such as *Adelchis*, *Sicardus*, *Radelchisus*, and others, as may be seen in their *Capitularia*, printed by *Pellegrinus*<sup>2</sup>; so that to the Laws of the *Longobards* Kings were annex'd those of the Princes of *Beneventum*, by which these our Provinces were govern'd, and according to which the Judges decided Controversies, and administer'd Justice. The consulting about War, or Alliances, or Peace, was reserv'd to Prince *Arechis*; he had many Wars with the *Neapolitans*, and many more with the *French*; he assum'd to himself alone the making of Magistrates and Officers of State; the holding of Courts of Justice; the coining of Money with his own Image on it; and all the great and supreme Royal Privileges: In short, the whole Care of the State, as well Political as Military, with all the Rights of Sovereignty, was conferr'd on *Arechis*.

*CHARLES* King of *France*, who, after having in the Year 781. declar'd *Pepin* his Son King of *Italy*, was employ'd in other Expeditions, having heard that *Arechis* had thrown off the Yoke, and taken upon himself all the Royal Badges, and rul'd in *Beneventum* as Sovereign, and being likewise spurr'd on by Pope *Adrian*, who was very jealous of these Steps of the *Beneventans*, in the Year 786. return'd to *Italy* with a powerful Army; and afterwards in the Month of *April* of the following Year 787, he invaded the Principality of *Beneventum*, and threaten'd to besiege that City. *Arechis* this same Year 787. was involv'd in a War with the *Neapolitans* about the Fields of *Nola*, but hearing of the Arrival of *Charles*, who with a formidable Army was destroying his Country, he immediately concluded a Peace with the *Neapolitans*, being afraid they would join with the *French*, and granted them some Subsidies, or *Diaria*, as *Erchempertus* calls them<sup>3</sup>, in *Liburia* and *Cemiterium*, Fields about *Nola* most fertile in Corn and Wine.

WHEN the *French* Army came to *Beneventum*, *Arechis* at first made a strong and obstinate Resistance; but not having sufficient Forces to encounter a vast Army, which like Locusts were destroying every Thing in their way; he fortified *Beneventum* the best way he could, with strong Ramparts, and retir'd to *Salerno*; and it was then that this Prince surrounded this City with high Towers and strong Walls, and that our *Longobards* began to fortify the maritime Cities, in order to secure themselves from the Irruptions of the *French*, from which they were not so safe in the inland Places, as in those on the Sea-Coast, the *French* not having at this Time any Naval Forces to attack them; they had been taught by the Example of *Desiderius*, who for not having had the like Precaution, was made a miserable Prisoner in *Pavia*. In the mean time *Charles's* Army wasted the Country, and having over-run every where as far as *Capua*, did great Damage to the Fields, especially to those of *Capua*. *Arechis* then preferring the Safety of his Subjects to the Love of his Children, sent many *Beneventan* Bishops to treat with *Charles*, and to offer him *Grimoaldus* and *Adelgis*a for Hostages, and to ask Peace of him. The Conference which the Anonymous *Salernitanus*<sup>4</sup> makes to have pass'd betwixt *Charles* and these Bishops, is so entertaining, that it deserves to be related: The King upbraided

<sup>1</sup> Pellegr. Capit. Arech. Princ. pag. 309.

<sup>2</sup> Pellegr. cit. hist. pag. 73, ad pag. 92.

<sup>3</sup> Erchemp. hist. apud Pellegr. n. 2. p. 26.

<sup>4</sup> Hist. Princ. Long. apud Pellegr. n. 3. p. 167.

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the Bishops as too audacious to appear before him; after they had anointed and put the Crown upon the Head of *Arechis* their Prince, which so non-plus'd them, that they knew not what Answer to make, but full of Fear, prostrated themselves with their Faces on the Ground at his Feet: The merciful King, laying aside all Wrath, treated them civilly, and made them rise up; and said to them, *I see the Shepherds, but without their Flock*: To which the Bishops, presuming too much on *Charles's* good Nature, did not stick to answer, *The Wolf came, and has dispersed the Flock*; the King ask'd who was that Wolf? and they answer'd, *T'hou art he*. In fine, after a thousand idle Stories, they intreated him to accept of the Hostages, and to give them Peace, in pardoning *Arechis* and his People; but *Charles* reply'd, That he could not put a Stop to the War, having sworn, that he would live no longer, if he did not sink his Scepter into *Arechis's* Breast. Then one of them call'd *Rodolphus*, Bishop of *Salerno*, advis'd him to break his Oath, and gave him for an Example that of *Herod*, with which the King was not satisfied, but requir'd better Advice of them; the Bishops sought to put a Trick upon him, for they promis'd to deliver up *Arechis* to him, provided that after he had fulfill'd his Oath, he would allow him to reign in his Dominions. Whilst *Charles* was carried from Place to Place by the Bishops, in order to perform their Promise, at last they led him into *S. Stephen's Church*, where they shew'd him a very large Picture of *Arechis*, which was in a Corner of the Church: *Behold Arechis*, said they, *whom thou seekest*. Upon which the King being full of Indignation and Fury, threaten'd to banish them into *France* if they did not perform what they had promis'd; but the Bishops being terrified, prostrated themselves anew upon the Ground, began to ask Mercy, and by many Passages out of the Scriptures sought to allay his Wrath; the Anonymous *Salernitanus* relates, that they wrought so effectually upon him, that at last the inrag'd King going to the Picture of *Arechis*, and striking it strongly with his Scepter, which he had in his Hand, and giving it many Strokes on the Breast, and on the Head where the Crown was painted, said, *This shall be the Fate of him who shall arrogate to himself what is not his Due*; which done, the Bishops prostrated themselves again, and begg'd Peace for *Arechis*. *Charles* at last, by the Intercession of so many, granted it. Let who will believe these Puerilities; 'tis plain however according to *Erchempertus*, that *Charles* went no further than *Capua*, and that there being satisfied with the Hostages, he concluded Peace with *Arechis*, and left the Dukedom of *Beneventum* to be govern'd by him. The Conditions were, that *Arechis* should oblige himself to pay a yearly Tribute; that *Grimoaldus* and *Adalgisa*, should remain as Hostages; that he should deliver up his Treasure: All which was agreed to; and *Charles* sending one of his Gentlemen to *Salernum*, where *Arechis* was, to get them confirm'd, it was immediately done, and the Hostages with the Treasure were consign'd to the King. After which he return'd to *France*, and carried *Grimoaldus* along with him; but after many Intreaties *Adalgisa* was restor'd to her Father in *Salernum*. And if that be true, as it is most certain, that *Charles* went no further than *Capua*, and from thence return'd to *France*, and never came back to these Parts, I don't know from whence *Scipio Mazzella* has taken it, that *Charles*, in the Year 802. instituted a College in *Salernum*, as he had done in *Paris* and *Bologna*; for this City had never been under his Dominion, but was always a safe Refuge for the *Beneventan* Princes during the many Wars which they afterwards had with *Pepin*, whom his Father had left King of *Italy*.

BUT King *Charles* had no sooner left *Capua*, and return'd to *France*, than *Arechis*, little minding the Pledges given, began to treat of a League with *Constantine* Son of *Irene*, Emperor of the East, and enter'd into a strict Confederacy against *Charles*, and sent Ambassadors to *Constantinople* to seek Assistance from *Constantine*, together with the Honour of Patriciate; and, what was of greater Importance, he demanded of him likewise the Dukedom of *Naples*, with all the Places belonging to it, and that he would send him *Adalgisus* his Kinsman, Son of King *Desiderius*, who, as we have said, retir'd to *Constantinople* after his Father had been made Prisoner by *Charles*, with a strong Army; promising on his Part to subject himself to his Empire, which he would not do to *Charles*, and to live after the manner of the *Greeks*, as well in the Tonsure, as Apparel.

<sup>1</sup> Epist. 44. Hadriani Pontif.

*CONSTANTINE* agreeing to his Demand, sent immediately two Ambassadors to *Naples* in order to create him Patrician, who brought him the Mantle of Cloth of Gold, the Sword, the Comb, and the Sandals, that *Arechis* might put them on, and get himself shav'd as he had promis'd; requiring nothing else of him, but that he should give his other Son *Romualdus* as Hostage. The Ambassadors being arriv'd at *Naples*, were receiv'd by the *Neapolitans* with great Solemnity, *cum bandis, & signis*, says *Adrian*<sup>1</sup>; but all these Designs came to nothing by two untimely Deaths. While these Things were transacting, in the Month of *July* of this Year 787, *Romualdus*, who had been promis'd as Hostage to the Emperor, died, whose untimely Death hasten'd that of his unhappy Father, and was never enough to be lamented by the *Beneventans*; *David* their Bishop caus'd to be engraven on the Tomb erected for him, those Verses recorded by *Camillus Pellegrinus*<sup>2</sup> in his Book of the Tombs of the *Longobard* Princes. A short Time after this Death follow'd that of *Arechis* his Father, who after having reign'd Thirty Years in *Beneventum*, in the following Month of *August* in the same Year, was snatch'd from the *Beneventans*, at a Time when they stood most in need of him, leaving them in so deplorable a Condition, that being without a Head, they were, as shall be related, out of cruel Necessity forc'd to have recourse to the good Will of *Charles*, submitting themselves to him under too hard and heavy Conditions, in order to get him to send back *Grimoaldus* whom he had in Hostage. The *Beneventans* lamented him bitterly, and erected him a majestick Tomb in their City, whither *Paul Warnefride* had gone for Shelter after his Exile, who likewise bemoan'd their Misfortune, and extoll'd the shining Virtues of this Prince in many Verses, which we also read in *Pellegrinus*. There remain as yet some Laws of this Prince, which may be seen in his *Capitularia*, printed by the same Author; amongst which we ought not to pass unmention'd, that by which he prohibited the House-Monks, otherwise call'd *Hypocritical Puritans*. King *Luitprandus* had admitted them into his Kingdom, and in one of his Laws<sup>3</sup> commended the Institution. But *Arechis* having perceiv'd that under that Cloke they defil'd themselves with a thousand abominable Lusts, forbid the Cheat under severe Penalties, and order'd them to be shut up in Monasteries. *Arechis* was a Prince of great Courage and Generosity, and in him Piety, Justice, Fortitude, and all the other Virtues strove which should have the Upper-hand. He with great Magnificence finish'd in *Beneventum* the Church of *S. Sophia*, begun by *Gilulphus*. He erected two stately Palaces, the one in *Beneventum*, and the other in *Salernum*, surrounding that City with high Towers, and very strong Walls. He was a Lover of Learning, and very much caref'd the learn'd Men of those Times, and had them in great Esteem and Veneration. He entertain'd *Paul Warnefride* with great Marks of Respect, when he fled from *Tremiti*, whither he had been exil'd by *Charles the Great*, and came for shelter to *Beneventum*; he receiv'd him graciously, and esteem'd him amongst the dearest and most faithful of his Friends; wherefore *Paul*, in Token of his Gratitude, compos'd that Elogy, which he caus'd to be engrav'd upon his Tomb.

<sup>1</sup> Cit. Epist. 44.<sup>2</sup> Cam. Pellegr. de tumul. Princ. Long. p. 234. |<sup>3</sup> Lib. 2. LL. Longob. tit. 37. l. 1.



## C H A P. IV.

*Of Grimoaldus II. Prince of Beneventum, and of the Wars he maintain'd against Pepin King of Italy.*



**A**FTER the Death of *Arcbis*, the *Beneventans* sent Ambassadors to King *Charles*, demanding *Grimoaldus*, with great Submission and Intreaties: They arriv'd in Time before the Confederacy which *Arcbis* had enter'd into with *Constantine* Emperor of the East had been discover'd to the King, of which, not till a Year after, he was advis'd by Pope *Adrian*, which he had discover'd by the means of a *Capuan* Priest call'd *Gregory* <sup>1</sup>, for which Cause they could bring the King with less Difficulty to consent to their Request of granting *Grimoaldus* for their Prince; but before he departed, he bound him to these Conditions: *That he should oblige his Longobards to shave their Beards; that in Writs, and on the Money his Name should be put first, and after it that of Grimoaldus; and that he should cause the Walls of Salernum, Acerenza, and Consa to be demolish'd from the Foundation.* The King could have exacted many more, and much harder Conditions from *Grimoaldus* while he was in his Power. *Grimoaldus* being return'd to *Beneventum*, and receiv'd by the *Beneventans* with infinite Gladness; for some Time he caus'd the Money and Writs pass with the Name of *Charles*, in order to shew him that he design'd to perform the Promises he had made, and that in these Matters he would comply with him, tho' he had no Mind to dismantle the Cities; and to remove all Jealousy, after *Charles* had discover'd the Treaties of his Father *Arcbis*, and the Emperor *Constantine* had sent *Adalgisus* in the Year 788. into *Sicily* with some Troops, that from thence he might go to *Calabria*, and by the Assistance of the *Beneventans* get himself to be proclaim'd King of *Italy*, (the Emperor was likewise offended with *Charles*, who had promis'd him his Daughter in Marriage, and afterwards refus'd to give her) did not only not concur with the Designs of *Adalgisus* his Uncle, but advis'd *Pepin* of this Expedition, by which he meant to gain his Favour, and also *Hildebrand's* Duke of *Spoletto* sent by *Pepin*; the unfortunate *Adalgisus* after having landed with many *Greeks* in *Calabria*, fighting gallantly was defeated, and amongst the rest of the Spoils he became a Prey to the Enemy, who unmercifully put him to a cruel Death by Torture, as *Sigonius* <sup>2</sup> relates. But the Continuator of *Aimoinus* <sup>3</sup>, *Maimburg* <sup>4</sup>, and those who have read *Theophanes* in *Greek*, write, that it was not *Adalgisus* that was put to Death by Torture, but *John* General of the *Greek* Army; for this unfortunate Prince made his Escape after the Battle, and return'd with a few Followers to *Constantinople*, where he liv'd to be an old Man; and at last submitting to his Fortune as his Father had done, he pass'd the Remainder of his Life quietly in the Quality of Patrician; and indeed 'tis the usual Fate of dethron'd Princes, to meet with Pity and Compassion from those they have recourse to, who allow them the empty Title of what they once were; but either for want of Courage or Inclination, when they have it in their Power, never undertake any Thing for their Restoration, but enter into other Measures which they reckon more advantageous and convenient.

<sup>1</sup> Epist. Adriani, 44.

<sup>2</sup> Sigon. an. 788.

<sup>3</sup> Continuat. of Aim. lib. 4. cap. 40.

<sup>4</sup> Maimb. hist. Icon. lib. 3. an. 775.

NEVERTHELESS tho' *Grimoaldus*, in order to remove all Suspicion from *Pepin* and *Charles* his Father, by laying aside all Ties of Blood and Nature, had thus behav'd himself, yet he still retain'd the same Designs with his Father in his Heart, and bent all his Thoughts on putting himself in a Condition to be able to govern the Principality of *Beneventum* with an absolute and independant Authority; he gave over all Thoughts of demolishing *Salernum*, *Acerenza*, and *Consa*, according to the Conditions stipulated with *Charles*; by Degrees he left off putting *Charles's* Name on the Money, and in the Writs; and having married *Wanzia* Niece of the Greek Emperor, made himself the more suspected. Thus a new War broke out with the *French*, which prov'd of long Continuance, for tho' *Charles* was employ'd elsewhere, *Pepin*, a sprightly forward Youth, who was King of *Italy*, could by no means suffer that absolute Empire which *Grimoaldus* assum'd over the Principality of *Beneventum*; therefore in the Year 793. he march'd with a great Army of *French* against him, which furrounded him on all Sides, and threaten'd him with a cruel War. Then *Grimoaldus* bethought himself of removing all Shadow of Suspicion, which his having a little before married *Wanzia* could occasion; he repudiated her, as barren, and, with unheard-of Inhumanity, sent her back again to *Greece* by Force. But that Dissimulation and Cunning, was of no stead to *Grimoaldus*; for *Charles*, besides his having commanded *Pepin* to fight him, had likewise sent *Lewis* his Brother to his Assistance, who went from *Aquitaine* to *Italy*, and having join'd their Forces, they march'd into the Principality of *Beneventum*, where they made War for many Years; and *Erchempertus*<sup>1</sup> relates, that tho' *Charles* and his Sons, whom he had now made Kings, had employ'd their best Troops in order to subdue *Grimoaldus* and his *Beneventan Longobards*; yet they were not able to put their Designs in Execution against this gallant Prince: On the contrary, the Plague having seiz'd their Armies, they were oblig'd to retire, to their great Reproach. In the Space of seven Years, and after so many bold and obstinate Contests, in the Years 800 and 801. they were only able to take *Cbieti* in *Abbruzzo*, with some Places in the Neighbourhood; and tho' the following Year they also took *Lucera* in *Puglia*, it was soon retaken by *Grimoaldus*, and *Guinichisus* Duke of *Spoletto*, with all the Garrison which *Pepin* had left for the Guard of that City, were made Prisoners. In short, all the Time that *Pepin* reign'd in *Pavia*, and *Grimoaldus* in *Beneventum*, *Erchempertus* says<sup>2</sup>, that there was not one Moment of Peace betwixt them; forasmuch as these two Princes being both young, and bent upon War, each of them thought his Honour engag'd to carry the Point. *Pepin*, by seeing himself furrounded by so many courageous and gallant Captains, and so powerful Armies; *Grimoaldus* being supported by the Forces of his greatest Barons, and by the many Cities which he had likewise fortify'd and garrison'd, mock'd the Power of his Enemy, and contemn'd and undervalu'd his Armies. *Pepin* was wont frequently to send Ambassadors to *Grimoaldus* with this Message: *Volo quidem, & ita potenter disponere conor, ut sicuti Arechis genitor illius subiectus fuit quondam Desiderio Regi Italiae, ita sit mihi, & Grimoadt*; to which Message *Grimoaldus* answer'd in these Verses.

*Liber & ingenuus sum natus utroque parente,  
Semper ero liber, credo, tuente Deo.*

THUS did *Grimoaldus* check the Boldness and Power of the *French* whilst he reign'd in *Beneventum*. This invincible Prince died in the Year 806, without leaving Male-Children, *Godofredus* his Son dying before him, whose Tomb is to be seen in the Church of St. *Sophia* in *Beneventum*, also mention'd by *Pellegrinus*<sup>3</sup>. The *Beneventans* after they had bitterly lamented him, as they had done *Arechis*, erected a magnificent Tomb to his Memory, extolling and engraving on it his heroick and famous Deeds. He was always Victorious both over the *French* and the *Greeks*; and the Verses upon his Tomb<sup>4</sup> shew as yet his Valour against the *French*, who never could boast of having subdu'd him.

*Pertulit adversas Francorum saepe Phalangas  
Salvavit patriam sed, Benevente, tuam:  
Sed quid plura feram? Gallorum fortia Regna  
Non valere hujus subdere colla sibi.*

<sup>1</sup> Hist. Erchemp. num. 5.

<sup>2</sup> Ibid. num. 6.

<sup>3</sup> Pell. Tumul. Pr. Long. pag. 238.

<sup>4</sup> The same Author pag. 237.



## C H A P. V.

Charles the Great, from a Patrician became Roman Emperor: His Election, and what Part Pope Leo III. acted in it.

**W**HILST the French under Pepin with so much Cruelty and Boldness were making War against the Beneventans under Grimoaldus, Charles the Great, after having subdu'd the Saxons, and visited many Places of his vast Empire, at last in the Year 795. he stopp'd in *Aix la Chapelle*, with which City, on account of the Pleasantness of its Situation, and the Places about it, he was so delighted, that he adorn'd it with a magnificent Church; while he was here, the News was brought him of the Death of *Adrian*, which fell out in *Rome* in the Year 796. He was exceedingly lamented by Charles, and so great was his Grief, that he publish'd it by an Elogy which he compos'd himself, and caus'd it to be put on his Tomb. He likewise heard a little after, that the Roman People and Clergy had in his Room elected *Leo* a Cardinal Priest, who was call'd *Leo III.* and who notified his Election to him by his Legates, declaring likewise his Resolution of following the Footsteps of his Predecessors, in acknowledging none other but him, for his own and the Church's Protector: Moreover, as Charles was a Patrician of *Rome*, he sent him the Standard of the City, with many other Presents, at the same time intreating him to send one of the Lords of his Court, to receive from him the Oath of Fidelity, which the People of *Rome* was willing to take to him<sup>1</sup>, who a long Time before had begun to shake off the Yoke of the Greeks, and who intended now to set themselves altogether free of it. Charles accepted of the Presents and the Homage, which the Chief City of the World offer'd him, and he chose his Son-in-Law *Angilbertus*, for taking the Oath of the Romans, that they would acknowledge him for their Lord: In effect, by Virtue of these Treaties which *Leo* had made with Charles, the Patriciate was converted into Sovereignty; and from this Time it was, that he exercis'd sovereign Power in *Rome*, administering Justice by his Commissaries, and himself, as was judiciously observ'd by *Peter de Marca*<sup>2</sup>; and besides that, out of his Royal Bounty and Generosity, he sent the Pope by *Angilbertus* a great Part of the immense Treasure which he had got in the War against the *Huns*, which he had a little before finish'd with the Conquest of *Pannonia*; and upon Occasions that offer'd, imitating his Father *Pepin*, he made it his Business to assist him in all the Persecutions which he suffer'd, and to protect and advance the Church of *Rome* with all his Might, as he had done by *Adrian* his Predecessor. *Pascal* and *Compelus*, Nephews of *Adrian*, and many principal Lords of that Party, were *Leo's* Enemies, who took it in ill Part that the new Pope had alter'd many Things done by *Adrian*; and besides, accus'd him as guilty of many abominable Crimes, but not being able afterwards to shew any Vouchers for them, one Day while he was altogether intent on a Publick and sacred Function, fell upon him, and gave him many mortal Wounds, dragg'd him thorough the Streets, and did what they could to put out his Eyes, and cut out his Tongue; but he defended himself the best way he could, and being all over Bloody, he was shut up in close Prison in the Monastery of *S. Gerasini*; but was afterwards set at Liberty by his Partisans,

<sup>1</sup> Eginhar. in Annual. A. 796. Sigon. A. 796. | <sup>2</sup> Marca loc. cit. num. 9.  
Vide Marca de Concor. lib. 3. cap. 11. num. 8.

and



and *Guinigiſus* Duke of *Spolet*<sup>o</sup>, who after having convey'd him to *Spolet*<sup>o</sup>, ſent him with many Biſhops to *Charles*, together with many Noblemen that were willing to bear him Company. He was receiv'd by *Charles* in *Paderbone*, with the ſame Reſpect that his Father *Pepin* had receiv'd *Stephen*, and was treated with exceeding great Honour, and the utmoſt Magnificence; where *Leo* was at full liberty to ſhew his Innocence, and what he had wrongfully ſuffer'd, and wherein he had been falſly accus'd by his Enemies.

BUT at the ſame Time the Conſpirators at *Rome*, by the Abſence of the Pope, were become more haughty, and did what they could to baffle *Leo*; they ſent many Accuſations to *Charles*, by which they charg'd *Leo* as guilty of many grievous Crimes. The King thought it beſt to ſend him back to *Rome* with a magnificent Retinue, in order to have a judicial Cognizance taken of the Merits of this Cauſe, and he ſent along with him ten Commiſſioners, two Archbiſhops, five Biſhops, three Counts, and many *Frenchmen*, who were to be Judges of this Affair. The Pope was receiv'd in *Rome* with ſolemn Acclamations, and much Pomp; and when the Charge brought againſt *Leo* by *Pascal* and *Compotus*, and their Adherents, in order to excuſe their horrible Attempt upon his Perſon, came to be examin'd into, it was found that they could prove nothing of what they had accus'd him of; therefore the Commiſſioners ſent the Accuſers under a ſtrong Guard to the King. *Charles*, after having gloriouſly triumph'd over the *Huns*, was already on his March towards *Italy*, being invited by *Pepin*, who alone could not humble the Pride of *Grimoaldus*, who now govern'd the Principality of *Beneventum* with an abſolute Sway; and being arriv'd in *Italy*, would go in Perſon to *Rome*, in order to try this Cauſe, and to give the Pope that Juſtice which he demanded of him.

*CHARLES* was receiv'd by *Leo*, the Clergy and People of *Rome*, on the 24th Day of *November*, in the Year 799, with greater Marks of Reſpect and Eſteem than ever had been ſhewn; and this Prince a few Days after his Arrival cauſ'd an Aſſembly of the Archbiſhops, Biſhops, Abbots, and all the *Roman* and *French* Lords, to meet in *St. Peter's Church*, and himſelf and the Pope being preſent, he order'd this Buſineſs to be examin'd, and a ſtrict Inquiry made into the Crimes wherewith *Leo* had been charg'd; but on the one hand there appearing no Proof, nor Teſtimony for ſupporting theſe Calumnies; and on the other hand, all the Prelates proteſting, that neither the Holy See, nor the Pope ought to be judg'd by any Perſon, and that it belong'd to himſelf to be his own Judge; then the Pope ſaid, that according to the Example of his Predeceſſors, he was ready to judge himſelf after the ſame manner that they had done more than once; therefore the next Day he mounted the Pulpit, and holding in his Hand the Book of the Holy Evangels, in the Sight of all, by a ſolemn Oath he clear'd himſelf, and loudly proteſted, and ſwore, that he was innocent of all the Crimes laid to his Charge by his Perſecutors. Upon which all the Church eccho'd again with the Acclamations of ſo auguſt an Aſſembly, who receiv'd this Proteſtation and Oath of the Pope as an Oracie, and were fully convinc'd of his Innocence. Thus *Leo* being juſtified in the Opinion of every Body, which was the Thing *Charles* thought of greateſt Importance, the Trial of *Pascal* and his Accomplices was put off to another Aſſembly.

THIS Pope lying under ſo many Obligations to *Charles*, bethought himſelf how he might be able to make ſuitable Returns<sup>1</sup>, and for the Time to come engage the King's Protection and Aſſiſtance to the Church of *Rome*, ſeeing there was nothing to be expected from the Emperor of the Eaſt, but much to be fear'd. For this end he hit upon the beſt Thought that a Man could have imagin'd, to bind this Prince more than ever to the Apoſtolic ſee; and tho' at that Time it was look'd upon as a Piece of pure Form and Ceremony, it has been ſince interpreted as one of the moſt powerful Claims to the Temporal Dominion over the Catholick World, the Popes can boaſt of; and the Flatterers of that Court have ſo cunningly colour'd and varniſh'd it over, as for many Ages to perſuade all *Italy*, and a great Part of the Weſt, of the Truth of it. The Story was, he rais'd *Charles* from a Patrician, to *Roman* Emperor, which they call'd a Tranſlation of the Empire of the Weſt to the *French*; tho' in reality it added nothing to *Charles* but a more ſpecious and auguſt Title, which *Theodorick* and the other Kings of *Italy* might have aſſum'd, but never minded it.

<sup>1</sup> Theophanes in Chron.

SOME *French* Writers<sup>1</sup> would have us believe, that *Charles* as little minded this specious Title as *Theodorick* did; and that *Leo*, so much beholden to him, was the chief Manager, who concerting the whole with the *Romans*, and the other People who were then in *Rome*, without *Charles's* Knowledge, proclaim'd him *Roman* Emperor, and put on him the Purple and the Imperial Crown, whilst he was in the Church celebrating the Feast of the Holy Nativity: But let those that are simple and ignorant of the Circumstances which preceded this Action, believe it; 'tis manifest that *Charles* upon other Occasions, which remain upon Record<sup>2</sup>, aspir'd after this Title, which in some respect was due to his Merit, and the vast Empire he had acquir'd partly by Right of Succession, and partly by Arms, as we shall shew anon.

SURELY the great *Theodorick* King of *Italy*, perhaps with greater Reason, might have assum'd this Title of Emperor of the West, to which he would likewise have obtain'd the Consent of *Leo* Emperor of the East; but he, as we have said in the Third Book of this History, laying aside the *Gothick* Dress, would not put on the Imperial Diadem, but only the Kingly Ensigns, and would only be proclaim'd King of the *Goths* and *Romans*; and *Procopius* relates, that there was nothing wanting to this Prince but only the Title of Emperor, which he would not assume, but in reality he was such, as well with respect to the Sovereignty of his Empire, as the Extent of his Dominions. He not only, after the Example of the other Emperors of the West, had fix'd his Seat in *Ravenna*, governing there all *Italy*, but he had likewise under his Dominion *Sicily*, *Rhetia*, *Noricum*, *Dalmatia*, with *Liburnia* and *Istria*, and a Part of *Suevia*, and that Part of *Pannonia* where *Sigetinum* and *Sirmium* stood. He also possess'd a Part of *Gallia*, for which he was often at War with the *French*: And lastly, as Tutor to *Amalarick*, his Nephew, he govern'd *Spain*; therefore if *Theodorick* had been willing to assume this Title, and go to *Rome* to get the Pope, who was his Subject, to crown and anoint him, as the Practice then was amongst the Christian Princes, it would likewise have been said, that the Popes had transferr'd the Empire of the West from the *Romans* to the *Goths*, as is now said of this Translation made to the *French*.

SEEING by this Fact *Charles* acquir'd nothing else but the bare Title of *Roman* Emperor, and the *Romans* and the Pope who proclaim'd him, neither did, nor could give him more; 'tis clear that this Title imply'd nothing of Right in it over the other States and Kingdoms of the West, which for a long Series of Years had been under the Dominion of other Princes; we ought to consider, that a long time before this Prince was call'd Emperor, the *Greek* Emperor had already lost the Dominion of almost all the Provinces of the West, which had pass'd *Jure Belli*, under the Dominion of other Princes, and of *Charles* himself for the greatest part; so that as this Title made him nothing the Richer, neither did it take any Thing from the Emperor of the East, or the other Princes, in the Kingdoms and States which they possess'd.

CHARLES had already driven the *Longobards* out of *Italy*, who had been Lords of it, and had subjected it to his Empire. *Rome*, which had once been the Seat of the Empire of the West, from the Time of *Leo Isauricus*, had begun to shake off the Yoke; and tho' the *Greeks* had preserv'd a Shadow of their Dominion in it, yet it was at last given to *Charles the Great*, who receiv'd the Oath of Fidelity by *Angilbertus*, as is recorded by the gravest Historians; and before he assum'd this new Title, he had exercis'd the Rights of Sovereign in it, which is evident to whoever will but consider the Accusations laid against *Leo*; for tho' he allow'd the *Romans* to be govern'd by their own Laws, and the same Magistrates, yet the supreme Power was reserv'd to him as Patrician, and which he afterwards retain'd as Emperor; and tho' the Exarchate of *Ravenna*, which formerly was the Seat of the Emperors of the West, and afterwards of the Exarchs, who were the chief Magistrates of the Emperors of the East in *Italy*, had been taken from the *Longobards*, and given to the Church of *Rome*, yet both *Pepin* and *Charles the Great* retain'd the Right of Sovereignty and chief Dominion in it: In short, almost all *Italy*, except these our Provinces, was already under the Dominion of *Charles* before he assum'd this Title. 'Tis likewise certain, that this Prince, both by Succession and Conquest, possess'd as large Dominions in the West, as ever any Emperor had from the Time of the Divi-

<sup>1</sup> Maimb. hist. Inconocl.

<sup>2</sup> Sigon. hist. Ital. A. 800.  
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sion of the Empire; for besides the *Gallia*, in which he reign'd by Succession, as King of *France*, he had conquer'd Part of *Spain*, as far as the *Ebro*. By the same Right of Conquest he possess'd *Istria*, *Dalmatia*, all *Pannonia* to the Confines of *Bulgaria* and *Thrace*, and likewise all *Dacia*, containing *Walachia*, *Moldavia*, and *Transilvania*. And tho' he had not that Part of *Spain* on the other Side of the *Ebro*, and that Part of *Africa* which belong'd to the Empire of the West, before the *Vandals*, and a long time after the *Saracens* had possess'd themselves of it; yet on this Side he had what the *Romans* could never conquer, to wit, all that vast Extent of Country which lies betwixt the *Rhine* and the *Vistula*, the Northern Ocean and the *Danube*, which is now divided amongst so many Princes, free Cities, and Commonwealths, one Part of which only makes now what we call the *Roman Empire*; and *Eginardus*<sup>1</sup> writes, that the Kings who at that Time reign'd in *Great-Britain*, were so submissive to him, that in their Letters they always call'd him their Lord, and subscrib'd themselves his Servants and Subjects.

THE Empire then of the West having ceas'd for three Ages, and being divided into so many Principalities and Kingdoms, many of which being united in the Person of *Charles*, some by Right of Succession, and very many by that of Conquest, he came to possess much more in the West than the other Emperors of the West, particularly those from *Honorius* down to *Augustulus*; and we ought not to think it strange, that the Subjects of *Charles*, who were properly such, proclaim'd him likewise Emperor, and gave him that august Title, very proper and agreeable to his vast Empire which he had in the West. In effect, this Title was not only given him by the Pope, who carried on this Affair, and the *Romans*, but likewise by all the People of the different Nations that *Charles* brought to *Italy* with him. *Paulus Æmilius*<sup>2</sup>, and many other Writers more ancient than he, relate, that this Prince was accompanied into *Italy*, not only by a great many *French* Lords, but also by an infinite Number of others of different Nations that were subject to him, such as *Saxons*, *Burgundians*, *Teutones*, *Dalmatians*, *Bulgarians*, *Pannonians*, *Transilvanians*, and others.

AND it is most certain from the same Authors, that the third Day after the Cause of *Leo* had been discuss'd, being that on which the Birth-Day of our Saviour was celebrated, this Prince went to the Church of *St. Peter*, in order to solemnize the same with great Pomp, and enter'd the Church attended by the Pope and many Prelates, and *Roman* Magistrates, and accompanied by all the *French* and *Roman* Noblemen, with a great Train of other Followers, where he found an infinite Multitude of People, not only *Romans*, but of many other Nations. *Charles* had no sooner ended his Prayers at the Sepulchre of the Holy Apostles, than the Pope, who for that end had ready prepared the Imperial Mantle, and a rich Crown of Gold, made a Signal to the *Roman* Magistrates, and the Barons that were about him, who were intent on what he was about to do, and put the Crown upon his Head, and began with all the rest to cry out: *To Charles the August, crown'd by God, the great and pacifick Emperor of the Romans, Life and Victory*<sup>3</sup>; and these Words echoing from all Corners, the Pope, the Senate, the *Romans*, the *French*, and the mixt Multitude of all Nations, unanimously with one Voice, and the same Spirit began to cry aloud with all their Strength, the same Words, which they repeated three times<sup>4</sup>. After the Acclamation of the People was over, *Leo*, who had prepar'd every Thing for so august a Ceremony, gave him the sacred Unction, which thereafter never any Emperor of the West receiv'd, and cloathed him with a long Imperial Mantle, after the *Roman* Fashion; he likewise anointed *Pepin*, who was present at this Solemnity, as King of *Italy*: And after *Charles* had receiv'd from the Pope, the Senate, and all the rest that were present, all the Honours which were wont to be paid to the ancient *Roman* Emperors, by acknowledging him for their Sovereign; he for his Part swore, that he would always be the Protector and Defender of the *Holy Roman Church*, to his Knowledge and Power; from that Time forth, laying aside the Title of Patrician, he took that of *Augustus* and Emperor, which he transmitted to his Posterity<sup>5</sup>.

<sup>1</sup> Egin. in vita Caroli magni.

<sup>2</sup> Paul. Æmil. de reb. Franc.

<sup>3</sup> Eginar. A. 801.

<sup>4</sup> Anastasius in vita Leon. III. ab omnibus

constitutus est Imperator Romanorum.

<sup>5</sup> Egin. in annal. more antiquorum principum adoratus est, ac deinde omisso Patticii nomine, Imperator & Augustus appellatur.

BEHOLD

BEHOLD what is call'd the Translation of the Empire of the West to the *French*, whence the Popes can infer nothing for supporting their high Pretensions ; for tho' *Leo*, as one of the chief Men of the City of *Rome*, had carried on this Affair, to whom it was of greater Importance than to any other Person, in order to oblige *Charles* the more to protect his Church, and likewise to yield intirely all that his Predecessors had gain'd over *Rome*, yet 'tis very well known to those who understand the *Augustan* History, that anciently the *Roman* Emperors were wont to be proclaim'd no otherwise. The Acclamations were made by the People and the Soldiers, but the Person who was thus to be proclaim'd, was propos'd to them by some private Men ; therefore no Body dream'd of attributing the Election to those few who propos'd the Person, and not to the People and Soldiers who proclaim'd and saluted him Emperor ; and besides, those Acclamations denoted not only the present, but likewise the previous Consent of the People. Much less can they support their Claim by the Coronation and Unction of *Charles* by *Leo* ; for we believe it has ever been evident to all the World, that these were but pure Ceremonies, and did not in the least belong to the Essentials of Empire ; at that rate it may be said, that they who perform them, by the very Action give the Empire or Kingdom. These Ceremonies were introduc'd by the Christian Princes, perhaps in imitation of the ancient Kings of *Judea*, who caused themselves to be anointed by the Priests ; and the first who introduc'd them into the West, were the Kings of *Spain*, and those of *France*, follow'd by others afterwards, and those of the East likewise began to use them<sup>1</sup>. In *France* the most Christian King receives this Ceremony from the Bishop of *Rheims*. The King of *Spain* from the Bishop of *Toledo*. The Kings of *Italy* were wont to be anointed and crown'd by the Archbishops of *Milan* ; those of *England* by the Archbishop of *Canterbury* ; those of *Hungary* by the Bishop of *Strigonium* ; and other Kings by their own Bishops : In fine, our *Arcchis*, Prince of *Beneventum*, as we have seen, would have himself anointed and crown'd by his *Beneventan* Bishops ; and he would be void of all Sense who would say, that these Bishops made or appointed so many Princes, Kings, or Emperors.

LIKEWISE in the East in the sixth Century, the Emperor *Justin* made himself to be crown'd by *John*<sup>2</sup> Patriarch of *Constantinople* ; and also this Emperor six Years after would be crown'd anew by Pope *John*. Many Princes, not once, but many times would have this Ceremony perform'd ; *Pepin* Father of *Charles the Great*, caus'd himself to be anointed, the first Time by *Boniface* Archbishop of *Mentz* ; and three Years after by Pope *Stephen*. *Charles* himself was twice anointed and crown'd ; and in imitation of his Father, caus'd the same to be done to his Sons *Pepin* King of *Italy*, and *Lewis* King of *Aquitaine*<sup>3</sup>. These Ceremonies then do not confer Empires or Kingdoms, but suppose him who useth them to be already Emperor or King ; in like manner, it would be absurd to infer from the Oath which *Charles* took, to protect and defend the Church of *Rome* to the utmost of his Power, that it was an Oath of Fidelity or Vassallage, as some have likewise dream'd.

BUT as the Popes can draw nothing from this Fact, much less can *Charles* himself, or the other Emperors his Successors, reap any Advantage from so august and specious a Title, with respect to other Princes that were not subject to him. No Right could accrue to him anew with regard to others ; and therefore those Princes retain'd their Kingdoms free and independent, whence with Reason they reckon themselves true Monarchs, and their States as true Monarchies : Therefore the Kings of *Spain*, as being always free and absolute Lords of their Dominions, value themselves justly on their Kingdom's being a Monarchy, in no respect subject to the Empire of the West. *Cujacius*<sup>4</sup>, and some *French* Writers say, that the Kingdom of *England* once acknowledg'd itself as Feudatory to the Empire, but *Arthur Duck*<sup>5</sup>, and other *English* Writers, constantly deny it. *Charles* himself, and all the other Emperors his Successors, exercis'd Sovereign Authority in *Italy*, not by Virtue of the Imperial Title, but as King of *Italy*, which he and his Successors were, and therefore caus'd themselves to be proclaim'd such in *Milan*, and anointed and crown'd such by the Archbishop of that City ; and they added their

<sup>1</sup> V. Mars Gallicus of Alex. Patric.<sup>2</sup> Epist. Jo. ad Harmisdam. V. Du Pin. de Ant. Eccl. Disc.<sup>3</sup> V. Patric. in Marte Gallic.<sup>4</sup> Cujac. lib. 1. de Feud. tit. 1.<sup>5</sup> Arth. Duck, de Usu & Aust. I. R. Kb. 2. par. 3. num. 1. c. 8.

own to the *Longobard* Laws, not as Emperors, but as Kings of *Italy*, and Successors to the *Longobard* Kings. *Charles* had a Design, as *Paulus Æmilius* relates <sup>1</sup>, of uniting *France* to the Empire, and of subjecting her to its Laws; but the Grandees of *France* abhor'd such an Union: *Cur milites tuos*, said they, *Regnum tuum, Franciam tuam, Imperii Provinciam facere studes, Imperioque subdicere?* Whence the *French* pretend, that the Empire was rather a Member of the *French* Monarchy, than *France* of the Empire.

HOWEVER that may be, with regard to our Purpose, 'tis worthy of Observation, that *Charles the Great*, notwithstanding his august Title of Emperor, gain'd nothing over our Dukedom of *Beneventum*, or that of *Naples*, or over that which the *Greeks* yet retain'd in these our Provinces; whence it is, that this Kingdom was always reputed distinct from, and independent of the Empire newly started up in the West, and therefore justly boasts of the Honour of a true Monarchy. Though *Charles the Great* was now become more august than ever, both in Titles and noble Actions, yet *Grimoaldus* Prince of *Beneventum*, would not subject himself to his Empire. The War made by him and *Pepin* his Son against *Grimoaldus*, was now more obstinately and cruelly prosecuted than ever; and *Grimoaldus* boldly vow'd that he would continue free as he was born, and always resist the *French*, as he did *Pepin* who had undertaken to humble him, and, tho' in vain, to reduce *Beneventum* under his Obedience. And not only the People of those Cities of our Kingdom, that had continu'd under the Empire of the *Greeks*, did not acknowledge *Charles* for Roman Emperor, looking upon that Title as belonging to the Emperor of *Constantinople*; but the *Beneventans* themselves were of the same Mind, so that the Anonymous *Salernitanus* did not deserve those Reproaches from *Pellegrinus*, because in his History, speaking of those Bishops who gave that Title to *Charles the Great*, he says, they gave it him, because all his Courtiers and Followers call'd him so; for, says he, none can be call'd Emperor, but he who governs the Roman Kingdom, that is to say, the *Constantinopolitan*; and the Kings of *France* at that Time usurp'd this Title, which formerly they never claim'd <sup>2</sup>; a Title which for a long Series of Years was always disputed with *Charles's* Successors, by the Emperors of the East; for tho' the Empress *Irene*, and afterwards *Nicephorus*, had entred into an Alliance with *Charles*, and in settling the Bounds of the two Empires, in order to establish fix'd Limits, and remove all Occasion of Dispute, had reckon'd upon having the Principality of *Beneventum* as a Boundary and Barrier, and by the Treaty concluded betwixt them, had confirm'd the Title of Emperor to *Charles the Great*: nevertheless the Emperors of the East, Successors to *Nicephorus*, broke thro' all these Treaties, and made War against his Successors, not only for the Provinces, which they pretended had been taken from their Empire, but also for this Title of Emperor, which by no means they would allow them; neither were they ever nam'd Emperors, or Kings of *Italy* by them, but only Kings of *France*. On the contrary, the Emperor *Basilus*, having had some Letters brought him by the Legates of Pope *Adrian II.* in which King *Lewis* call'd himself Emperor, he order'd the Title of Emperor to be raz'd out of them, and sent an Ambassador to *Lewis*, whom he exhorted by his Letters, that for the future he would abstain from taking the Title of Emperor; but *Lewis* answer'd the Complaints of *Basilus* by a very grave and bold Letter, which is recorded by *Baronius* <sup>3</sup> in his Annals, and by *Frederick Morelli* <sup>4</sup>, in his Notes on the *Themata* of *Constantinus Porphyrogenitus*, who likewise imitating the Example of *Basilus* his Grandfather, never gave the Title of Emperors to the Successors of *Charles*, but call'd them simply Kings of *France*. These our Provinces then continu'd, from the Time of the Rise of this new Empire of the West, disjoin'd from, and independent of the Empire, while it was govern'd by the *French*, and much more when it was confin'd to a part of *Germany*, and fell into the Hands of the *Germans* and other Nations, as shall be clearly shewn in the Course of this History.

*CHARLES*, at the Intercession of *Leo*, having sent his Accusers into Exile, (tho' they had been condemn'd to Capital Punishment) spent the Beginning of this

<sup>1</sup> Paul. Æmil. lib. 3. in Car. M.

<sup>2</sup> Anon. Salern. apud Pelleg. par. 1. num. 2. pag. 100. Imperator quippe omni modo non dici potest, nisi qui in Regno Romano præ est,

hoc est Constantinopolitano.

<sup>3</sup> Baron. in tom. 10.

<sup>4</sup> Fred. Morelli in not. lib. 2. Th. 11.

Year 801. in *Rome*, and in the Month of *April* left that City, and went to *Parvia*, where to the Edicts of the *Longobard* Kings his Predecessors he added new Laws, more suitable and necessary to the present Circumstances of *Italy*. He made many other Laws concerning Ecclesiastical Matters; and after the Custom of *France*, before he publish'd them, he not only conven'd the State of the Nobles, Magistrates and Judges, as the *Longobards* used to do, but likewise the Ecclesiastical State of Bishops, Abbots, and other Prelates of the Church; for at this Time the third State of the Kingdom had not as yet any Share in the Publick Affairs and Deliberations in *France*<sup>1</sup>. These his Laws, which he establish'd in *Pavia* as King of *Italy*, are to be read as yet in the Code of the Monastery of the Cave, after the Edicts of the other *Longobard* Kings his Predecessors; whence it is, that in the three Books of the *Longobard* Laws, the Compiler of them has likewise inserted some of those, amongst which there's one<sup>2</sup>, wherein not only the *Romans*, but also the *Longobards*, had their Laws left intire to them; and *Charles Sigonius*<sup>3</sup> declares, that these Laws are likewise preserv'd in *Modena*, the Preamble of which he relates to be such as those which the *Longobard* Kings were wont to put before their Edicts. What the *Goths* and *Longobards* call'd *Edicta*, the *French* call'd *Capitularia*. They were so call'd, because, as *Doviat*<sup>4</sup> says, they were dispos'd into Chapters or Heads. And after their Example other Princes likewise call'd their Laws *Capitularia*: Our *Longobard* Princes, however cruel and obstinate Enemies they were to the *French*, yet they did not think it below them to imitate them in that; whence the Laws that were establish'd in the Principality of *Beneventum*, by these Princes, were call'd *Capitularia*; and therefore we read in *Camillus Pellegrinus*, the *Capitularia* of *Arcbis*, *Sicardus*, *Radelchisus*, *Adelchis*, and other *Beneventan* Princes.

*CHARLES* not only left the *Roman* and *Longobard* Laws intire, but as far as the Circumstances of those barbarous and dark Times could bear, he endeavour'd to restore the *Roman* Jurisprudence to some Lustre. In doing of which he did not consult the Books of *Justinian*, which at that Time were little known, and of less Authority in the West, but the *Theodosian* Code and its Compend compil'd by *Alarick*; and tho' his Application to military Affairs, the want of Professors, and the Ignorance of the Age, hinder'd him from accomplishing his Design, yet he corrected, the best way he could, the Compend of *Alarick*, from which the *Roman* Law was quoted in the Courts before the Judges.

*PEPIN* King of *Italy* follow'd the Example of his Father; we have as yet his *Capitularia*<sup>5</sup>, which he publish'd as King of *Italy*, which likewise, after the Edicts of the *Longobard* Kings, we read in the abovemention'd Code of the Monastery of the Cave; and we find many of his Laws extracted from it, inserted in the Volume of the *Longobard* Laws<sup>6</sup>; whence we clearly see, that the Laws which *Charles*, and the other Emperors of the West his Successors, establish'd as Kings of *Italy*, and which are inserted in the Body of the *Longobard* Laws, had Force and Vigour in *Italy*, not because they were made by them as Emperors, but as they were Kings of *Italy*. Thus *Pepin*, who never was Emperor (therefore these Inscriptions in the Volume of the *Longobard* Laws ought to be corrected, which some of his Laws bear, of *Imperator Pipinus*) but made King of *Italy* while his Father *Charles* was alive, made his Laws, which were in full Force there (as being only King) and they were reckon'd amongst the *Longobard* Laws of the Kings of *Italy*.

*PEPIN* died about the End of the Year 810, after *Charles* his Father had concluded Peace in *Aix la Chapelle*, with *Nicephorus*, and he died very young, at the Age of Thirty-three, in the 29th Year of his Reign, leaving only one natural Son call'd *Bernard*, about twelve or thirteen Years old, who two Years after was by his Grandfather created King of *Italy*.

ABOUT the End of the Year 811, *Charles*, eldest Son of the Emperor, likewise died, to whom his Father had design'd to have given *France*, with *Touraine*, and a Part of the Kingdom of *Burgundy*: He left no Children; so that of three Sons which

<sup>1</sup> Loyseau des Ordres. pag. 48.

<sup>2</sup> Lib. 2. tit. 57. l. 1.

<sup>3</sup> Sigon. ad an. 801.

<sup>4</sup> Doviat. hist. Jur. Civ. pag. 60. The Capitularia of Charles the Great, and the Collections made by Ansegisus, Benedikt. Levita, and others are to be seen in Balutius, tom. 1. Van

Espen. in hist. Jur. Can. Struv. cap. 6. hist. Jur. German. §. 10, 11, & 12.

<sup>5</sup> Extat. Capitulare Pipini Regis Italiæ dat. annò 793. apud Balutium tom. 1. pag. 533. Ejusdem Capitula excerpta ex lege Longobard. p. 541.

Lib. 2. tit. 57. l. 2. & tit. 59. l. 3. & 4.

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he had design'd as Successors in his Dominions, there remain'd only *Lewis* King of *Aquitaine*; therefore he made him his Collegue in the Empire, and caus'd him to be crown'd in *Aix la Chapelle*, in the Month of *September* of the following Year 813. At last the Invincible *Charles* likewise died, in the 70th Year of his Age, and the 47th of his Reign, a Prince who fill'd the World with his Fame, and who deservedly acquir'd the Surname of *Great*; he died in *Aix la Chapelle*, in the Year 814, the 28th Day of *January*, leaving for Successor in the Empire, and Kingdoms of *France*, *Aquitaine*, and *Germany*, *Lewis* his Son, surnam'd the Pious or Good, and *Bernard* his Grandchild King of *Italy*.



## CHAP. VI.

*Of Grimoaldus II. Sico, and Sicardus, Princes of Beneventum, and the Peace which they made with the French, and of their Wars with the Neapolitans.*



IN the mean time, by the Death of *Grimoaldus*, which fell out in the Year 806, without leaving Male-Issue (*Gottifredus* having died before him) another *Grimoaldus* was advanc'd to the Principality of *Beneventum*, who had been his Treasurer; therefore *Sigonius* made a palpable Error in reckoning these two but one *Grimoaldus*. This was a Prince of a very different Genius from that of his Predecessor, of a courteous Behaviour, and much inclin'd to Peace, who in order to free his State from the continual Incurfions of the *French*, resolv'd to agree upon a settled Peace with them; and *Pepin* being dead, for that end he sent Ambassadors to the Emperor, who had not as yet declared *Bernard* his Grandchild King of *Italy*. *Charles*, who was at this Time employ'd against the Rebels in *Britany* and the *Sclavonians*, hearken'd to it, and contenting himself with the Tribute offer'd by *Grimoaldus*, concluded a Peace with him<sup>1</sup>. From this Time forth the Principality of *Beneventum* continu'd Tributary to the Emperors of the West as Kings of *Italy*, and the *Beneventans* were, for a long time in Peace with the *French*.

ON the other hand *Grimoaldus* gave Peace to the *Neapolitans*; these two People the *Beneventans* and *Neapolitans* were almost always disputing together, and being Rivals and Neighbours, never wanted Pretexes for War. This Prince made Peace betwixt them; but his Destiny had ordain'd, that it should not be of long Duration, by an Occasion which we shall relate. At this Time the Dukedom of *Naples* was govern'd under the Emperor *Leo*, surnam'd the *Armenian*, by *Theodore* Duke and Master of the Soldiers, who having made Peace with *Grimoaldus*, manag'd the Dukedom with the utmost Ease and Tranquillity; but a noble *Beneventan* call'd *Dausferius*, and on account of a Defect in his Speech, surnam'd the *Stammerer*, of a turbulent Nature, and an ambitious Temper, disturb'd this settled Tranquillity, and basely conspir'd against *Grimoaldus*, who had a great Esteem for him, and resolv'd to throw that Prince into the Sea<sup>2</sup>, as he cross'd a Bridge near to *Salernum*; but the Conspiracy being discover'd, and he having pass'd the Bridge safely, the Conspirators were immediately imprison'd: *Dausferius*, who was not present, hearing of it, forthwith fled to *Naples*, where he was made welcome by the *Neapolitans*, and

<sup>1</sup> Hist. Erchemp. num. 7.

<sup>2</sup> Ibidem, num. 8.

Duke *Theodore* took him under his Protection. At which Prince *Grimoaldus* was very much offended, whereupon in order to revenge himself of the Injury, he quickly assembled, the best way he could, both his Land and Sea-Forces, and march'd towards *Naples*; and being come near the Walls, he saw a Multitude of People in Arms ready to repulse him. Then *Grimoaldus*, inflam'd with Indignation and Revenge, resolv'd to fight them. The Battle was cruel both by Sea and Land, and the Slaughter of the *Neapolitans* so great, that for upwards of seven Days, the Water on the Sea-shore was stain'd with the Blood of the Dead; *Erchempertus* relates <sup>1</sup>, that in his Time, the Graves where the Heaps of the dead Bodies of the kill'd had been laid, were to be seen, Five thousand having been kill'd on the Spot in this Battle; only Duke *Theodore*, and the infamous *Dausferius* made their Escape by flight; and being pursu'd, they at last got within the Walls of the City; but they were not quite out of Danger there, for tho' they were full of Rage, and had their Arms in their Hands, the *Neapolitan* Women, whose Husbands had been kill'd in the Battle, fell upon them, calling them infamous Traytors, and bidding them restore their Husbands, who by their means had been kill'd in the unjust War against the *Beneventans*.

IN the mean time *Grimoaldus* pursu'd the Runaways till he came to the *Capuan* Port, and finding it shut, struck it with his Rapier, there being none there to resist him. The *Neapolitans* having lock'd all the Ports, shut themselves up in the City, designing to defend themselves the best way they could. In the mean time the Duke having quieted the Tumults, and silenc'd the Clamours of the Women, began to sollicite for Peace; and so great was his Cunning and Influence, that he prevail'd with *Grimoaldus*, a mild and merciful Prince, to consent and be satisfied with 8000 Crowns of Gold, as a Ransom, and that *Dausferius* should be deliver'd to him; and so great was his Clemency, that he not only pardon'd all his Treason and Villainy, but likewise receiv'd him into his former Favour.

BUT this was not the last Misfortune that this Prince's Fate had carv'd out for him; for altho' he had escap'd this Conspiracy, yet a few Years after another irreparable one was hatch'd, in which the Conspirators at last prevail'd in murdering him. The Heads of this Conspiracy were *Radechis* Count of *Consa*, and *Sico* *Castaldus* of *Acerenza*. *Sico* was a Man of great Authority in *Spoleto*, and for having oppos'd the Designs of *Pepin*, was in Disgrace with him; so that being afraid of him, he retir'd to *Beneventum*, as a safe Sanctuary, where he was kindly receiv'd by Prince *Arechis*, who made him *Castaldus* of *Acerenza*, and entertain'd him with so much Affection and Favour, that he put him in hopes of being made his Successor <sup>2</sup>: *Grimoaldus* his Son likewise lov'd him; but afterwards he seeing this *Grimoaldus* II. preferr'd to himself, he bore it very impatiently, because he aspir'd to the Principality; and having join'd with *Radechis*, they surpriz'd this unhappy Prince, whom they kill'd in the Year 817, and *Radechis* managing the whole, *Sico*, tho' a Stranger, was by the *Beneventans* advanc'd to the Principality of *Beneventum*. *Radechis* afterwards repenting of so great a Villainy, became a Monk in *Monte Cassino* <sup>3</sup>.

<sup>1</sup> Erchemp. num. 8.<sup>2</sup> Tumul. Sicon. apud Pellegrin.<sup>3</sup> Erchemp. num. 9.

## S E C T. I.

## Of SICO IV. Prince of Beneventum.

**SICO** the IVth Prince of *Beneventum*, in order to govern with the more Security, and extend his Principality by incroaching on the *Neapolitans*, in the first Year of his Reign renew'd the Peace formerly made by *Grimoaldus* with the *French*; and in this Year 818. he confirm'd it with *Lewis the Good*, who, by the Death of *Bernard*, had likewise succeeded in the Kingdom of *Italy*, and promis'd to pay

pay him Tribute. Afterwards, out of his turbulent and ambitious Temper, he made a sharp and cruel War with the *Neapolitans*; in the mean time he assum'd *Sicardo* his Son for Collegue, who married the Daughter of *Dauserius* <sup>1</sup>.

'TIS said the Pretence for this War was, because the *Neapolitans* had drove away their Duke *Theodore*, his intimate and dear Friend, and had elected *Stephen* in his Room. He invested *Naples* both by Sea and Land with a close Siege, and having beat down a part of the Walls towards the Sea, was already preparing to enter at that Breach in Triumph; and he certainly would have succeeded at this Time in subjecting *Naples* to his Principality, which none of his Predecessors ever could accomplish, if the Craftiness and Deceit of Duke *Stephen* and the *Neapolitans* had not prevented him; for the Duke having desir'd Peace of him, by offering to deliver up the City, which had already yielded to the Conqueror, begg'd him to delay his Entry till the next Morning, when he would be in a Condition to make a more glorious and triumphant Entry <sup>2</sup>; and that *Sico* might give Credit to what he said, he sent him as Hostages, dear enough Pledges, his own Mother, and his two Sons. *Sico* believ'd him, and the next Morning, whilst he was preparing to enter the City in Pomp and Triumph; the *Neapolitans* having in all haste in the Night-time repair'd the Wall, appear'd very early ready to defend it. *Sico* and *Sicardus* his Son mightily inrag'd, batter'd the City more furiously and obstinately, in order to oblige it to surrender; but the *Neapolitans* equally obstinate, repuls'd the Attacks with the same Boldness and Fury, so that for a long time after, this War continu'd much more bloody and cruel. The *Neapolitans*, forc'd by cruel Necessity, and seeing themselves in the utmost Danger, at last thought of having recourse to foreign Assistance; that of the Emperor of the East was at a great Distance, who being engag'd in other Undertakings, thought of nothing less than of assisting the *Neapolitans*: Therefore having resolv'd to have recourse to the *French*, they applied themselves to the Emperor *Lewis*, who sent them Assistance, and tho' but small, yet it was such, that for some time they were able to defend themselves, and render all the Attempts of *Sico* fruitless. But the Assistance of foreign Princes being so precarious, and apt to be withdrawn on any emergent Occasion of their own; and besides, perceiving that the Boldness and Obstinacy of *Sico* was not in the least abated; the *Neapolitans*, not able to hold out the Siege any longer, by the Means of their Bishop *Orso*, endeavour'd to obtain Peace from *Sico* on the best Terms they possibly could. This Prelate took so effectual Methods, and us'd such Intreaties, that he brought *Sico* at last to grant it on these Conditions; That from thenceforth the *Neapolitans* should pay a yearly Tribute to the Princes of *Beneventum*, which they call'd *Collatam*; and that the Body of *S. Januarius* the Bishop, who had been a *Beneventan*, that was kept in the great Church of this Saint, without the Walls, and which *Sico* had already taken, should be carried to *Beneventum*. The Conditions were agreed to, and Hostages given; the Duke and the *Neapolitans* with a solemn Oath promising to pay the yearly Tribute agreed on betwixt them. Thus did the Dukedom of *Naples* become Tributary to the Principality of *Beneventum*, as it continu'd to be for many Years after under the succeeding Princes. *Sico* return'd to *Beneventum*, whither with great Rejoycing he carried the Body of *S. Januarius*, which was worshipp'd there for a long time <sup>3</sup>. Others add, that Duke *Stephen* was chas'd from *Naples*, and by the Means of *Sico* was kill'd by the *Neapolitans* themselves, who in his Room created *Bonus* their Duke.

<sup>1</sup> Pellegr. in Stemm. Princ. Salern.

<sup>2</sup> Erchemp. num. 10.

<sup>3</sup> Erch. apud Chioc. de Episc. Neap. A. 818. Princeps *Sico* *S. Januarii Martyris* Corpus, de

*Basilica*, ubi per longa temporum Spatia requievit, elevans, & cum magno tripudio *Beneventum* regreditur.

## S E C T. II.

*The first Invasion of the Saracens into these our Provinces.*

**A**BOUT the same Time (as *Erchempertus* a Contemporary Writer relates) the Incursions of the *Saracens* into these our Provinces began, who coming from *Africa*, like Swarms of Bees infested *Sicily*, and after having taken *Palermo*, and laid waste the Cities and strong Holds of that Island, they cross'd the Sea, and landing first in *Taranto*, they attack'd these Countries, and occasion'd the so many Revolutions and Confusions, first among the *Greeks*, and then among the *Beneventan Longobards*, which miserably afflicted these our Provinces.

'TIS certain the *Saracens* are come of those *Arabs*, who were the Off-spring of *Ismael* the Son of the Servant-Maid *Hagar*, for which they were call'd *Ismaelites*, or *Hagarens*; therefore in order to conceal this their Origin, with which they were reproach'd, they took a more honourable Name, and call'd themselves *Saracens*, as if *Ismael* their Forefather had been come of *Sarah* the Wife of *Abraham*; so says a Greek Author<sup>1</sup>; tho' the Learned in the *Arabian*<sup>2</sup> Language and History, reckon that the *Arabians* took this Name from one of the most noble Parts of their Country nam'd *Sarac*. Others have said, that the *Arabs* took the Name of *Saracens* from their Pastoral and Vagrant manner of Life, which they led in the Fields among the dismal Sands of *Beriara*, and as their Pasture fail'd, chang'd their Habitations.

**B**EFORE *Mahomet* they were divided into many small Kingdoms, and likewise profess'd different Religions; some of them had embrac'd *Judaism*, others were *Samaritans*, there were also some Christians among them, and the greatest Part were Pagans. But after this Impostor, in the Year 623, had publish'd his Law, and with force of Arms establish'd it, they all receiv'd it at last, and subjected themselves to his Empire, acknowledging him not only for their Lord and Master, but likewise their Prophet.

**A**FTER the Death of this famous Impostor, which fell out in the Year 632, the *Arabian* Princes his Successors, invaded the Provinces of the Empire, and in a few Years made themselves Masters of *Palestine*, *Judea*, *Syria*, *Phenicia*, and *Egypt*. Afterwards they subdu'd *Mesopotamia*, *Babylonia*, and *Persia*; whereupon being become more powerful and formidable, they added *Armenia* to their Dominion, from whence they spread themselves over *Asia Minor*; and having likewise made themselves powerful at Sea, they conquer'd the Islands of *Cyprus* and *Rhodes*: On the other hand towards the South, having gone from *Egypt* into *Africa*, they drove the *Greeks* out of it, and at last took *Carthage*. From whence in a very short time, having made themselves Masters of the whole Country, and being reinforc'd with an innumerable Multitude of *African Moors*, who embrac'd *Mahometism*, they laid hold of the Opportunity which presented itself of invading *Spain*.

**H**AVING likewise gone from *Africa* to *Sicily*, in the Year 820, they wasted that Island, burnt, pillag'd, and carried off the Christians into Slavery. They spread the Laws of the *Alcoran* over all the conquer'd Provinces: From *Abubeker*, *Ali Mortoza*, *Omar*, and *Odonan*, who were the immediate Successors of *Mahomet*, and the Explainers of his *Alcoran*, sprung the four Sects; the first was embrac'd by the *Arabs* and *Moors*; the second by the *Persians*; the third by the *Turks*; and the fourth by the *Tartars*.

**F**ROM *Sicily* they landed at *Taranto*, from whence they drove the *Greeks*, and fill'd that Province with Terror and Confusion; but the Calamities were greater, when, by the intestine Broils of our Princes, they were made their Auxiliaries, which spread Ruin and Desolation over all, as we shall relate hereafter.

**I**N the mean time the Emperor *Lewis* in a general Meeting held in *Aix la Chapelle*, in the Year 817, having associated *Lothaire* his eldest Son in the Empire, and also declar'd him King of *Italy*, to his other two Sons, *Pepin* and *Lewis*, he gave

<sup>1</sup> Sozom. lib. 6. c. 38.

<sup>2</sup> Abrah. Echel. hist. Arab. cap. 3, & 5.  
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*Aquitaine* and *Bavaria*. He afterwards confirm'd that Partition in another Meeting held in *Nimeghen* in the Year 821; but this Partition having occasion'd great Discord in the Royal Family, the Empire became so weaken'd, that at last having departed from the *French*, it was confin'd to a part of *Germany*, under Princes of other Nations. Besides, *Lewis* after having divided his Dominions among his said three Sons, born to him by *Hermengarda*, he married *Judith* his second Wife, and had by her another Son nam'd *Charles*, to whom by her Persuasion he assign'd *Germany*, *Rhetia*, and *Burgundy*; which so diminish'd the Shares of the rest, that it bred ill Blood, which was the Ground of the cruel Wars they made against their own Father and their Mother-in-Law, which turn'd not only *France*, but likewise *Germany* topsy-turvy. Afterwards the Death of *Pepin* King of *Aquitaine*, which happen'd in the Year 838, put the Empire again in Confusion, which had been for some time in Peace and Quiet; he having left two Sons *Pepin* and *Charles*, the Empress *Judith* had resolv'd to deprive them of the Kingdom of *Aquitaine*, and divide it betwixt her Sons *Charles* and *Lothaire*, without giving any Part of it to *Lewis* of *Bavaria*. But *Lewis* putting himself at the Head of his Army, endeavour'd to frustrate her Designs; and on the other hand the *Aquitani*ans proclaim'd one of the Sons of *Pepin* their King; and on the contrary the Emperor *Lewis* came and made them acknowledge *Charles* for their King, in an Assembly held in *Clermont*; afterwards having left his Wife and Son *Charles* in *Poitiers*, he went to *Aix la Chapelle*, from whence he enter'd *Thuringia*, and oblig'd *Lewis* to retire to *Bavaria*. He afterwards call'd a Meeting in *Wormes*, where he fell sick, and having caus'd himself to be transported to an Island over-against *Ingolheim*, near to *Mentz*, he died there the 20th of *June* in the Year 840, and before he died he sent to *Lothaire* the Sword and Scepter, the Ensigns of the Imperial Dignity, which he renounc'd in his Favour.

WE have as yet remaining some of the *Capitularia* of the Emperor *Lewis the Pious*, as King of *Italy*, which he added to those of *Charles the Great* his Father, and the Edicts of the other *Longobard* Kings of *Italy* his Predecessors; and we find them in the foremention'd Code of the Monastery of the Cave, with those of *Lothaire* his Son and Successor in the Empire, and Kingdom of *Italy*, which were establish'd in the Pontificate of Pope *Eugene II*. *Stephen Balutius* collected many other *Capitularia* of *Lewis the Pious*, which as Emperor he made in *Aix la Chapelle*; neither did he forget those, which he establish'd as King of *Italy*, and which are reckon'd among the *Longobard* Laws<sup>1</sup>.

IN the mean time, tho' our *Beneventan* Princes, had made this Peace with the *Neapolitans*, it was not long before they broke it anew, by committing Acts of Hostility. *Sico*, under pretence that the *Neapolitans* were backward in paying the Tribute, renew'd the War, which continu'd all his Days. *Sico* died in the Year 832, after having reign'd fifteen Years in *Beneventum*; and the *Beneventans* erected him a magnificent Tomb, which they plac'd before the Door of the Cathedral Church of *Beneventum*, on which in many Verses they extol his glorious Deeds, which we read likewise in *Pellegrinus* amongst the Monuments of the other *Beneventan* Princes<sup>2</sup>.

<sup>1</sup> Balut. tom. 1. pag. 561, & 689.

<sup>2</sup> Pellegr. Tumul. Princ. Longob. p. 239.

### S E C T. III.

#### Of SICARDUS Vth Prince of Beneventum.

**S**ICARDUS his Son, who during his Father's Life-time was Partner in the Government, succeeded in the Principality: Now that he reign'd alone, he had a mind to exceed his Father far in Cruelty. He prosecuted the War against the *Neapolitans* under pretence that they did not pay the Tribute, who however made such Resistance under *Bonus* their Duke, who had succeeded to *Stephen*, that the *Beneventans* having fortified themselves in *Acerra* and *Atella*, they raz'd these Forts, and put the Garrisons to flight. During the short Reign of *Bonus*, which lasted only one

one Year and a half, under the Empire of *Theophilus*, who by the Death of *Michael the Stammerer*, his Father, govern'd at this Time in the East, the Affairs of the *Greeks* in these our Provinces and in *Lombardy*, on this Side of the *Tyber*, went on very prosperously<sup>1</sup>; but this Duke dying in the Year 834, the *Neapolitans* were under as great Distress as ever, therefore they lamented so great a Loss, and for a Monument of their Grief they erected him a magnificent Tomb, on which in Acrostick Verses they mightily extoll'd his Virtues, and his exceeding Valour, in having repuls'd the *Beneventans*, tho' formidable, and much superior in Forces to the *Neapolitans*, and in having driven them out of *Atella* and *Aversa*, Places which they had so well garrison'd and fortified. This Tomb is yet to be seen in *Naples* in the Church of *S. Mary*, on the Market-Place of the Ward of *Forcella*, and which is also recorded by *Chioccarelli*<sup>2</sup>, and by *Pellegrinus* in the History of the *Longobard* Princes. After the Death of *Bonus*, *Leo* his Son was created Duke, who govern'd the Dukedom of *Naples* only six Months, being driven out by *Andrew* his Father-in-Law.

BUT as the *Neapolitans* enjoy'd only for a short while the so many Virtues of *Bonus*, so on the contrary, the *Beneventans* for a long time were expos'd to the Cruelty and barbarous Behaviour of *Sicardus*, who blindly giving himself up to be guided by his Kinsman *Roffridus*, the Son of the infamous *Dauserius*, who exceeded his Father in Wickedness, by his bad Advice he carried himself so cruelly towards the *Beneventans*, that he put them in the utmost Despair. *Roffridus* by his deceitful Arts, and cunning Ways, had gain'd the Heart of *Sicardus*, who was so much at his Devotion, that he did nothing without his Advice. *Roffridus* was the Author of all the Mischief that Prince was guilty of; first by his deceitful Address, he induc'd him, without any Ground, to send *Siconolphus*, *Sicardus's* own Brother, into perpetual Banishment; he caus'd almost all the noble *Beneventans* to be imprison'd, and many of them to be condemn'd to Death; with this wicked Intent, that *Sicardus* being depriv'd both of his Kinsmen and Barons, and intirely at his Beck, he might the more easily one Day put him to Death, and possess the Principality. For the same wicked Ends, he oblig'd *Sicardus* to cause *Majo* his Kinsman to be shav'd, and shut up in a Monastery; he caus'd *Alphannus*, the most faithful, gallant, and illustrious Man of that Age to be strangled; so that the *Beneventans* not being able longer to bear such Indignities, and cruel Tyranny, at last resolv'd to kill their own Prince.

IN the mean time *Sicardus* vigorously carried on the War against the *Neapolitans*, who at last, not being able to defend themselves against the Forces of so powerful and cruel an Enemy, resolv'd by the Mediation of *John* their Bishop, and the Authority of *Lothaire I.* Emperor and King of *Italy*, to whom they had had recourse, to renew the Peace with the *Beneventans*. The Pains and Diligence of the Bishop were so effectual, that tho' he could not obtain a perpetual Peace of *Sicardus*, yet he got it for five Years. Neither would he have so far comply'd, if *Andrew*, who then govern'd the *Neapolitan* Dukedom, had not call'd the *Saracens* to his Assistance, the Fear of whom made him condescend to conclude it<sup>3</sup>; as was plain by the Event, because no sooner had *Andrew* sent back the *Saracens*, than *Sicardus* sought to put off the Conclusion of it; but the *Neapolitans* having recourse to *Lothaire*, he sent them *Contardus*, who wrought so, that the Peace was effectually settled (after sixteen Years continual and cruel War) in the Year 836, and the Conditions were punctually agreed to with *John* the Bishop, and Duke *Andrew*.

THE Instrument of which Peace, or the *Capitularia* of *Sicardus*, we owe to the Care of *Camillus Pellegrinus*<sup>4</sup>, in which we meet with many remarkable Things concerning the Customs and Laws of those People. 'Tis also clear from this Instrument, how far the Bounds of the *Neapolitan* Dukedom were extended in those Days, and what were the adjacent Places subject to it. 'Tis evident, that besides *Sorrento*, and some other neighbouring Castles, it likewise comprehended *Amalphis*; that the Conditions and Stipulations were regulated according to the *Longobard* Laws, which in those Times had the Ascendant. It was also expressly agreed, that the *Neapoli-*

<sup>1</sup> Cedren. p. 429. Camil. Pel. in Tumul. Boni. hist. Princ. Long. p. 326.

<sup>2</sup> Chioccar. de Episc. Neap. A. 818.

<sup>3</sup> Jo. Diac. in Chron. Episc. Neap. in Joan. Ep. 43.

<sup>4</sup> Pell. hist. Princ. Longob. de Capitulari Pr. Sicardi pag. 73.



tans, according to the Tenor of the former Peace made with *Sico* the Father of *Sicardus*, should continue to pay to the Princes of *Beneventum* the wonted yearly Tribute, otherwise they should be liable to be distrain'd. That during those five Years of Peace, there should be a perfect Friendship betwixt both Nations, and that neither of them should disturb the other's Business or Traffick, either by Sea, Rivers, or Land; that Fugitives and their Goods should be punctually deliver'd up on both Sides; and therein we read many other Capitulations, which 'tis needless to relate here.

THIS Peace being concluded, 'tis said, that the *Saracens* having landed from *Sicily* at *Brindisi*, possess'd themselves of that City, and ravag'd all the Neighbourhood: but *Sicardus* hasten'd to repel that Irruption; and tho' at the first Onset he was repuls'd, yet having put his Army in better Order, he went anew to attack them; whereupon the *Saracens*, seeing they could not resist him, after having pillag'd and burnt *Brindisi*, and made many of the Citizens Slaves, return'd with their Booty to *Sicily*.

'TIS likewise said, that about the same Time, great Dissention having arisen amongst the People of *Amalphis*, many Families of that City went to dwell in *Salerno*, where they were kindly receiv'd by *Sicardus*; who taking Advantage of the Juncture, and seeing that City void of Inhabitants, order'd the same Troops which he had conven'd against the *Saracens* to besiege *Amalphis*, and breaking the Peace made with the *Neapolitans*, went and ravag'd the Borders of that Dukedom; at which Duke *Andrew* was cruelly offended, and seeing that with his own Forces he could not withstand the Boldness of the Enemy, he again sent Ambassadors to the Emperor *Lothaire*, begging his Assistance (he likewise had recourse to the Emperors of the West; those of the East, by reason of the Revolutions of the Court of *Constantinople*, could give him no Relief, and besides it was slow and at a great Distance) whom *Lothaire* receiv'd very graciously, and sent back *Contardus* to *Naples*; but on his Arrival there, he found that all the Danger was over, by the Death of *Sicardus*, which fell out very seasonably<sup>1</sup>, who a little before had been kill'd by the *Beneventans* themselves, because of his Cruelty, Tyranny, and extreme Covetousness, to which Crimes he was exceedingly addicted. The Love of Money had made him imprison *Deusdedit* the famous Abbot of *Monte Cassino*; he had robb'd many Churches and Monasteries of their Goods; he had taken by Force the Estates of many Noblemen, as also of People of lower Condition; and he had ravish'd a noble *Beneventan* Lady. To which was added the Pride of *Adelchisa* his Wife, and the Ignominy to which she expos'd many *Beneventan* Ladies, whom she caus'd to be expos'd naked publicly to be laugh'd at by the People, out of Revenge, because that one Day she herself had been seen naked by a *Beneventan*.

IN the mean time the *Beneventans* being reduc'd to the utmost Despair, resolv'd to kill him; and having laid their Plot well, the Tyrant was murder'd in a most cruel manner, in the Year 839, by those who had been most familiar with him, as a just Reward; as *Sico* his Father had caus'd *Grimoaldus* to be murder'd, so *Sicardus* his Son was justly punish'd for the Fault of the Father, and his own Cruelty and Wick-edness. He was not lamented by the *Beneventans*, and therefore we read of no Monument of his amongst those of the other *Beneventan* Princes. The Tyrant then being dead, *Radelchisus* was unanimously elected Prince of *Beneventum*, who had been Treasurer to *Sicardus*, a Prince of a noble Behaviour, and a Conversation adorn'd with all Virtues; in whose Reign the Affairs of our *Longobards* began to decline; not only by reason of the Incursions of foreign Nations, but much more by the intestine Dissentions of the *Longobard* Princes themselves, which occasion'd the Division of that Principality into three *Dynasties*, and was the Origin of the Fall of the *Longobards* in these our Provinces, as, after having related the Ecclesiastical Polity of these Times, we shall see in the following Book of this History.

<sup>1</sup> Camil. Pel. loc. cit.



## C H A P. VIII.

*The Ecclesiastical Polity of the Churches and Monasteries of the Principality of Beneventum.*

THE *Greek Church* being divided from the *Latin*, and the Occasions of an irreconcilable Separation increasing more and more, and many Cities of these our Provinces remaining under the *Greek Empire*, the Polity of our Churches was not at all uniform, but very different and disagreeing; the Polity of the Church adapting itself to that of the Empire. The Kingdom of *Italy* having pass'd from the *Longobards* to the *French*, under *Charles the Great*, who was likewise elected Emperor of the West, was govern'd by this Prince, not so much by Virtue of this specious Title, as by his being King thereof; for he lov'd no less to be call'd King of *Italy*, or of the *Longobards*, than of *France* and Emperor. Whence it was, tho' our *Beneventan* Princes oppos'd the Sovereignty that he, as King of *Italy*, and who had succeeded in the Room of the *Longobard* Kings, pretended to over the Principality of *Beneventum*; yet the Title of Emperor making him more august and formidable; and the Opportunities which presented themselves, both to him, and the Emperors *Lewis* and *Lothaire* his Successors, rendering our *Beneventan Longobard* Princes Tributaries to the Emperors of the West; it came to pass, that the Polity of all the Churches that were within the Bounds of so vast and ample a Principality, was adapted to that of the Empire of the West, and to the Order which *Charles the Great*, and the Emperors his Successors settled in the Western Churches, of which, and also of those that were in the Principality of *Beneventum*, they took the Care and Protection. Consequently the Churches of this Principality were subject to the *Latin Church*, and were rul'd and govern'd as formerly by the Patriarch of the West; the Power and Ambition of the Patriarch of the East not being able to prevail in them.

*CHARLES the Great* then being elected Emperor of the West, and by signal Services deserving so well of the Church of *Rome*, *Adrian* and *Leo III.* Roman Pontiffs, loaded him with greater Honours than ever had been heard of. There was a mutual Emulation of Generosity and Courtesy betwixt them. *Charles* squander'd away Provinces, Cities, Jurisdictions, and other Temporal Riches on the Popes; they on the other hand repay'd him with their Spiritual Gifts. Thus the two Powers were so confounded and jumbled together, that their Boundaries, which were clear and distinct before, could never be well distinguish'd and ascertain'd thereafter; so that it has been the Opinion of wise Men<sup>1</sup>, that *Charles the Great* went further Lengths than *Constantine the Great* in ruining the Political State of the Empire, and corrupting the ancient Discipline of the Church.

ALTHO' *Baronius*<sup>2</sup> and *Peter de Marca*<sup>3</sup> reckon the Council of *Lateran* as fabulous, which *Sigebert*<sup>4</sup> relates to have been conven'd in *Rome* by *Adrian*, after *Charles* had triumph'd over King *Desiderius*, and which *Gratian*<sup>5</sup> upon the Faith of *Sigebert* believ'd to be a true one, wherein 'tis said that *Charles the Great* had the

<sup>1</sup> Rich. Apolog. J. Gerson. par. 3. axiom. 36. | de Casu Imperii lib. 1. ad. A. 964.

<sup>2</sup> Baron. ad annum. 774.

<sup>3</sup> Marca de Conc. lib. 8. c. 12. V. Maimb.

<sup>4</sup> Sigebert. in Chron. ad A. 773.

<sup>5</sup> Grat. in Decr. dist. 63. C. Hadrianus 22:

Power of electing the Pope, and disposing of the Apostolical See conferr'd upon him; nevetheless if such a Power was not expressly granted to *Charles* by *Adrian* in that Synod, as *Leo VIII.* did afterwards to *Otho I.* yet he had really that Power, that no Pope could be consecrated without his Consent and Permission; whether this was introduc'd by Custom, as *Florus Magister*<sup>1</sup> says, who liv'd in the Time of *Lewis the Pious*; or whether it was by the Concession of Pope *Zachary*, as *Lupus of Ferrara*<sup>2</sup> believ'd; or whether it was because he would not be thought inferior to the Emperors of the East, who had the Power of confirming the Pope elected, nor could he be consecrated until the Emperor had approv'd of him; 'tis certain that *Charles* dispos'd of the Apostolical See as he thought fit, with the good Will of the Popes themselves, who approv'd of it, both to shew their Gratitude to *Charles* for the so many signal good Offices they had receiv'd from him, and to cut off altogether all hopes from the Emperors of the East of ever regaining that Prerogative over the Church of *Rome*, which with the Exarchate and *Rome* they had lost.

THEREFORE *Charles* settled the Election of the Pope in the same manner exactly as it had been, when the Emperors of the East govern'd *Rome*, to wit, that the Pope should be elected by the Clergy and People, and the Decree of Election sent to the Emperor, and if he approv'd of him, the Elected should be consecrated. After *Charles's* Death, his Successors *Lewis the Pious* and *Lothaire* kept Possession of the same Prerogative. 'Tis true, sometimes the Popes elected by the Clergy and People were consecrated, without waiting for the Emperor's Decree, as was the Case of *Paschal*; but he sent to excuse himself to *Lewis the Son of Charles*, that it was not done with his Consent, but that the People forc'd it upon him, because they would have it so. *Lewis* by his *Capitularia* restor'd the Freedom of Elections, not only of the Popes, but also of all Bishops; but for all that he did not derogate from the Assent and Approbation of the Prince, as the Archbishop of *Paris*<sup>3</sup> very well proves; for this excellent Writer, from the Testimony of *Florus Magister*, a cotemporary Author, demonstrates, that the Assent of *Lewis* was always requir'd, neither did he allow of the Consecration without his Permission; he likewise relates, that after the Year 820, *Gregory IV.* having been elected, was not ordain'd until the Election had first been examin'd by the Emperor's Ambassador; so far is it from being true, that some who have been misled by the Apocryphal C. *Ego Lodovicus*<sup>4</sup>, have said, that *Lewis* renounc'd this Power of confirming the Pope elected; that it is certain, that not only *Lewis*, but likewise *Lothaire* his Son, and *Lewis II.* his Grandchild, confirm'd all the Popes elected in their Time; and it was not before the Posterity of *Charles the Great* was extinct in *Italy*, in the Year 884, that *Adrian III.* made a Decree, that the Pope should be consecrated without the Emperor's Consent.

CHARLES likewise regulated the Churches of the West by his *Capitularia*, calling Synods by his own Authority, wherein he not only order'd the Prelates of the Church to be present, but also the Secular Lords, establishing Rules not only concerning the Temporality, but the very Discipline of the Churches, making sundry Ecclesiastical Laws for the Distribution of the Revenues and Possessions of the Churches and the Tythes, reviving many of the ancient Canons that had been disus'd.

BUT *Charles* was no sooner elected Emperor, than he assum'd much greater Authority in the Elections and Ordinations of Bishops, and he did all by the Permission of the Popes themselves. Altho' he restor'd the Liberty to the People and Clergy of electing the Bishops, yet he prescrib'd many Laws concerning Elections; that they should elect one of their own Church or Diocese; that the Monks should elect their Abbot from their own Monastery, and with the Authority of the Apostolical See, and the Consent of the Bishops; the Emperor after the elected Bishop or Abbot was presented to him, and approv'd by him, was to invest them, by delivering to them the Crozier and Ring<sup>5</sup>, then they were to be consecrated by the neighbouring Bishops; whence arose the Right of *Investiture*, on account of which so many Quarrels and Contentions ensu'd in the following Centuries betwixt the Popes and the Emperors.

<sup>1</sup> Flor. Magistr. Traët. de elect. Epif.

<sup>2</sup> Lup. Ferrar. apud P. de Marca loc. cit. n. 9.

<sup>3</sup> P. de Marca, lib. 8. cap. 14.

<sup>4</sup> Ibidem.

<sup>5</sup> Decret. Grat. dist. 63. c. 30.

<sup>6</sup> Richer. Apolog. Jo. Gerson. loc. cit. pag. 191.

HIS Intention was, by thus bringing the Bishops and Abbots under his Allegiance, to fix his Empire the better, and to keep his Subjects with stronger Ties under his Obedience. Therefore, besides having so much advanc'd the Church of Rome, and made her Mistress of so many Cities and Lands, he likewise enrich'd the other Churches and Monasteries with Baronies, Counties, and very ample and rich Fiefs, by making the Bishops and Abbots Temporal Lords of the Places where they had their Benefices, by uniting the Temporal to the Spiritual Dignity, as accessory to, and depending on it; and investing them in the Temporality with the Ring and Crosier, wherefore he took their Oaths, and oblig'd them to many Performances and Taxes, as also military Services, like any other Feudatory; which by *William of Malmsbury*<sup>1</sup> was reckon'd a Piece of fine Policy, who said, that *Charles omnes pene terras ecclesiis conferebat, consiliofissime perpendens, nolle sacri ordinis homines tam facile quam laicos fidelitatem dominii sui rejicere. Præterea, si laici rebelarent, illos posse excommunicationis auctoritate, & potentie severitate compescere.*

*CHARLES* likewise enlarg'd the Power of Cognizance in the Bishops, and much more in the Bishop of Rome; he gave them *Territorium*, and the *Jus Carceris*<sup>2</sup>, which before *Charles's* Time the Popes never had had in Rome itself; and other Princes in imitation of him granted the same to the Bishops of their Cities. Moreover *Charles* in his *Capitularia* ordain'd, that none of the Clergy, Monks or Nuns could be accus'd before the Secular Magistrates, but only before the Bishop; and in Civil Matters they could require to have all Causes remitted to the Bishop<sup>3</sup>. This Privilege was afterwards generally confirm'd in all Causes both Civil and Criminal by the Emperor *Frederick I.* and his Ordinance was inserted in the *Justinian Code*<sup>4</sup>, so that it pass'd for a common Law; whence came the Distinction afterwards between the Clergy and Laicks; the Laicks were under the Secular Jurisdiction, and the Clergy under the Ecclesiastical. And if they had kept within these Bounds the Thing might have been bore with; but in process of Time, besides the prodigious Increase of the Ecclesiastical Jurisdiction, for Reasons which shall be taken Notice of in the Progress of this History; the Popes and Bishops, to whom Princes had granted Fiefs and Jurisdiction, wrested the Investiture out of their Hands, disclaim'd their Assent to their Elections, and retain'd both the Fiefs and Jurisdictions; boasting besides, that it was not by the Concession of Princes that they exercis'd Jurisdiction over Ecclesiastical Persons, but by Divine Right.

AFTER *Charles's* Death the same Favours were continu'd by his Successors descended of him, to the Ecclesiastical State; and *Lothaire I.* granted them Jurisdiction over their Patrimonies, allowing them at the Desire of the Abbots, and others who had the Charge of Churches, a particular Judge in these Places, whom they call'd *Defender*, who had the Cognizance of Causes, and forbidding the Publick Magistrate to intermeddle in them<sup>5</sup>.

TO this blending of the Secular and Spiritual Powers were owing the monstrous Disorders which appear'd in this and the following Century; the Bishops and chief Prelates frequented the Courts of Princes, and were of their Council; and as Feudatories commanded Armies; meddled in the Government and Consultations of State; neither was it reckon'd unbecoming in those Times, to see the same Person both Bishop and Duke of *Naples*; and likewise the same Person both Bishop and Count of *Capua*; which made them look on the Exercise of their Sacred and Spiritual Office as beneath their Dignity.

WHENCE the Monasteries and Churches in the Provinces of the Principality of *Beneventum* tributary to the Emperor of the West, following the same Example, began to acquire Fiefs and Baronies; for before *Charles's* Time the *Longobard Kings* gave Fiefs<sup>6</sup> neither to Monks nor Clergy, thinking that it did not suit with their Office, but the Popes found no Inconsistency in it, neither did they refuse *Charles's* Bounty, nor that of other Princes, who after his Example enrich'd the Churches and Monasteries; and *Arnaldo da Brescia* having had the Boldness to maintain, that Fiefs could not be given to Churches, was condemn'd in the *Lateran Council* as a Heretick<sup>7</sup>.

<sup>1</sup> Guliel. Malm. lib. 5. de gestis Reg. Angliz.

<sup>2</sup> Richer. loc. cit.

<sup>3</sup> Loyseau des Off. des Sign. chap. 15.

<sup>4</sup> Auth. Statuimus, C. de Episc. & Cler.

<sup>5</sup> Diploma Loth. apud Schilterium Comment.

ad jus Feud. Aleman. cap. 1. §. 7. V. Struvium hist. Jur. publ. cap. ult. §. 4.

<sup>6</sup> Duaren. in Comment. ad consuet. Feud. lib. 1. cap. 6. num. 18.

<sup>7</sup> Sigon. de Reg. Ital. lib. 11.

IT was not thought inconsistent, that the Temporal Power should be annex'd to, and made dependent on the Priesthood; and that the Churches and Monasteries invested in Fiefs with respect to Temporalities, should acknowledge the Prince as Sovereign Lord of what they were invested in; and as to Spirituals, and in all other Things, they should own the Pope as their Head and Moderator. Whence in process of Time it was seen, particularly in *Germany*<sup>1</sup>, that many Bishops, Abbots, and Priors were Temporal Lords of the Cities, Villages, and Places where their Benefices were situated; in which they exercis'd in their own Names, and under their own Authority, all Civil and Criminal Jurisdiction as Temporal Lords. And because it appear'd something odd for themselves to exercise Criminal Jurisdiction, therefore they made their Officers do it, who by the Laws of our Kingdom, as was practis'd in *France*, ought to be Laicks. For which Cause these their Temporal Lordships were govern'd by the same Rules as those that were in the Hands of Seculars; and there is no Difference, but that the former being Ecclesiastical Possessions, are neither Vendible nor Hereditary, but always go along with the Offices; and in order to preserve the Sovereignty, and the Rights accruing thereby to the Prince, there being no room left for Devolution, they are tied down to the same Services and Payments with other Barons, and in place of Fines, the *Quindennia*<sup>2</sup>, or Fifteenths are exacted. Whence likewise comes the Custom, that with us, according to the Practice of *France*, Appeals that are made from their Temporal Jurisdictions, are brought before the Secular, and not the Ecclesiastical Courts<sup>3</sup>; and ought to be judg'd according to our Constitutions, the Ordinances of the King, and the Custom of Places, and not according to the Canon Law<sup>4</sup>.

THE first among us, that by the Concession of our *Longobard* Princes, got Possession of Castles and Baronies, was the Monastery of *Monte Cassino*, whence its Abbot now justly boasts of being the first Baron of the Kingdom, and that in the general Parliaments, among all the Barons the first Place is due to him<sup>5</sup>. *Marinus Freccia*<sup>6</sup>, perhaps by giving credit to the Fables of *Petrus Diaconus*<sup>7</sup>, the Continuator of the Chronicle of *Leo Ostiensis*, wrote, that the Emperor *Justinian* had given many Cities and Lands in the Kingdom to this Monastery; tho' *Leo*, in his Chronicle seems to have had no other Design, but to make an Inventory of all the Donations and Concessions made to that Monastery by diverse Princes and Lords, and likewise by private Men, and mentions Things of small Moment, yet not one Word of that; besides *Petrus Diaconus* mentions special Grants not only of *Justinian*, but likewise of *Justin the Elder*, who reign'd in the East, when all *Italy* was under the Dominion of the *Goths*, and when *S. Benedict* was not as yet come into our *Campania*, nor had been at *Cassino*. *Gisulphus* Duke of *Benevento*, as we have said, was the first who enrich'd this Monastery with Castles and Baronies; whence in process of Time, by the Bounty of other Princes it got the Lordship of the City of *Cassino* itself, and possess'd also Fiefs in other Provinces, such as *Cetraro* in *Calabria*; *S. Pietro di Avellana*, in the County of *Molise*; *Serra de Monaci* in *Abrutium*; and many more in other Places, of which the Register of Abbot *Bernard*, and the Chronicle of *Leo* are good Vouchers. Therefore the Abbots of the Monastery of *Monte Cassino* took an Oath of Fidelity to the Emperors of the West, from whom they obtain'd the Confirmation, or *Præcepta*, call'd likewise *Mundeburda*, of the said Concessions, as they did to the Emperor *Lothaire* II.; and therefore that Monastery was esteem'd an Imperial Chamber<sup>8</sup>; and in the Division made betwixt *Radelchisus* and *Siconolphus*, was excepted, as being immediately under the Protection of the Emperor; and *Henry VI.* exempted the Abbot *Rofridus* from furnishing Soldiers, to which he was bound as a Feudatory; which King *William the Good* afterwards did not do, who for the Expedition to the Holy Land, got from that Monastery sixty Soldiers, and Two hundred Servants<sup>9</sup>.

IN process of Time, not only the Monasteries of the Order of *S. Benedict*, but also all the other Orders, became Lords of Castles and Baronies under our *Norman*

<sup>1</sup> V. Struvium hist. Jur. Feud. cap. 8.

<sup>2</sup> V. Biscard. in Jur. Responf. de Quinden.

<sup>3</sup> Freccia de Subfeud. lib. 3. diff. 13. R. de Ponte dec. 2. n. 1.

<sup>4</sup> V. Loyseau des sign. Eccl. chap. 15.

<sup>5</sup> Abbas de Noce in Excurs. hist. in cap. 5. lib. 1. Leon. Ost.

<sup>6</sup> Frecc. de Subfeud. lib. 1. tit. de Antiq. Regni Stat. num. 57. fol. 53.

<sup>7</sup> Pet. Diacon. ad Chron. Cass. lib. 4. cap. 117. & 118.

<sup>8</sup> P. Diacon. lib. 4. c. 118.

<sup>9</sup> V. Ab. de Noce, loc. cit.

Princes.

Princes. The *Greeks* being intirely driven out of these our Provinces, and the use of Fiefs common every where; the Monasteries under the Order of *S. Basil*, and other Orders, likewise got Fiefs. That of *S. Elias* of the Order of *S. Basil* got the Town of *Carbone* with respect to Civil Matters. The Abbots of *S. Mark* in *Lamis*, of *S. Demetrius*, and many others, the Orders of *S. John of Jerusalem*, of *S. Stephen*, and many others of different Orders, which may be seen in *Ughellus*, hold Baronies.

OUR Churches and Bishops were no less plentifully enrich'd than the Monasteries. The Archbishop of *Salerno* once possess'd the Towns of *Olibano* and *Mount Corvino*; the Archbishop of *Taranto* got the Town *Delle Grottaglie* as to Civil Matters; and the Archbishop of *Consa* likewise as to Civil Matters got the Towns of *S. Menajo* and *S. Andrea*; the Archbishop of *Bari* had once *Bitritto*, *Cassano*, *Casamassima*, *Modugno*, *Laterza*, and other Towns<sup>1</sup>; the Archbishop of *Brundisi* got the Town of *S. Pancratio*; the Archbishop of *Reggio* retains to this Day the Castles of *Bova* and *Castellace*; and the Archbishop of *Otranto* got other Towns. The Bishop of *Lecce* had *S. Pietro in Lama*, *Vernotico*, and other Fiefs; the Bishop of *Bojano* once possess'd the Town of *S. Polo*; the Bishop of *Tricarico* had the Town of *Montemuro*, and many other Churches, such as those of *Cassano*, *Teramo*, *S. Nicholas of Bari*, and others, possess many Fiefs and Castles; which, that we may shun making a longer Catalogue of them here, may be seen in *Ughellus's Italia Sacra*. For which Cause, tho' in our Kingdom the Ecclesiastical State makes not a distinct State, as in *France*, yet at the general Parliaments the Bishops and Abbots, as Barons and Lords, and not as Ecclesiasticks, send their Proxies.

SUCH was the Polity of the Churches and Monasteries of the Principality of *Benevento* in this ninth Century, which depended as formerly on the Patriarch of the West, and in every Thing were united to the *Latin Church*. The Monastick State was still advancing in Splendor and Greatness; many other Monasteries of the Order of *S. Benedict* were still building there by the Bounty of the *Beneventan* Princes, and of the Emperors of the West themselves. In the Year 872. the Monastery of *S. Clement* in the Island of *Pescara*, of the Order of *S. Benedict*, was built by the Emperor *Lewis*<sup>2</sup>. In *Gargano* and *Siponto*, those of *Calena* and *Pulsano* were erected, of which at present there's scarcely any Vestige remaining.

*BENEVENTUM* was likewise adorn'd with a new Sanctuary; for the *Saracens* having made themselves Masters of *Sicily*, and in the Year 831. destroy'd the Island of *Lipari*, whither 'tis said that the Bones of the Apostle *Bartholomew* had been brought from the *Indies*, they likewise violated the holy Shrine, by scattering the blessed Bones upon the Ground, which by the Revelation of the Saint himself, were gathered by a certain Monk, and transported from *Lipari* to *Beneventum*<sup>3</sup>; Prince *Sicardus* receiv'd them with the utmost Esteem and Veneration, and for a long time they were ador'd there; and the *Beneventans* being persuaded that they were not afterwards carried to *Rome* by *Otho*, pay them still the same Honours and Adoration.

<sup>1</sup> Beatil. hist. di Bari.

<sup>2</sup> Ughel. tom. 6. pag. 298.

<sup>3</sup> Leo Ost. lib. 1. cap. 24. Sigebert. ad A. 831.

## S E C T. II.

*The Ecclesiastical Polity of the Neapolitan Churches, and of the other Cities subject to the Greek Empire.*

ALTHO' in the *Greek Church* there was not so great Deformity and Looseness of Manners, and so great Ignorance as in the *Latin*, both in Priests and Monks; neither did her Bishops nor Abbots possess Castles and Baronies, the *Greeks* having no Fiefs; nevertheless the Separation betwixt the two Churches grew so wide through the Ambition of the Patriarch of *Constantinople*, and some Doctrines and Opinions maintain'd in the *Greek Church* different from those which the *Latin*



Church taught, not to mention some Points of Discipline, and their different Rites and Ceremonies, that at last it became irreconcilable. The *Greeks* oppos'd the Primacy of the Bishop of *Rome*, to whom they had a mind to prefer the Bishop of *Constantinople*, or at least to put him upon the same Level. Therefore there arose various Debates concerning the Bounds of their Patriarchates; whereupon that of *Constantinople* usurp'd many Provinces which belong'd to the Patriarchate of *Rome*. There was a great Dispute about *Bulgaria*, the Patriarchs of the East pretending, that that Country having been taken from the *Greeks*, and at first govern'd by *Greek* Bishops, ought to belong to the Patriarch of *Constantinople*; they were likewise favour'd in this by the Emperor *Basilus*, and his Son *Leo*, whom he had associated in the Empire; so that *Bulgaria*, notwithstanding the Opposition and Protestations of the Pope's Legates, was adjudg'd to the *Greeks*, and the *Latin* Bishops and Priests were expell'd.

THE Ambition of the Patriarchs of *Constantinople* being seconded by the Power of the Emperors of the East, took many other Churches from the Patriarchate of the West, which were assign'd to that of *Constantinople*; whence it came, that as there was a new Division made of the Provinces of the Eastern Empire, into many *Themata*, of which *Constantine Porphyrogenitus* compos'd two Books, and a new Description of the Officers of the Palace and Court of *Constantinople*, of which *Codinus*<sup>1</sup> and *Joannes Curapalata*<sup>2</sup> have made a long List; so with respect to the Polity of the *Greek* Church, and the *Constantinopolitan* See, their Patriarchs obtain'd from the same Emperors of the East, that there should be a new Division made, as well of the Churches subject to the *Constantinopolitan* See, many of which had been taken from that of *Rome*, as of the Officers of the great Church of *Constantinople*, of which *Codinus* and *Curapalata*, and others according to *Leunclavius*<sup>3</sup> have likewise given the Names and Offices; to the End that those Churches, which were taken from the Patriarchate of the West, by such a Disposition or *Notitia*'s being made by the Authority of the Emperor, might remain firmly united to, and dependent on their See.

'TIS commonly believ'd, that about the Year 887, in the Time of *Leo* surnam'd the *Philosopher*, after the Patriarch *Photius* had been turn'd out of the Chair of *Constantinople*, such a Disposition was made; and *Leunclavius*<sup>4</sup> records it among the *Novellæ* of *Leo the Philosopher*; but *Leo Allacci*<sup>5</sup> maintains, that it was made some Years before in 813, under the Empire of *Leo the Armenian*; however that may be, by this Disposition we see, how much in those Times the Patriarchs of the East had extended their Authority over many Churches, and particularly over these in our Provinces, which formerly belong'd to the See of *Rome* as Suburbicarian Provinces.

THE Abbot *Nilo*, surnam'd *Doxapatrus*, in his Treatise *De quinque Thronis Patriarchalibus*<sup>6</sup>, which he wrote in the Year 1143, to *Roger I.* King of *Sicily*, upon an Occasion which we shall relate when we come to discourse of the Deeds of that Prince, lets us see how much the *Roman* Patriarch possess'd formerly, and what has been since taken from him by that of *Constantinople*. He possess'd, says he, all *Europe*, *Spain* as far as *Hercules's* Pillars, with the Islands of the Western Sea, the two *Gallia's*, the *British* Islands, *Pannonia*, all *Illyricum*, *Peloponnesus*, the *Avari*, *Sclavonia*, *Scythia* to the *Danube*, *Macedonia*, *Thessalonica*, *Thracia* as far as *Byzantium*, *Mauritania*, the *Mediterranean* Islands, *Creta*, *Sicilia*, *Sardinia*, and *Majorca*. All *Italy*, to wit, *Superiores Alpes*, & quæ ultra eas extenduntur: ne non inferiores *Gallias*, quæ *Italiae* sunt, sive *Lombardiam*, quæ nunc dicitur *Longibardia*, & *Apuliam*, & *Calabriam*, & *Campaniam omnem*; & *Venetiam*, & *Provincias quæ ultra sinum Hadriaticum se se effundunt*. And concludes, *Hæc omnia Romano subdebantur*.

BUT afterwards there were many Provinces and Cities, as well in the East as the West, subjected to the *Constantinopolitan* See. The *Metropolitans* of *Thessalonica* and *Corinth* subjected themselves to the Patriarch of *Constantinople*, and many

<sup>1</sup> Codin. de Offic. Aulae Constant.

<sup>2</sup> Curapal. lib. de Offic. Palat. Constant.

<sup>3</sup> Leuncl. tom. 1. Jur. Græc. Rom.

<sup>4</sup> Ibidem.

<sup>5</sup> Leo Allac. de Eccl. Occid. & Orient. perpet. consent. pag. 426.

<sup>6</sup> It was for the most Part transcrib'd by *Leo Allacci* loc. cit. lib. 1. cap. 10 & 24. pag. 410. and by *Eman. Schellstrat.* antiq. illustr.

other Metropolitans and Archbishops follow'd their Example: *Sicilia præterea*, he adds, *& Calabria se Constantinopolitano supposuerunt, & Sancta Severina, quæ & Nicopolis dicitur.*

*Sicilia autem universa unum Metropolitam habebat, Syracusanum: Reliquæ vero Siciliae Ecclesiæ Syracusani erant Episcopatus, etiam ipse Panormus, & Therma, & Cephaludium, & Reliquæ.*

*Calabria quoque unum Metropolitam Rheginum, reliquas vero Ecclesias Episcopatus Rheginus sibi vendicabat.*

*Taurianam, in qua Sancti Fantini Monasterium est.*

*Bibonem, cujus locum occupavit Miletum.*

*Constantiam, quæ Cosentia nunc dicitur, & reliquos omnes, Calabriae Subjectos.*

*Erat & Sancta Severina Metropolis, habens & ipsa sub se varios Episcopatus.*

*Callipolim, Asyla, Acherontiam, & reliquas; & sunt hæ Ecclesiæ descriptæ in Tacticus Nomocanonis sub Throno Constantinopolitano.*

*Adnexæ itaque Siciliae, Calabriae, Sanctæ Severinæ sedes Throno Constantinopolitano, a Romano avulsæ; quemadmodum & Creta, sub Romano cum esset, sub Constantinopolitano facta est. Nihilominus Pontifex viles quasdam partes, & Episcopatus nonnullos in Sicilia, & Calabria habere deprehenditur. Metropoles enim, & urbes in eadem illustriores, & digniores, Constantinopolitanus possedebat, usque ad Francorum adventum; meaning the Normans, who having driven the Greeks out of these Provinces, restor'd to the See of Rome all those Churches which had been taken by the Greeks from that Patriarchate, as we shall relate in its Place.*

*Si autem, adds Nilo, in Longobardia & Apulia, & in omnibus his Regionibus, maritimas Metropoles antea possedebat Constantinopolitanus, reliquas Romanus, ut Regionem illæ per partes possiderentur. Namque Melodus Poeta Dominus Marcus, Hydruntum a Constantinopolitano missus fuisse comperitur. Cum autem universæ Longobardiæ Ducatus, quæ vetus Hellas erat, sub Imperatore erat Constantinopolitano, Papa vero separatus sub aliis Gentibus vivebat, propterea Patriarcha Ecclesias obtinebat; nam Brundisium, & Tarentum a Constantinopolitano sacerdotes accipiebat; idque nullum latet.*

THE Disposition or Notitia of the Metropolitans, and of the Bishops their Suffragans, subject to the See of Constantinople, describ'd to us by the Novella of Leo recorded by *Leunclavius*, is exactly the same with what *Nilo* has written. He made the Plan of it in the following Order.

*Ordo præsentis Metropolitānorum, qui subsunt Apostolico Throno Constantinopolis, & subjectorum eis Episcoporum.*

HE numbers all the Metropolitans with their Suffragan Bishops, and puts in the first Place the Metropolitan of *Cæsarea* in *Cappadocia*: In the second the *Ephesian* in *Asia*, and successively all the rest to the Number of LVII. Metropolis's. In the XXXII. Place the See of *Reggio* or *Calabria*, with its Suffragan Bishops, is put in this manner.

### XXXII. *Rheginensi, sive Calabriae.*

- |                          |                       |                            |
|--------------------------|-----------------------|----------------------------|
| 1. <i>Bibonensis.</i>    | 2. <i>Taurianæ.</i>   | 3. <i>Locridis.</i>        |
| 4. <i>Rufiani.</i>       | 5. <i>Scylacii.</i>   | 6. <i>Tropæi.</i>          |
| 7. <i>Amantæ.</i>        | 8. <i>Crotonæ.</i>    | 9. <i>Constantiensis.</i>  |
| 10. <i>Nicoterenfis.</i> | 11. <i>Bisuniani.</i> | 12. <i>Novocastrensis.</i> |
| 13. <i>Cassani.</i>      |                       |                            |

IN the XLIXth Place the See of *S. Severina* with its Suffragan Bishops is put.

### XLIX. *Severianæ, Calabriae.*

- |                        |                          |                           |
|------------------------|--------------------------|---------------------------|
| 1. <i>Euryatenfis.</i> | 2. <i>Acerentinus.</i>   | 3. <i>Callipolitanas.</i> |
| 4. <i>Asylorum.</i>    | 5. <i>Castriveteris.</i> |                           |

AFTER these the Metropolis's are put that have no See subject to them, that is to say, have no Suffragan Bishops, and among the rest he puts *Otranto* in I.V. Place.

LV. *Hydrun-*

LV. *Hydruntino qui subfit, nullus est Thronus.*

AND in the End he sets down by themselves the Metropolitans with their Suffragan Bishops, that had been taken from the Roman See, and subjected to the *Constantinopolitan*; those that had been taken from the Diocesses of the West, he observes were the Metropolitans of *Reggio* in *Calabria*, and of *Syracuse* in *Sicily*.

*Avulsi a Diœcesi Romana, jamque Throno Constantinopolitano subjeçti Metropolotani, & qui subsunt eis Episcopi, sunt hi;*

- |                             |                          |                        |
|-----------------------------|--------------------------|------------------------|
| 1. <i>Thessalonicensis.</i> | 2. <i>Syracusanus.</i>   | 3. <i>Corinthius.</i>  |
| 4. <i>Rbegiensis.</i>       | 5. <i>Nicopolitanus.</i> | 6. <i>Atheniensis.</i> |
| 7. <i>Patrensis.</i>        |                          |                        |

*Sub Syracusano, Siciliae.*

- |                           |                        |                         |
|---------------------------|------------------------|-------------------------|
| 1. <i>Taurominitanus.</i> | 2. <i>Messanensis.</i> | 3. <i>Agrigentinus.</i> |
| 4. <i>Croniensis.</i>     | 5. <i>Lilybei.</i>     | 6. <i>Drepani.</i>      |
| 7. <i>Panbormitanus.</i>  | 8. <i>Thermarum.</i>   | 9. <i>Cephaludii.</i>   |
| 10. <i>Alesæ.</i>         | 11. <i>Tyndarii.</i>   | 12. <i>Melitenfis.</i>  |
| 13. <i>Liparenfis.</i>    |                        |                         |

SEEING the *Greeks* could not advance Bishops to be Metropolitans, because perhaps it was not for their Interest to take the Churches from the old neighbouring Metropolitans, and give them to a new one; when they had a mind to advance any Bishop, they were wont to dignify him with the Title of Archbishop, with which (it being only a Title of Dignity, not of Power, like that of Metropolitan) they who were dignified acquir'd nothing but greater Splendor, and a Pre-eminency above the other Bishops of that Province, of whom they had the Preference and Place. *Quosdam Antistites, says Balsamon, non propterea vocari Archiepiscopos, quod Episcoporum Principes, & Ordinatores sint: Sed quod primi Episcoporum habeantur* <sup>1</sup>. Whence in the Disposition of the Churches subjected to the See of *Constantinople*, besides the Degrees of Metropolitans, we read in the same *Novella* of *Leo*, and likewise in the Book of the Synodical Decrees also printed by *Leunclavius* <sup>2</sup>, a List of Archbishops subjected to the Patriarch of the East, and among the rest in XIV Place we find the Archbishop of *Naples*, and after him the Archbishop of *Messina* in this manner.

*Archiepiscopatus.*

- XIV. *Neapolis.*  
XV. *Messana.*

THE Polity and Government of the Churches of the Dukedom of *Naples*, as being comprehended in *Campania*, a Suburbicarian Province, belong'd by Right to the Patriarch of *Rome*, who, in effect, as is manifest from the Letters of *S. Gregory the Great*, exercis'd all Patriarchal Power in it, tho' the Political and Temporal belong'd to the Empire of the East; but afterwards the Patriarchs of *Constantinople*, supported by the Power of the *Greek* Emperors, began to dignify the Bishops of *Naples* a Metropolis City of a Dukedom of no small Figure, with the pompous and shining Titles of Archbishops, and to ascribe Honours and Prerogatives to them, by which they were distinguish'd from all the other Bishops of the Dukedom. We find that *Sergius* Bishop of *Naples*, took the Title of Archbishop from the Patriarch of

<sup>1</sup> V. Carac. de Sacr. Eccl. Neap. monum. c. 1. §. 10.

<sup>2</sup> Leuncl. loc. cit. l. 3. Jur. Græc. Rom. Constantinople,

*Constantinople*, but being rebuk'd for it by the Pope, he repented him of his Error, and ask'd Pardon<sup>1</sup>.

THE Popes oppos'd these Incroachments of the Patriarchs of *Constantinople* with all their Might, but after the Times of *Leo Isauricus*, and *Constantinus Copronymus* Emperors of the East, when the Discord betwixt those two Churches increas'd, the Patriarchs of *Constantinople* becoming more bold by the Power and Favour of the Emperors, who were implacable Enemies of the Popes, pretended that the Bishops of those Churches that had continu'd under the *Greek* Empire, ought to acknowledge them for their Patriarchs; that they ought to take their Bulls of Confirmation and Consecration from them, and obey them in all Spiritual Matters, as they obey'd the Emperors of the East in Temporals. And tho' *Bari*, *Taranto*, *Brindisi*, and other Cities of *Puglia* and *Calabria*, were now under the Dominion of the *Longobards*; nevertheless, being afterwards retaken by the *Greeks*, and restor'd to the Empire of the East, as we shall shew in the following Books; the *Greeks* likewise subjected the Churches of these Cities to the Patriarchate of *Constantinople*.

THE Church of *Naples* then, if regard be had to what the Patriarchs of *Constantinople* took upon them to do, from this Time became Archiepiscopal, but not Metropolitan, because that Title of Dignity was only given by these Patriarchs for Honour's sake. It was erected into a Metropolis afterwards in the tenth Century by Pope *John*, as shall be told in its Place; and for that Reason in the *Novella* of *Leo*, and the Book of the Synodical Decrees, *Naples* is not plac'd in the Number of the Metropolitan Cities subject to the See of *Constantinople*, but amongst the Archiepiscopal, which the Patriarch of the East pretended were subject to him. But notwithstanding this Claim, he never pretended to consecrate the Bishops of *Naples*, who were no sooner elected by the Clergy and People, than they went, as formerly, to *Rome* to get themselves consecrated by the Popes.

FOR this Reason the Church of *Naples* was never separated from the *Latin* Church; but being in a City subject to the *Greeks*, and by the continual Commerce with the Eastern People, much frequented by the *Greeks*, had Priests and Clergy of both Communions; there were two Chapters, the one *Greek*<sup>2</sup>, and the other *Latin*; and many Parishes and Churches, as well *Latin* as *Greek* were erected, which for the Reason just now mention'd happen'd in this Century, and not in the Time of *Constantine the Great*. There were reckon'd six *Greek* Parochial Churches; that of *S. George ad Forum*; that of *S. Januarius ad Diaconiam*; the Churches of *SS. John and Paul*, of *S. Andrew ad Nidum*, of *S. Maria Rotunda*, and of *S. Maria in Cosmedin*<sup>3</sup>; in which the Priests celebrated the Sacrifices and Divine Offices according to the Rites of the *Greek* Church; but upon certain appointed Days, assembled with the *Latins* in the great Church, and with promiscuous Rites, and *Latin* and *Greek* Songs prais'd the Lord<sup>4</sup>.

FROM *Naples* having had two Clergies, the one *Latin* and the other *Greek*, our *Chioccarelli*<sup>5</sup> believ'd, there likewise had been two Bishops in it, the one *Greek* and the other *Latin*, as *Cyprus* is said to have had two Archbishops in the Time of Pope *Innocent IV.* the one *Latin* and the other *Greek*; thus does he interpret the Acts of the Life of *S. Athanasius* Bishop of *Naples*. But this is repugnant to all History, and the so many Catalogues which we have of the Bishops of this City, in which there's no such Deformity to be found in this Church; wherefore *P. Caracciolus*<sup>6</sup> censur'd this Error, and explain'd the Ambiguity of the Acts of that Saint compos'd by *P. Diaconus* of *Cassino*, who had led *Chioccarelli* into the Mistake.

THE Bishop of *Naples* then, tho' dignify'd by the Patriarch of *Constantinople* with the Title of Archbishop, did not exercise any Power of a Metropolitan over the Bishops of his Dukedom: He only had the Precedency in Honour and Dignity, as Bishop of the Ducal City; and in this Age the Bishops of this Dukedom were those of *Cuma*, *Miseno*, *Baja*, *Pozzuoli*, *Nola*, *Stabia*, *Sorrento*, and *Amalphis*;

<sup>1</sup> Jo. Diacon. in Chron. Episc. Neap. Hic dum a Græcorum Pontifice Archiepiscopatum nancisceretur, ab Antistite Romano correptus veniam impetravit.

<sup>2</sup> V. Capacium lib. 1. fol. 57. Franc. Ant. Purpuram Respons. pro Monachis Basilian. in causa precedentis cum Monach. Cassin.

<sup>3</sup> V. Eugenium in Eccl. S. Georg. & S. Mariæ in Cosmedin.

<sup>4</sup> V. Chioccarel. de Episc. Neap. ad A. 878.

<sup>5</sup> Chioc. loc. cit.

<sup>6</sup> Carac. de Sacr. Eccl. Neap. Monum. cap. 35. Sect. 2.

in process of Time *Sorrento* and *Amalphis* were advanc'd to be Metropolis's; and *Cuma*, *Miseno*, *Baja*, and *Stabia* were destroy'd. But tho' *Naples* lost these Cities, when it was made a Metropolis, it got *Aversa* built by the Normans, *Ischia*, *Acerra*, *Nola*, *Pozzuoli*, that were for a long time Suffragans to its See.

IN the other Churches of the Cities subject to the Greek Empire, the Patriarchs of *Constantinople* exercis'd greater Authority, and particularly in the Churches of *Reggio*, *S. Severina*, and *Otranto*; and after the Greeks had recover'd *Taranto*, *Brindisi* and *Bari*, and other Cities of *Puglia* and *Calabria*, they pretended the same Authority over them.

THEY made *Reggio* a Metropolis, and appointed thirteen Suffragan Bishops to it, as we have seen. They erected *S. Severina* into a Metropolis, and subjected five Bishops to its See. To the Metropolitan of *Otranto* they gave none; but in the Time of *Nicephorus Phocas*, about the Year 968, while *Polientus* was Patriarch of *Constantinople*, the Bishops of *Acerenza*, *Turcico*, *Gravina*, *Matera*, and *Tricarico*, were made Suffragans to it, the Consecration of which Bishops, as *Luitprandus* Bishop of *Cremona* <sup>1</sup> relates, he would have to belong to the Metropolitan of *Otranto*; and *Nicephorus* so much enlarg'd the Bounds of this Metropolis, and the Greek Rites, that he commanded the Divine Offices to be celebrated no more in *Latin*, but in *Greek*, over all *Puglia* and *Calabria*; and other most ample Privileges were granted to it, which may be seen in *Ughellus's Italia Sacra* <sup>2</sup>.

*BRINDISI* and *Taranto*, after they were restor'd to the Greek Empire; *A Constantinopolitano Sacerdotes accipiebant*, says *Nilo*.

WHEN the Greeks retook *Bari*, *Trani*, and other Cities of *Puglia* from the *Saracens* and *Longobards*, their Churches were likewise subjected to that Patriarch. *Theodore Balsamon* in the Account which he gave of the Sees subject to the Patriarchate of *Constantinople*, in the Reign of the Emperor *Andronicus Paleologus the Elder*, besides the Eastern Churches, reckons amongst the Western the Church of *Bari* to be Number 31; that of *Trani* 44; that of *Otranto* 66; and that of *Reggio* in *Calabria* 38.

WHENCE according to the Testimonies of *Beatillus* <sup>3</sup> and *Chioccarelli* <sup>4</sup>, there are many Original Greek Bulls preserv'd in the Archives of the Cathedral Church of *Bari*, sent by the Patriarchs of *Constantinople* to the Archbishops of that City, by which the Elections of the Archbishops are confirm'd; which continu'd all the Time that *Bari* (being likewise made a Metropolis of a considerable Dukedom, where the Greek Magistrate resided) with *Puglia*, were subject to the Greek Empire, and until the Greeks were driven out of that Province by our valiant Normans. Whence to this Day all these Cities retain many Vestiges of the Greek Rites and Customs; and they likewise keep up many Greek Titles denoting Dignity and Offices, as *Reggio* retains yet the *Protopapa*, and other Cities the *Cimeliarchæ*, and the Clergy as well Greek as *Latin*. And whence likewise, as *Leo Allaci* also observes <sup>5</sup>, for a long time the Doctrine of the Eastern Church was maintain'd in our Kingdom by the Monks, particularly by the Order of *S. Basil*, for which the famous *Barlaam* became renown'd with us, of whom we shall speak in his Place.

WHEN the *Orbo's* govern'd in the West, these Emperors endeavour'd to free our Churches in *Puglia* and *Calabria* from that Servitude, and to reduce them all as formerly under the Patriarch of the West. For that end *Luitprandus* Bishop of *Cremona*, about the Year 968, was sent to the Emperor *Nicephorus Phocas*, but to no purpose; for the Reduction of all our Churches under the Pope, was reserv'd to our Norman Princes, who having driven not only the *Saracens*, but likewise the Greeks out of *Sicily* and these our Provinces, made themselves so well deserving of the Church of *Rome*, that besides the important Services they did her, they united all our Churches, as they were formerly, under the Direction and Disposal of the Pope, to whom by Right they belong'd; as shall be seen in the following Books of this History.

<sup>1</sup> Luitprand. Legatio ad Niceph. Phoc. pro Ottonib.

<sup>2</sup> Ughel. de Archiep. Hydrun.

<sup>3</sup> Beat. hist. di Bari, lib. 1.

<sup>4</sup> Chioc. de Episc. Neap. A-750.

<sup>5</sup> Allaci, lib. 2. cap. 17. pag. 823.



THE  
CIVIL HISTORY  
Of the KINGDOM of  
NAPLES.

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BOOK VII.

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THE Fall of our *Longobard* Princes, and the rising up again of the *Greeks*, the Incurfions of the *Saracens*, and the fo many Mifchiefs and Calamities which thefe our Provinces have fuffer'd, fhall be the Subject of this Book. We are going to relate the fad and unfortunate Events which reduc'd them to a very miferable and lamentable Condition. The *Longobard* Princes being divided amongst themfelves, their intestine Broils ruin'd their State: Their Quarrels render'd the Authority of the Emperors of the Weft of greater Force, who from Tributaries made them Feudatories. On the other hand, the *Saracens* being invited by our Princes themfelves, compleated their Destruction. The Principality of *Benevento*, all in Confufion and torn to pieces, gave a fit Opportunity to other Nations, who taking advantage of fo many Revolutions and Diforders, invaded it on all Sides, which ended in their being fubjected to the Dominion of another People. The Stubbornnefs of the *Capuans* was the Origin of fo many Calamities, but much more the Villany of *Landulphus* their *Caftaldus*.

THE



THE *Capuans* hearing of the Election of *Radelchisus* to be Prince of *Benevento*, were much dissatisfy'd; they were afraid that this Prince would not bear with their Treachery, and they were much more afraid of *Landulphus*. This last was accus'd of being privy to a Conspiracy, which *Adelchisus* the Son of *Roffridus* had fram'd against *Radelchisus*, who having discover'd it, caus'd *Adelchisus* to be thrown out of a Window, and endeavour'd to get hold of *Landulphus*, who having notice thereof, immediately fled. On the other hand *Siconolphus* Brother of *Sicardus* had been confin'd to a close Prison by his Brother, but soon after had made his Escape and for a long time was kept conceal'd by *Ursus* Count of *Consa*, his Kinsman, at last having got to *Taranto*, he remain'd there; and *Radelchisus* was no sooner advanc'd to the Principality of *Benevento*, than he sent *Dauserius* into Exile, who went to *Nocera* a City of the Dukedom of *Naples*, and began to sollicite the *Salernitans* to join with *Landulphus* Count of *Capua* against *Radelchisus*, in order to set *Siconolphus* the Brother of *Sicardus* on the Throne<sup>1</sup>.

THE *Capuans* having likewise drawn in some *Beneventans* to their Party, call'd *Siconolphus* from *Taranto*, and made him come to *Salerno*, whither both the *Capuans* and *Beneventans* went and proclaim'd and elected him Prince in the Year 840. *Landulphus* join'd with him, took possession of *Stropolis*, and at the same time made a strict Confederacy with the *Neapolitans*, who greedily embrac'd the Opportunity, in order to revenge themselves of the *Beneventans* their old and obstinate Enemies. *Siconolphus* became more bold by the Addition of so great Strength, made himself Master of *Salerno*, by defeating *Radelchisus's* Army, and forthwith possess'd himself of *Calabria*, and a great Part of *Puglia*, which he subjected to his Dominion; from whence carrying his victorious Standard towards *Benevento*, he took many Cities and Castles in that Neighbourhood, and likewise had the Boldness at last, being transported with such a prosperous Run of Success, to besiege *Benevento* itself; but being boldly repuls'd by the *Beneventans*, he return'd to *Salerno*.

<sup>1</sup> Erchemp. num. 15. Ostiens. lib. 1. c. 23.

## S E C T. I.

*The Division of the Principality of Benevento, from which the Principality of Salerno had its Rise.*

**R**ADELCHISIUS seeing his State overturn'd, full of Rage and Fury march'd with all his Forces against *Siconolphus*, swearing openly, that he would live no longer if he did not extirpate him out of the Earth; but perceiving that his own Forces, and those of his *Beneventans* were not sufficient for suppressing so powerful an Enemy, who was daily gathering more Strength; being transported with Fury, and not minding the grievous Calamities to which he expos'd his State, design'd to apply worse Remedies to so great Mischiefs. As we have said, many *Saracens* had come from *Sicily* in order to destroy us, who under their Leader *Calphus* were ravaging *Japygia*, and the Neighbourhood of *Bari*. *Pandon* was Governor of that City under *Radelchisus*, who commanded him to invite the *Saracens* to his Assistance, which he obeying, got a great Number of them to come, whom he lodg'd without the Walls of *Bari*, on the Sea-shore; but the subtle *Saracens* knew well how to take Advantage of the Juncture, for they observing the Garrison of the City, and its Situation, found they could master it: One Night on a sudden they enter'd *Bari* by some hidden Places, made a terrible Slaughter of the Christians, and possess'd themselves of the City. Thus *Bari* from the *Longobards* came under the Dominion of the *Saracens*, afterwards the *Greeks* drove out the *Saracens*, and possess'd it for a long time.

**R**ADELCHISIUS on the one hand desirous to have *Siconolphus* humbled, after he was engag'd in that Undertaking, not being able to carry on another War against the *Saracens* for turning them out of *Bari*, wink'd at the Fact, and besides made

made them his Auxiliaries; therefore he invited them to make War against *Siconolphus*, whereupon having join'd his Forces with those of the *Saracens*, they began so cruel and obstinate a War, that they miserably afflicted these our Provinces; *Siconolphus* on the other hand, with the same Rage and Fury, resolv'd to oppose the Forces of *Radelchisus* cost what it would. He stood his Ground at first, and afterwards made a worse Step than *Radelchisus*, by inviting the *Saracens* from *Spain* to his Assistance, which compleated the Ruin of them both. There never had been seen in this our Country more cruel and terrible Slaughter, than what was made at this Time by the *Saracens* of both Sides; they laid *Capua* in Ashes, burnt and destroy'd many Cities; and those who kept Possession of *Bari*, having taking *Taranto*, laid *Calabria* and *Puglia* waste, and went as far as *Salerno* and *Benevento*. All was full of Slaughter and dead Bodies; the *Saracens*, like a Deluge, over-run our beautiful Country. These Calamities continued for the Space of twelve Years; so that the *Beneventans* themselves, being sensible of their own Misery, and too late convinc'd of their Error, were forc'd, in order to calm so furious a Tempest, to have recourse to the Assistance of the *French*, for driving out the *Saracens*, and making Peace betwixt these two Princes.

AT this Time the Emperor *Lothaire* govern'd the Empire of the West and *Italy*, as we have said, who had elected *Lothaire II.* his Son King of *Italy*, who afterwards succeeded him in the Empire. King *Lewis* was humbly intreated by *Landon* Count of *Capua*, the Son of *Landolphus*, and by *Adimarus* and *Bassacius* the renown'd Abbot of *Monte Cassino* (which during these Troubles had been often pillag'd) that he would be pleas'd to march to the Principality of *Benevento* with a powerful Army in order to drive out the *Saracens*, and make Peace betwixt these two Princes: *Lewis*, tho' but a Stripling, influenc'd by the Love of Glory, easily consented to their Request, and immediately march'd to *Benevento*; from whence having driven the *Saracens*, and confin'd them to *Bari*, now their Seat, he purg'd the other Provinces of *Benevento* of this Plague. Afterwards interposing his Authority, he was altogether bent on reconciling these Princes, whom at last he brought to a settled Agreement, by dividing betwixt them all the Provinces of *Benevento*, so that two Principalities were made out of one; that of *Benevento* was kept by *Radelchisus*, the other of *Salerno* was confirm'd to *Siconolphus*, both of them taking an Oath of Fidelity to *Lewis*, whom at last they acknowledg'd for their Sovereign. Thus were these our Provinces, excepting the Dukedom of *Naples*, and those Cities that were subject to the Greek Emperors, brought under the Dominion of the Emperors of the West, who as Kings of *Italy* pretended to exercise the same Authority over them, as the *Longobard* Kings had done.

THESE were the pernicious Consequences which our *Beneventans* brought upon themselves by the Civil Wars which they carried on and maintain'd in their own Country. I. Their being oblig'd to acknowledge *Lewis* for their Sovereign, and swear Fealty to him, which *Charles the Great* himself, nor *Pepin* his Son could not obtain from *Arechis* nor *Grimoaldus*. And tho' the other *Grimoaldus* third Prince of *Benevento*, and *Sico* and *Sicardus* who succeeded him, made themselves Tributaries to the *French*, yet they never went so far as to make themselves Feudatories. Which, tho' it did not derogate from their still being Sovereigns of their Principalities, because sworn Fealty, and Assistance in War, neither diminish the Liberty of the Vassal as to himself, nor the absolute Power which he has over his Subjects; yet (which can't be deny'd) it debases and impairs the Splendor of a Sovereign State, which without doubt, is not so pure and majestick when it's clogg'd with these Burdens; so that *Bodin*<sup>1</sup> is of Opinion, that tho' tributary Princes, or those under Protection, ought to be reputed Sovereigns, yet for all that, Feudatories are not to be esteem'd such; of which we shall have a more fit Opportunity to discourse. II. To see a Principality divided into two, which of consequence brought on a second Division, that of *Capua* starting up, and which of course must ruin them at last, and they become a Prey to other Nations. III. Their having brought a most troublesome Thorn within their own Bowels, such as the *Saracens* were, who being fix'd in *Bari*, it was not long before they over-run both the Principalities anew; so that their own Forces not being sufficient, they were necessitated to have recourse to foreign

<sup>1</sup> Bodin. de Repub. cap. 6.

Assistance in order to suppress them, and by that means render'd the Authority that the *French* had acquir'd over them the greater.

THIS Division was made in the Year 851, betwixt *Adalcbisus* and *Siconolphus*, to which almost all the Counts and *Castaldi* of the Principality of *Benevento* likewise consented, and very many of them, together with these two Princes, seal'd it. We read to this Day the Articles of this Division made by *Radalcbisus* in *Pellegrinus*, wherein the Bounds of these two Principalities are distinctly describ'd.

UNDER the Principality of *Salerno* many *Castaldati* and Castles were comprehended; *Taranto*, *Latiniano*, *Cassano*, *Coffenza*, *Laino*, *Lucania*, by some call'd *Pesfo*, *Consa*, *Montella*, *Rota*, *Salerno*, *Sarno*, *Cimiterium*, *Furculo*, *Capua*, *Teano*, *Sora*, and the half of the *Castaldatus* of *Acerenza*, on that Side where it joins *Latiniano* and *Consa*.

St. *ANGELO ad Cerros*, which includes the Rocks of *Monte Virgine*, as far as the Place call'd *Fenestella*, was made the Boundary betwixt *Benevento* and *Capua*. Betwixt *Benevento* and *Salerno*, the Place call'd *Alti Pellegrini* was made the Limit; and betwixt *Benevento* and *Consa Staffilo* was the Boundary.

THE whole Province of *Benevento* being divided after this manner, the North Part, which joins to the *Adriatick* Sea, remain'd to *Radalcbisus* Prince of *Benevento*; the South Part, which joins to the *Tyrrhenian* Sea, fell to *Siconolphus* Prince of *Salerno*. Whereupon *Salerno* being made the Seat of Princes, began to raise its Head above the other Cities of this Province; a City in those Days very strong and well provided, which *Arechis*, as we have said, had fortified and surrounded with very strong Towers and Walls, in order to have it for a Place of Refuge and Safeguard in case of Distress.

THERE were likewise many other Conditions agreed to in this Division, amongst which the most Material and Principal were, that *Radalcbisus* promis'd not to disturb the Principality of *Salerno*, and to acknowledge for lawful Princes, *Siconolphus*, and whoever he should chuse for his Successor; to join their Forces together for driving the *Saracens* out of their Dominions; that no Hostilities should be committed by the People of the Principalities on either Side, but every one allow'd to live where they thought fit, and to return to the Cities and Castles where their Habitations were, every one to enjoy quietly their own Possessions; and that those who were desirous to go from the Principality of *Salerno*, to the Sanctuary of St. *Michael* in Mount *Gargano*, comprehended in the Principality of *Benevento*, should not be molested, but be allow'd to pass without Opposition or Damage; that all Bishops, Abbots, and the inferior Clergy, should return to the Bishopricks of their own Diocesses, and to their Churches and Monasteries; and if they should refuse, not having a lawful Excuse, they were to be oblig'd by force to return to their Places of Residence, as well the Bishops as all the other Clergy, excepting those however, who serv'd the Prince in his Palace, or those who had been compell'd to take Orders; that all Monks and Nuns should return to their Monasteries where they formerly liv'd, excepting those who to please others had enter'd by Force, and those who should be employ'd in the Palace; that all the Goods of the Churches, Bishopricks, and Monasteries, that were under Rules, or belong'd to Hospitals, should be taken account of, and according to their Value should pay the wonted Tax to the Prince; excepting nevertheless the Monasteries of *Monte Cassino*, and St. *Vincent* in *Vulturno*, which being immediately under the Protection of the Emperor *Lothaire*, and King *Lewis* his Son, were to keep their Privileges, Prerogatives, and Superiorities intire; excepting also the Goods of the Abbots and Canons who serve in the Palace. Many other Stipulations were agreed to, each of them promising Performance with solemn Oaths; and for the greater Security, the Authority of the Emperor was likewise interpos'd: They gave also their Paroles to *Lewis*, who was present, and to *Lothaire* his Father, calling him *Our Emperor* (by reason of the Oath of Fealty) faithfully to observe these Stipulations. The Peace being concluded, the Prisoners were deliver'd up, *Peter* the Son of *Landon* was deliver'd to *Siconolphus*, and also *Poldefrit* the Son of *Pandulphus*; and on the other hand, *Adelgisus* and *Ladelgisus* the Sons of *Radalcbisus* were deliver'd to him, with *Pato* his Nephew. And *Lewis* thinking that he had quieted all the Disturbances of these Provinces, return'd to *France*.

THO' this Peace had been thus settled, yet *Siconolphus* Prince of *Salerno* did not long enjoy the Fruits of it, for soon after, in the same Year 851. *Siconolphus* the first Prince of *Salerno* died, after ten Years and some Months uneasy and imbroil'd

imbroil'd Reign from the Day of his being proclaim'd Prince, which was in the Year 840; he was a Prince of extraordinary Valour, but Death robb'd him of the Enjoyment of the Fruits of his so many Fatigues. He left *Sico* his only Son, as yet a sucking Child, Heir to his Principality, and left him *Peter* <sup>1</sup> for his Tutor.

SOME Months after *Radalchifus* likewise died; the *Beneventans* did not fail to erect him a magnificent Tomb, on which in many Verses they set forth his Virtues. They did the same to *Caretruda* his Wife, by whom *Radalchifus* had twelve Children: *Radelgarius* was elected in his Room, who govern'd a few Years, and died in the Year 854, to whom the *Beneventans* likewise erected a stately Tomb <sup>2</sup>. *Ajo* <sup>3</sup> another of his Sons was Bishop of *Benevento*; and *Adelgisus* on the Death of his Brother succeeded: The rest were Counts and valiant Captains.

BUT in the mean time, about the Year 852, the *Saracens* who had fix'd their Residence in *Bari*, over-running *Puglia* and *Calabria*, advanced to *Salerno* and *Benevento*; neither were the Forces of *Radelgarius* and *Sico* sufficient to repulse such a furious Attack; they were oblig'd anew to have recourse to *Lewis*, for which purpose the two famous Abbots *Bassacius* of St. *Benedict*, and *James* of St. *Vincent* were appointed, who having represented the cruel Slaughter which the *Saracens* had made of the *Beneventans*, they intreated him that he would come and drive them away; for which the *Beneventans* offer'd to become his most faithful Servants, and to give him Power of subjecting them to the meanest of his People <sup>4</sup>. *Lewis* came immediately to *Italy*, and march'd directly to *Bari*; but the *Capuans* and *Salernitans*, unmindful of their Promises, having withdrawn all the Assistance necessary for carrying on the War against the *Saracens*, had hid themselves; at which *Lewis* was much offended, and being well appris'd of their Treachery, he us'd them very severely; and seeing that *Sico*, by reason of his tender Age, was unfit for Government, he committed the Principality to the Government of *Ademarus*, a gallant and famous Captain, the Son of the abovenam'd *Peter* <sup>5</sup>, and return'd to *France*, taking along with him *Sico* yet an Infant.

THUS did our *Longobard* Princes begin to feel the heavy Burden of a foreign Yoke, by which their Dominions came not only to be dispos'd of, but transferr'd from one Family to another; for *Ademarus* not long after, in the Year 856, *Sico* being dead, began absolutely to usurp the Principality, which he held for near six Years, until the Year 861, when, by the Instigation of Count *Landon* and *Landulphus* Bishop of *Capua*, he was imprison'd by *Guaiferius* the Son of *Dauferius* the *Stammerer*, who succeeded him, and afterwards in the Year 866, when the Emperor *Lewis* II. return'd to the *Hitber Italy*, had his Eyes put out.

<sup>1</sup> Pel. Stemm. Pr. Salern.

<sup>2</sup> We likewise read of these Tombs in *Pellegrinus's* History.

<sup>3</sup> Erchemp. num. 20. Et simus inquit, fidelissimi famuli ejus, constituatque nos subesse cuilibet ultimo suorum.

<sup>4</sup> Ignor. Cassin. n. 13. Anon. Salern. in edit. apud Pell.

<sup>5</sup> Chron. Salernit. Erchemp. num. 26. Anon. Salern. inedit. historiola Ignoti Cassin. num. 22.

*Aemarius junctus cum Neapolitanis inebatur quiddam dolose erga suos; ob hoc oculi ejus avulsi, spernitur a Principatu, & Warferius Salerni factus est Princeps. Nam dominus Ademarius Suram, Arpinum, vicum Albani, & Aurinum tradidit Francis, id est Wido Comiti. In his locis præerat Landulfus Castaldius quædam amisisset loca, præ nimia est tristitia defunctus.*

## S E C T. II.

### *The Origin of the Principality of Capua.*

THE disjoining of *Capua* from the Principality of *Salerno* was the Occasion of greater Mischiefs; for *Landulphus Castaldus* of *Capua* would no longer obey the Prince of *Salerno*, to which his *Castaldatus* was subject, according to the Division of *Radalchifus*; but making himself Lord of it, one Principality became three, that of *Benevento*, *Salerno*, and *Capua*; tho' *Landulphus* did not assume the Title of Prince, but of Count, so that the Race of the Counts of *Capua* began in him; nevertheless

nevertheless he govern'd his County with absolute Authority ; and dying in the Year 342, *Landulphus* his Son, who succeeded him, likewise govern'd the County thirteen Years and nine Months with absolute and independent Sway. He transported the Inhabitants from the ancient *Capua*, also call'd *Sicopolis*, to the new, which he erected in the Year 836. near to the Bridge *Cassilino*, three Miles distant from the Ancient ; and it is the same which is now fortified with strong Towers and Walls, and reckon'd the strongest Bulwark in the Kingdom.

THE other *Landon* his Son, third Count of *Capua*, govern'd the County as his Grandfather and Father had done, independently of the Princes of *Salerno* ; and thus thereafter thorough a long Succession of Counts governing this County with absolute Sway, it continu'd disjoin'd from the two Principalities of *Benevento* and *Salerno* ; so that we read <sup>1</sup>, that *Landulphus*, on the last Day of his Life, with his last Breath, call'd his Sons to him, and left them this Command, That they should always make it their Business to foment Dissention and Quarrels betwixt the Princes of *Benevento* and *Salerno*, because otherwise they could not expect to preserve long the State which he had acquir'd from the Spoils of those two Principalities. In effect the Sons carefully observ'd their Father's Command, tho' it was contrary to that which Christ gave to his Disciples ; for after his Death, they, as is said, threw off the Yoke altogether, and by no means would obey *Siconulphus* Prince of *Salerno*, and especially *Landonulphus* one of the said Sons, was always in Opposition to him, and ungrateful ; and they not only observ'd this Command, but they transmitted it to their Posterity as a perpetual Deed of Trust, leaving it as an Inheritance to their Successors <sup>2</sup>.

THUS the Principality of *Benevento* being divided, a new Polity was introduc'd, and new Disturbances began to confound and turn these our Provinces topsy-turvy, because Emulation and Quarrels beginning betwixt these Princes, Wars often follow'd, and by fighting amongst themselves they gave fresh Occasions for the frequent returning of the *French*, and encourag'd the *Saracens* to make War with them, and to make themselves more powerful in those Places which they had possess'd.

THE Disorders did not end here, forasmuch as the *Neapolitans* taking Advantage of these Divisions, and refusing to pay Tribute to the *Beneventans*, and because they were often assisted by the Rival Princes, became more daring, and thereby the Feuds continu'd to be the more irreconcilable and cruel.

THE Polity which by Degrees was afterwards introduc'd was worse, for tho' formerly the Principality of *Benevento* was divided into many Counties and *Castaldati*, yet each of them was govern'd as formerly by one single Prince ; but afterwards the Princes of *Benevento*, those of *Salerno*, and especially the Counts of *Capua*, divided the *Castaldati* and the Counties among their Sons ; thus each Principality being split into many Counties, the Counts, tho' Subjects, began to set up for themselves, which was the Occasion that the Fiefs were increas'd in our Kingdom after so many different manners. Thus did *Landulphus* both Count and Bishop of *Capua* divide that County so imprudently amongst the Sons of his three Brothers, that for ever after there arose endless Quarrels and Wars.

<sup>1</sup> Erchemp. num. 22.

<sup>2</sup> Ibid. Atque suis hæredibus in jus per-

petuum, sicut a parte acceperant, reliquerunt.

<sup>3</sup> Ibid. num. 31.

### S E C T. III.

#### *The Expedition of the Emperor Lewis against the Saracens ; and his Imprisonment in Benevento.*

THE *Saracens* took Advantage of so great Confusion, who from *Bari* frequently over-running the Province of *Benevento* putting all to Fire and Sword, oblig'd the *Beneventans* to have recourse to the *French*. But being unable to defend themselves with their own Forces and those of the *French*, they likewise had recourse

recourse to others for Assistance; *Majepotus Castaldus* of *Telese*, and *Guandelpertus Castaldus* of *Bojan*, with humble Submission and Prayers, had recourse to *Lampertus* Duke of *Spoleto*, for suppressing the Power of the *Saracens*, who notwithstanding all these Auxiliaries turn'd their *Castaldati* topsy-turvy, and defeated them.

FOR this Reason the *Beneventans* and *Capuans* were oblig'd to have recourse anew to the Emperor *Lewis*, who going to *Benevento* by the way of *Sora*, was met by the Ambassadors of many Cities imploring his Assistance. *Landulphus* Bishop and Count of *Capua*, who had succeeded his Brother *Landon* III. Count of *Capua*, with his Nephews, likewise came to meet him. He was receiv'd by *Guaiferius* who had succeeded *Ademarus* in *Salerno*, and at last by *Adelgisus* in *Benevento*.

THUS *Lewis* in the Year 867. at the Head of a powerful Army compos'd of his own Troops and those of our *Longobard* Princes, march'd towards *Bari*, defeated the *Saracens*, imprison'd *Seodam* their King, took *Bari*, which he restor'd to the Prince of *Benevento*; took *Matera*, garrison'd *Canosa*, and carried his victorious Arms to *Taranto*, where the *Saracens* had fortified themselves, to which City he laid close Siege; from whence full of Glory and Triumphant he return'd to *Benevento*. And being spurr'd on by the Run of his Fortune, he likewise pretended to exercise his Sovereignty over the *Amalpbians*, and the Dukedom of *Naples* itself, taking them under his Protection, and giving Assistance sometimes to the one, and sometimes to the other, at which *Basilus Macedo*, Emperor of the East, to whom the *Neapolitan* Dukedom and the *Amalpbians* were subject, was justly offended; he complain'd grievously of *Lewis*, accusing his imperious way of treating those People, as if he had a mind to subject them to his Dominion. *Lewis*, who did not think it proper at this Juncture to draw new Quarrels upon himself with the *Greeks*, in order to quiet the Mind of *Basilus*, wrote him a civil Letter, in which he protested, that he had no Design any manner of way to incroach upon the Dukedom of *Naples* which belong'd to the *Greek* Empire; and that he had only meddled in these Affairs for assisting the Oppress'd.

BUT whilst *Lewis* staid in *Benevento*, there happen'd to him an Adventure, the like of which had never fallen out to any Emperor of the West. The *French* being puffed up with their present Prosperity, not knowing how to keep themselves within Bounds, ill treated the *Beneventans*, and us'd them insolently and too severely; which they not being able to bear, at last brought their Prince *Adelgisus* to think of shaking off the shameful Yoke, and having *Lewis* within their City, resolv'd to arrest him, and make him Prisoner. Others relate, that *Adelgisus* was mov'd so to do, not so much at the Instigation of his *Beneventans*, as by the Persuasion of the Emperor *Basilus*, who was no ways pleas'd with the Progress of *Lewis*; however that may be, *Lewis* having disbanded his Army, remain'd in *Benevento* with a small Garrison; so that in the Month of *August* in the Year 871, on a sudden he was arrested by the *Beneventans*, and put in a secure Prison<sup>1</sup>; his Goods were seiz'd, and the *French* that were upon Guard, after having been plunder'd, were oblig'd to flee; *Lewis* was kept in Prison forty Days, neither did they think of setting him at liberty until the *Saracens* having anew over-run the Province of *Salerno*, and their Number increasing to Thirty thousand, they laid Siege to *Salerno*, and struck Terror in all the *Longobard* Princes, and especially in *Adelgisus*. Upon such a Revolution of Affairs *Lewis* was set at Liberty, but *Adelgisus* first made him promise by a solemn Oath, never to enter within the Bounds of *Benevento* all the Days of his Life, and that he should never revenge himself upon the *Beneventans* for what he had suffer'd at this Time, which *Lewis* promis'd *multis adjunctis execrationibus*, swearing upon the Relicts of the Saints, and God's holy Evangsels.

LEWIS left *Benevento* about the End of the Year 871, and stopp'd eleven Months in *Veroli*; during which time he went to *Rome* and was crown'd Anno 872, by *Adrian* II. the Year before that Pope died, as *Aimoinus* will have it<sup>2</sup>; tho' some Modern Writers assert it to have been the preceding Year that he was crown'd by *Adrian*. Altho' *Lewis* took the Crown but at this Time, yet he had been advanc'd to the Empire from the Year 856, when the Emperor *Lothaire* his Father became Monk, and divided the Empire amongst his three Sons, assigning *Rome* and *Italy*

<sup>1</sup> Erchemp. num. 34. Leo Ostiens. lib. 1. cap. 36.

<sup>2</sup> Lib. 5. cap. 208.

to *Lewis*; *Austrasia* to *Lothaire*, whence afterwards it was call'd *Lotharingia*; and *Burgundy* to *Charles*, as we have said.

NOTWITHSTANDING *Lewis* with solemn Oaths had promis'd never more to enter within the Limits of *Benevento*, yet in the Beginning of the Year 873. he broke that Agreement, and with a strong Army advanc'd as far as *Capua*.

IN those Times Princes were so influenc'd by Religion, that they never or seldom broke their Oaths; but from the Time of *Gregory II.* and *Zachary*, the Popes had found ways and means to break those Chains, and absolve their Consciences; whence afterwards not only the Popes, but also the Bishops assum'd to themselves a Power of absolving from Judicial, or other Oaths. By this, and by granting Dispensations in matrimonial Cases, which formerly were granted by the Princes, they became both terrible and necessary to Princes. *Lewis* who had no mind to return to *Benevento* contrary to his Oath, was immediately made easy by *John VIII.* who a little before had succeeded to *Adrian II.* He told him, that Oaths, extorted by Force, and with so much Indignity, were no ways binding, therefore he absolv'd him from all the Promises made to the *Beneventans*. There are some who write, that *Lewis* notwithstanding this Absolution, that he might not be reckon'd perjurd, would not put himself at the Head of his Army, but cheating himself, substituted his Wife *Engilberga* in his Place, that in his Name, and under his Authority she might carry on the War. He came to *Capua*, and on his March defeated the *Saracens*, and confining them to *Taranto*, he went to revenge himself of *Adelgisus*, and endeavour'd to make himself Master of *Benevento*. Some again have written, that being seiz'd with Fear, he fled to the Island of *Corfica*; but whether he did not succeed in it, as *Erchempertus* relates, or that many Counts, and the Pope himself interpos'd for agreeing them, there was a Peace concluded betwixt them, and *Adelgisus* with those of his Party were restor'd to *Lewis's* Favour. *Landulphus* Count and Bishop of *Capua*, who had assisted powerfully in these Skirmishes with the *Saracens*, was likewise pardon'd.

SO great was the Intimacy which *Landulphus* contracted with the Emperor, that besides his having obtain'd from him the chief Honours, he claim'd the whole Province of *Benevento*, and that *Capua* should be made a Metropolis; which, as *Erchempertus* relates, he could not bring to bear, for *Capua* did not get that Pre-eminency before the Year 968. from Pope *John XIII.*; and *Benevento* a Year after by the same Pope was erected into a Metropolis; the Custom was afterwards introduc'd into these our Provinces, that the Popes, and not the Princes, rais'd Bishops to be Metropolitans, and Cities Metropolis's, of which we shall have a more proper Opportunity to discourse.

LEWIS after having continu'd a Year in *Capua* and these our Provinces, and given many and terrible Defeats to the *Saracens*, the following Year 874. went to *France*, with a Resolution never to return any more to these our Parts; for in this Year, as some have said, or in the following according to the Annals of *France*, and the Modern Authors, he ended his Days in *France*, and not in *Milan*. A most glorious Prince, and to whom these our Provinces are so much beholden, that if he had not so often reliev'd them from the frequent and great IncurSIONS of the *Saracens*, they had been totally and effectually subjected to their Dominion. We have many Monuments of the Piety of this Prince, in the many Monasteries of the Order of *St. Benedict* founded by him in *Abruzzo*, which *Leo Ostiensis* does not forget in his Chronicle. The Donation, or rather Confirmation of former Donations, made by *Pepin* and *Charles the Great* to the Church of *Rome*, ought not to be attributed to this *Lewis*, as the Abbot of *Noce*<sup>2</sup> believ'd, but to *Lewis the Pious*, Son of *Charles the Great*, in the Time of *Paschal I.*; neither does it include any more than what *Pepin* and *Charles* gave, which is manifest from the Chronicle of *Leo Ostiensis*<sup>3</sup>.

BY *Lewis's* Death falling out in the Year 874, or the following, we clearly see the Error of those who believ'd, that *Lewis* having retaken *Bari* from the *Saracens*, had restor'd it to *Basilus* Emperor of the East; for the *Saracens*, as soon as *Lewis* had left *Italy*, and gone to *France*, immediately sallied out of *Taranto*, to which they had been confin'd, and went and ravag'd *Bari* and the neighbouring Places;

<sup>1</sup> Sigon. de Regn. Ital.

<sup>2</sup> Ab. de Noce in Judice ver. Ludovicus.

<sup>3</sup> Leo Ostiens. lib. i. cap. 16.



whereupon the People of *Bari* in the Year 876. after *Lewis's* Death, not being able to bear the Cruelty of these Barbarians, invited *Gregory* Governor of *Otranto*, and brought him and his *Greeks* into their City, as *Erchempertus*<sup>1</sup>, and *Lupus Protospatha*<sup>2</sup> relate.

<sup>1</sup> Erchemp. num. 33.

<sup>2</sup> Prot. ad A. 874.



## CHAP. I.

*Charles the Bald succeeds in the Empire of the West: New Incursions of the Saracens, accompanied with other Revolutions and Disorders.*



THE Death of *Lewis* occasion'd such Confusion, that not only these our Provinces, but a great Part of *Italy* were thereby afflicted, and fill'd with new Calamities. From the Time of *Charles the Great* till now, there had been no Disturbances on account of the Succession to the Empire. The last Wills of the Princes laying aside all ambiguous and subtle Quirks now in use, were receiv'd with the utmost Respect by the Successors; whatever they commanded was readily obey'd; and if the reigning Emperor in his Life-time appointed a Collegue, or at his Death a Successor, his Will was an inviolable Law. Thus did *Charles the Great* by *Pepin* and *Lewis*; *Lewis* by *Lothaire*, and at last *Lothaire* by the other *Lewis*. Hitherto for the Election of the Emperor of the West there was no need of calling Assemblies or *Comitia*; out of a bare and pure Ceremony introduc'd by Custom, they had recourse to the Popes for Consecration and Coronation. But *Lewis* having left no Male Issue, the *French* and our *Italians* began to contend for the Empire. In *France* the most stickling Pretenders were *Charles the Bald*, King of *France*, the Son of *Judith*, and Brother to *Lothaire* the Father of *Lewis*, and *Lewis* King of *Germany*, Brother to the same *Lothaire*, to whose Share, according to the Division made, *Germany* had fallen, and a Part of *Lorraine*, which a few Years before had by an Agreement been divided betwixt him and his Brother *Charles*, so that both the Pretenders were Uncles to the deceas'd *Lewis*.

AT other times in the Course of this History we have on many Occasions seen, that the Quarrels of Princes have always ended in the Increase of the Dignity and Authority of the Popes; which is more clear and evident from this than any preceding Event. In this Competition for the Empire of the West, there were two Things necessary to be compass'd by the Rivals, in order to succeed in the Matter; to wit, first to enter *Italy* with an Army, and next to procure the Good Will of the Pope, because by the Solemnity of the Coronation he could immediately make the Matter easy, it being a Ceremony which by the People was reckon'd the most certain Sign of being assum'd to the Imperial Throne. *Charles the Bald* was no sooner appriz'd of the Death of his Nephew, than he immediately enter'd *Italy*, and prevented his Brother *Lewis*, who had sent his Sons *Charles the Gross* and *Carlomann* to put a Stop to *Charles's* March, but they came too late and could do nothing; at which *Lewis* being much inrag'd, he with his third Son *Lewis* invaded *France*, where he vented his Passion in a most Hostile manner.

IN

IN the mean time *Charles the Bald* having solicited Pope *John VIII.* to favour his Undertaking, advanc'd towards *Rome*; this Pope was unwilling to lose so fair an Opportunity, by which he might reap both Advantages to himself and his See: after having brought the *Romans* to his beck, he sent two Bishops to invite *Charles* to *Rome* to take the Imperial Crown, which he had ready for him, having made Choice of him above all the Pretenders. *Charles* came to *Rome*, and in the Church of the *Vatican*, with great Acclamations and Solemnity, was crown'd by *John* on *Christmas Day*, in the Year 875, and proclaim'd *Augustus*, and took an Oath always to employ his Arms against the Enemies of the See, and to defend it with all his Power. The Pope by this Fact assum'd much more to himself than ever any of his Predecessors had done on the like Occasion, for if that Oration made to the Bishops be his, as we read in *Sigonius*<sup>1</sup>, he speaks in such a Stile as if *Charles* had absolutely receiv'd the Empire from him, and his Election had solely belong'd to him; so that from that Time forward it has been pretended by the Popes, that the Title of Emperor was a pure and downright Favour bestow'd by the Pope, and therefore they began to number the Years of the Empire from the Day of the Pontifical Consecration; and *John's* Successors have had the Assurance to tell the Emperors of the West to their Face, that the Empire was their free Gift: but of this more in another Place.

'TIS likewise said, that *Charles* in return for the so many Favours he had receiv'd from the Pope on this Occasion, besides his having adorn'd the Church of *St. Peter* with Gifts of great Value, yielded to the Pope the Sovereignty of *Rome*, which the other *French* Emperors his Predecessors had always reserv'd, and that it was not before this Time that this City was put under the independent and absolute Dominion of the Pope; but all these Accounts appear to be Fables, when we consider what the *Oibo's*, Emperors of the West, did in *Rome*, as we shall shew by-and-by.

AS soon as *Charles* had dispatch'd his Affairs in *Rome*, according to the Custom of the other Kings of *Italy*, he went to *Pavia*, and there, as his Predecessors had been, he was crown'd by the Archbishop of *Milan*, and proclaim'd King of *Italy*; whereupon soon after in the same City he establish'd many Laws for the good Government of it.

**CHARLES** during all his Life-time enjoy'd the Empire, and the Kingdoms of *Italy* and *France* without any Dispute, for *Lewis* of *Germany* his Brother, who died in *Frankfort* on the 28th Day of *August* in the Year 876, left subject Matter enough for his Sons to make War elsewhere. *Lewis* left three Sons, amongst whom, according to the dangerous Custom introduc'd into *France*, he divided the paternal Kingdom. *Barbaria*, *Bohemia*, *Carinthia*, *Sclavonia*, *Austria*, and a Part of *Hungary* fell to *Carlomani's* Share. To *Lewis*, *Franconia*, *Saxony*, *Frisia*, *Thuringia*, the *Lower Lorraine*, *Cologne*, and many other Cities upon the Banks of the *Rhine*. To *Charles the Gross*, *Germany* from the Main to the *Alps*, and the other Part of *Lorraine*.

**BUT** whilst the Emperor *Charles* govern'd *France* and *Italy*, the *Saracens*, whom *Lewis II.* had coop'd up in *Taranto*, return'd anew to plague these our Provinces, and over-running as far as *Bari*, threaten'd Slaughter and Destruction to the other Provinces likewise. Therefore the *Neapolitans*, the *Amalphytans* and *Salernitans*, having none to whom they could have recourse for Relief against the threatening Irruptions, which they could not withstand with their own Forces, were oblig'd to treat with the *Saracens* for a Peace the best way they could, which they would not hear of, but upon Condition that they should all join their Forces together, and with their united Troops march against the *Roman* Dukedom, and *Rome* itself; the Confederacy was agreed to on these hard Conditions<sup>2</sup>, of which Pope *John* being appriz'd, had immediately recourse to the Emperor, who sent to his Assistance *Lambertus* Duke of *Spoleto*, and *Guido* his Brother. The Pope himself in the Year 876. came to *Naples* accompanied by them, and in these our Provinces commanded the Expedition. This was the first Time that a Pope was seen at the Head of an Army, in all Appearance on a very pious Occasion, for suppressing the Cruelty of the *Saracens*, who had a Mind to overturn his State, and overthrow the Pontificate. *John* us'd all Means possible in order to break this Confederacy, and to draw to his own Side those Princes who were confederated with the *Saracens*;

<sup>1</sup> Sigon. de Reg. Ital.

<sup>2</sup> Erchemp. num. 39.

and so instant was he with *Guaiferius* Prince of *Salerno*, that he not only made him leave the Confederacy, but turn his Arms against the obstinate *Neapolitans*.

*SERGIUS* was this Year Duke of *Naples*, who for having imprison'd *Athanasius* his Uncle, Bishop of *Naples*, was hated by many; he on no account would break off from the *Saracens*, notwithstanding the Rebukes of the Pope; therefore he was immediately excommunicated by the same Pope, and *Guaiferius* march'd against him, fought with the *Neapolitans*, and made two and twenty of them Prisoners, whom the Pope caused all to be beheaded<sup>1</sup>.

AT this Time *Athanasius* Brother to *Sergius* was Bishop of *Naples*, who had succeeded the other *Athanasius* his Uncle in that See, who, in order to do a Thing acceptable to the Pope, laying aside the Ties of Blood and Nature, being likewise spur'd on by Ambition, imprison'd his own Brother, and having put out his Eyes, presented him to the Pope in *Rome*. *John* lik'd the Present much, and kept him in *Rome*, where he miserably ended his Days<sup>2</sup>. *Athanasius* afterwards got himself to be elected Duke in the Room of *Sergius*; and thus, according to some late Precedents, he became both Bishop and Duke of that City. This *Athanasius* was a Man of a turbulent Spirit, and who during his Government disturb'd all the other Princes his Neighbours, and turn'd these our Provinces upside down. He, in order to save his own Dukedom, not minding his Episcopal Dignity, nor regarding any Thing but his own Ambition, made no scruple to renew the League with the *Saracens*; he prepar'd Quarters for them near *Naples*, and join'd them with his *Neapolitans*, and put the *Beneventans*, the *Capuans*, and the *Salernitans* into the utmost Confusion, by making Inroads to the very Borders of *Rome*, where there was nothing that was barbarous but he attempted, plundering where-ever he went.

THE Pope seeing this, fulminated his terrible Anathema's against *Athanasius*, and in the Year 881. excommunicated and curs'd him; and according to *Erchempertus*, did the same by the City of *Naples*: Which the Letters of this Pope, yet extant, testify<sup>3</sup>. He likewise excommunicated the *Amalphytans*<sup>4</sup>. The same had happen'd to the *Salernitans* and *Guaiferius* their Prince, if, being terrified by such Thunderings, they had not broke off from the League. And besides the Pope seeing that the *Saracens* in great Shoals over-run the Country on all Sides, likewise wrote many Letters, and sent many Ambassadors to *Charles the Bald*, whom he put in mind of the many Favours done him, which hasten'd him immediately, after the Example of *Lewis* his Predecessor, to come to *Italy* with a powerful Army, in order to drive them away, otherwise all had gone to Ruin, and *Rome* had fallen into the Hands of the Barbarians, to the irreparable Ruin of that See, of which he had sworn to be the Defender.

THESE Examples ought to convince us that the Opinion of those is very disputable, who have written, that general local Interdictions were not older than the Time of *Gregory VII.*; and that this Pope was the first that introduc'd them into the Church, by punishing the People for the Wickedness of the Princes; for if what *Erchempertus* relates be true, who flourish'd about the same Time, or a little after, the City of *Naples* actually underwent such a Misfortune on account of the Treachery and wicked Practices of its Bishop and Duke, who oblig'd the *Neapolitans* to enter into a Confederacy with the *Saracens*. Besides, not to mention more ancient Examples of other Countries, we have another remarkable Instance in the Principality of *Benevento*, where the Emperor *Henry II.* had appointed *Pandulphus* to be Governor; because the *Beneventans* would not obey him, the Emperor, who was in concert with Pope *Clement*, in the Year 1010. got him to excommunicate

<sup>1</sup> Erchemp. num. 39. Octavo die Anathematis XXII. Neapolites milites apprehensos decollari fecit: Sic etiam monuerat Papa.

<sup>2</sup> Ibidem.

<sup>3</sup> Epistola 41. Jo. VIII. where speaking of the Neapolitans being in Confederacy with the Saracens: Nunc autem vel illis incorrectis existentibus, & ad percutientem se redire nolentibus; vel tibi cum ipsis habitanti, & idcirco a Divinis omnibus pariter Sequestrato, quo pacto antequam repiscitis ad viam salutis, & justitiæ revertamini, parcere aut a nexu Ecclesiastici vos judicii valemus absolvere? Absolvite ergo

vos prius Colligationes impietatis, & sædus impium, quod cum inimicis Christi habetis compositum, & nos illico misericordiam, &c.

<sup>4</sup> Epist. 22. Virtute S. Spiritus, & autoritate S. Petri, cui ligandi & solvendi in cælo, & in terra a domino est concessa potestas, omni sacra communione, sancta videlicet corporis, & sanguinis D. N. J. Christi, vos una cum totius Apostolicæ sedis consensu privavimus, ut in eadem Excommunicatione maneat, donec resipiscetes ab impio vos Paganorum præda separatis.

the *Beneventans*; from which they were not absolv'd till ten Years after, when *Leo IX.* who succeeded *Clement*, having come to *Benevento*, took off the Interdiction.

BUT at the same Time that *Charles* was on his March to *Italy* to assist the Pope, when he came to *Pavia* with a small Number of Troops, whither the Pope went to meet him, he found that *Carlomann* was got before him, who having arrived in *Italy* with a powerful Army, endeavour'd to drive *Charles* out of it, and possess himself of the Empire and Kingdom of *Italy*. *Charles* being surpriz'd at his having got the start of him, return'd towards *France*, and being come to the *Alps*, was taken ill of a Fever, not without suspicion of Poison, where he ended his Days on the 6th Day of *April* in the Year 877, the 54th Year of his Age: His Body was interr'd at *Vercelli*, and seven Years thereafter was transported to *St. Denis*.

## S E C T. I.

*Greater Confusion and Calamities in these our Provinces by the Death of Charles the Bald, in the Reign of Carlomann.*

**C**HARLES being dead, and succeeded in *Italy* by *Carlomann*, Confusion and Calamities increas'd; *Carlomann* was not in a Condition to relieve our Provinces, being employ'd in other Undertakings, and the *Saracens* growing much more cruel, all went to Wreck and Desolation.

THE Broils betwixt our own Princes was a great Addition to these Miseries; for the *Capuans* by the Death of *Landulphus*, which fell out in the Year 879, were divided into Factions. He left many Grandchildren, who greatly hasten'd the Ruin of that Province, by dividing it equally amongst them. There fell to the Share of *Pandonulphus* Count of *Capua*, who succeeded him, *Tiano* and *Casamirta*, which some call *Caserta*. To *Landon*, *Berolaffi* and *Sessa*. To the other *Landon*, *Casnio* and *Cajazza*<sup>1</sup>; and thus of one State many were made, by its being divided into small Portions, which at last was the Ruin of our *Longobard* Princes, because the Division of their Estates occasion'd Factions and intestine Wars, which gave Opportunities to other Nations to take Advantage of their Quarrels and Confusions. For that ancient Custom took place amongst them, not to prefer the elder Brother in the Succession to Fiefs before the younger, but all shar'd equally<sup>2</sup>, contrary to the Custom of the *French*, who prefer the Eldest to prevent the Division of the State; from whence in our Kingdom that Distinction was introduc'd, that in Successions, some Fiefs are regulated according to the Law of the *Longobards*, others according to the *Jus Francorum*, which at last prevail'd, as being the most provident and prudent, which we shall shew in a more proper Place.

AND tho' *Gaeta* had been given to *Pandonulphus* by *John VIII.*, yet the *Capuans* did not treat the *Gaetans* so mildly, as to prevent new Quarrels and Revolutions in it and his whole State; for which Cause, three Years and eight Months afterwards, *Pandonulphus* was driven out of it, and *Landon* in the Year 882. was elected in his Room, who governing *Capua* indiscreetly, held it only two Years: *Atenalphus* his Brother taking Advantage of his bad Conduct, invaded it, and in the Year 887. this valiant Captain having driven him out of it, restor'd the County of *Capua* to a better Form of Government, and so demean'd himself in his Prosperity, that he was advanc'd to the Principality of *Benevento*, by which, after a Course of many Years he united these two States under one Person, as we shall relate.

THE Confusions in the Principality of *Benevento* were no less, for whilst *Adelchisius*, altogether over-joy'd, was returning to *Benevento*, after the taking of *Castello Trabertense*, which some call *Trivento*, by the Conspiracy of his Nephews and Friends, in the Year 878. was cruelly murder'd, after having reign'd in *Benevento* 24 Years and

<sup>1</sup> Erchemp. num. 40.

<sup>2</sup> Frec. de Subseud. p. 54. Et isti succedebant Comites in Regno omnes pariter filii, sicut in Lombardia; cum videamus ex historicis, uno

eodemque tempore in eodem Comitatu duos & plures Comites, in Comitatu Theasi, in Comitatu Venafri, & Aquini, & aliorum.

a half; we read of no Tomb erected for this Prince, as there had been for the rest, as *Pellegrinus* writes. But the same Author gives us one of his *Capitularia*, wherein he establishes many Laws, some conformable to those old Laws of the *Longobard* Kings, others not.

THE Murder of this Prince occasion'd terrible Confusion in the State, for *Gaidaris* his Nephew, and Son of *Radelgarius* succeeded him in the Principality; and out of Ambition excluded *Radelchis* the eldest Son of *Adelghisius*, who had been murder'd: The *Beneventans* two Years and a half afterwards depos'd him, and sent him Prisoner to *France*, and set *Radelchis* the Son of *Adelghisius* on the Throne; but not long after, *Gaidaris* having made his Escape out of *France*, retir'd to *Bari*, under the Protection of the *Greeks*; for this City, which formerly had been govern'd by *Castaldi*, sent thither by the Princes of *Benevento*, because it had often been in the Hands of the *Saracens*, considering that the *Beneventans* had frequently lost it, and could not defend it against their continual IncurSIONS, had come under the Dominion of the *Greeks*, when the Inhabitants, as we have said, deliver'd themselves up to *Gregory*, whom they invited from *Otranto*, whereof he was Governor, which City had likewise return'd under the Dominion of the *Greeks*. And *Gaidaris* having gone to *Constantinople* to the Emperor *Basilus*, was courteously receiv'd by him, and got the Government of the City of *Oria* during Life, from whence he continually molested the *Beneventans*, who had driven him from that Dominion.

*RADELCHIS* being beset with Enemies on all Sides, enjoy'd little Quiet in his Principality; for not long after a War breaking out betwixt the *Neapolitans* and the *Amalphytans* on the one hand, and betwixt the *Capuans* and *Beneventans* on the other, all went to Confusion; and after a Reign of a few Years, in the Year 883. he was driven out of it, and *Ajo* his Brother put in his Room. Neither did this Prince long enjoy his State in quiet, for being taken Prisoner by *Guido* Duke of *Spoletto*; tho' by the Means of the *Sipontins*, who on this Occasion shew'd great Fidelity to their Prince, he had been set at Liberty, and restor'd to *Benevento*; yet *Gaidaris*, who possess'd the City of *Oria*, stirr'd up the *Greeks* against him, with whom he had many Battles. And he dying after a troublesome Reign of seven Years, *Orso* his Son, who was but ten Years old, succeeding him in the Year 890, compleated the Ruin of the *Longobard* Princes in *Benevento*; and at last this City being taken by the *Greeks*, after the *Longobards* had held it 330 Years, it came under the Dominion of *Leo* Emperor of the East, the Son of *Basilus*; for this Prince being much incens'd against *Ajo*, and push'd on by *Gaidaris*, the Year following 891, sent a most formidable Army into these our Provinces, under the Command of *Simbaticius Protospatarius* in order to subdue *Benevento*, who having laid close Siege to it, in the Space of three Months made himself Master of it, with all the other Places under its Dominion, and expell'd the unfortunate *Orso*, who had held it only one Year. Thus *Benevento*, after 330 Years from *Zoto* the first Duke, to *Orso*, was subjected to the Emperors of the East, and govern'd for a Year by the same *Simbaticius* who had conquer'd it; after which *George* a Patrician was sent by the Emperor to be his Successor, who govern'd it till the Year 895.

<sup>1</sup> Pell. in Stem. Princ. Ben.

<sup>2</sup> Erchemp. num. 39, 41, 42, 47, 48.

<sup>3</sup> Erchemp. num. 48, 49.

## SECT. II.

### *Calamities in the Principality of SALERNO.*

BUT more grievous and lamentable were the Calamities of *Salerno*, which being often invaded by the *Saracens*, suffer'd cruel Slaughter, and incredible Devastation, insomuch that the Inhabitants with their whole Families were often oblig'd to go and seek Shelter elsewhere. Not only the *Saracens* but our Princes themselves

themselves likewise join'd in ruining them, and especially *Atbanasius* Duke of *Naples*, in Confederacy with these Barbarians, laid all the Country waste, and reduc'd *Guaimarus*, who succeeded his Father *Guiferius* in the Principality of *Salerno* in the Year 880, to such Distress, that in order to be able to make a Stand against so many Incurfions, his own Forces not being sufficient, out of cruel Necessity he was forc'd to have recourse so far as the East for Assistance, from the Emperor *Leo* and *Alexander*, the Sons of *Basilus*, by whom he was seasonably supply'd<sup>1</sup>; and besides, they sent him a Charter, also recorded by *Summontes*<sup>2</sup>, by which they confirm'd to him the Principality of *Salerno*, in the same manner as the Division had been made betwixt *Siconolpbus* and *Radelchisus*<sup>3</sup>.

THERE was not a more perfidious and faithless Man on Earth than this *Atbanasius*, who sometimes entering into Alliance with the *Saracens*, and sometimes breaking off from them, according as the Necessity of his Affairs requir'd, put these our Provinces into Confusion; when the *Saracens* were over-running the neighbouring Principalities, and were every where successful, he, in order to extinguish the Fire which he saw in his neighbouring States, fearing lest it should seize on his own, made a shift to join and assist the neighbouring Princes; at other times, when they were worsted by the *Greeks* or *Longobards*, and he saw himself out of Danger, he left them and join'd the *Saracens* again. Thus it once happen'd, that a great Body of *Saracens* being in Quarters at the Foot of *Vesuvius*, he sent into *Sicily* to invite King *Suchaim* to come and put himself at their Head; but it falling out afterwards that this King began to destroy *Atbanasius*'s own Country, and outrageously to spoil and rob the *Neapolitans*, he, inrag'd at such ill Usage, immediately resolv'd to join and make Alliance with *Guaimarus* Prince of *Salerno*, and the *Capuans*, in order to drive them away, in which he was successful. *Erchempertus* relates<sup>4</sup>, that being troubled in his Conscience, he had made this League for driving out the *Saracens*, that by so Pious an Undertaking he might merit Absolution from the Censures of the Pope, by which he and his City of *Naples* had been interdicted from the Month of *April* in the Year 881.

THUS by the Ambition and Quarrels of our Princes, these Provinces which now make the Kingdom, never saw more calamitous Times than those, in which they were assaulted and torn to pieces, not only by our own Princes, but likewise by foreign Nations. The *Beneventans*, *Capuans*, *Salernitans*, *Neapolitans*, *Amalphytans*, and the *Greeks* fought with one another; and when they were wearied of their own Calamities and gave over, the *Saracens* were always ready prepar'd, who being spread over all, and having in many Places of the Kingdom, fix'd, strong, and secure Garrisons, such as *Garigliano*, *Taranto*, *Bari*, and at last in Mount *Gargano*, they so miserably afflicted these Provinces, that there was no Place free from War, Pillage, Calamity and Death; so that not only the two famous and rich Monasteries of *Cassino* and *St. Vincent* many times suffer'd Desolation and Burning, but also the most conspicuous Cities and whole Provinces underwent the same Calamities.

THERE was no Assistance or Relief to be expected any where: the Forces of the Emperors of the East were at a distance and weak; much less could any be expected from the Emperors of the West. *Lewis II.* was dead, who had made himself famous in the World for having so often driven the *Saracens* out of these Provinces, and pent them up in the furthest Cities; and no Assistance was to be expected from his Successors, because *Charles the Bald* who succeeded him, being prevented by *Carlomann* his Competitor, was forc'd to turn his Arms another way. And *Carlomann*, who after *Charles*'s Death possess'd the Kingdom of *Italy* three Years, having other Undertakings on his Hands, and being oblig'd to oppose the Forces of *Lewis the Stammerer*, Son of *Charles the Bald*, who laid Claim to *Italy*, could not mind these our remote Parts.

<sup>1</sup> Erchemp. num. 54.

<sup>2</sup> Summon. tom. 1. pag. 428.

<sup>3</sup> Pel. in Scem. Prin. Salern. Professus est in publici Tabulis, concessum sibi, ac permissum fuisse suum Principatum ab Gracis Imp. Leone

& Alex. sicuti divisus fuerat, inquit, inter Siconolphum & Radelchisum Principem.

<sup>4</sup> Erchemp. num. 49. Hoc turbine exactus, & ut Apostolicum Anathema, quo erat innodatus, a se. & urbe sua expelleret, Guaimarium Principem, &c.



Besides these, *Italy* was oppress'd with other Calamities ; for by the Death of *Charles the Bald*, the Empire being vacant, though *Carlomann* was in Possession of the Kingdom of *Italy*, which he soon made himself Master of : *Lambertus*, Duke of *Spoletto*, surpriz'd *Rome*, and claim'd the Imperial Crown from the Pope. The Pope fled to *France*, and got Assistance from *Lewis III.* surnam'd the *Stammerer*, and in return for so many Favours received on this Occasion, consecrated him Emperor in *France*, and caus'd him to be proclaim'd *Augustus*. But *Lewis*, though he was proclaim'd Emperor, had no Dominion in *Italy*, for *Carlomann* was in Possession of the Kingdom of *Italy*, though he was not Emperor : Which is an evident Confirmation of what we have said in this History, that the Emperors of the West, after the Restoration of the Empire, did not Rule in *Italy* as Emperors, but as they were Kings of it ; neither did *Charles the Great* add *Italy* to the Empire, any more than he made *France* a Member of it ; and their Laws, which were long observ'd in *Italy*, and which were added to those of the *Longobards*, were not in Force as Laws of the Emperors ; but as being Laws of its own Kings. Indeed, our ancient Writers, in the Catalogue of the *Longobard* Laws, summing up the Laws of the Kings of *Italy* after those establish'd by the *Longobard* Kings, reckon those from *Pepin* to *Conrade*, as Laws made by Kings, and not by Emperors.

BUT these two supreme Dignities were soon united in the Person of *Charles the Gros* ; for his Brother *Carlomann* dying in the Year 880, he, in all haste, went to *Italy*, where being kindly received by the *Italians*, according to Custom, he was crown'd and anointed King of *Italy*, by the Archbishop of *Milan* ; and not long after being invited again to *Italy* by Pope *John*, on *Christmas* Day, in the Year 881, he was crown'd with the Imperial Crown by that Pope, and proclaim'd Emperor.

*CHARLES the Gros* was often invited by the Pope to come and assist these Provinces, which were still molested by the *Saracens*, and though he came as far as *Ravenna* for that End, yet he was forced to return again to *France*, whither the impending Ruin of the Nation recall'd him. It was at this time, that the *Normans* were first heard of ; they had come from the utmost Parts of *Scandinavia*, and over-running and putting all *France* into Confusion, had laid Siege to *Paris*, so that in order to pacify them, *Charles* was forc'd to assign them *Neustria* for a Place to settle in, which Province to this Day retains the Name of *Normandy*.

THE Disorders of that Kingdom were worse, on account of the Contentions which arose after the Death of *Lewis* King of *France*, and afterwards of *Carlomann* his Brother, which at last occasion'd the Translation of the Empire from the *French* to the *Italians*. It was at this Time, that our *Italians* seeing *France* ruin'd and divided, began to think, that if *Charles the Gros* should die without leaving Male-Issue, the best thing they could do, was to chuse an *Italian* Emperor, who not being diverted by other Governments, and in other distant Countries, could better govern *Italy*, and defend the Apostolical See, which by the frequent IncurSIONs of the *Saracens*, even to the Gates of *Rome*, was often seen to be in great Danger ; they look'd upon the ancient Valour not to be yet quite extinct in *Italy*, and that there were still such Persons who could support that Dignity. Therefore they perswaded *Adrian III.* who then govern'd the Apostolical See, to make, at their Request (if we may give Credit to *Sigonius* \* who relates the Words of it) this Decree : *Ut moriente Rege Crasso sine filiis, Regnum Italicis Principibus una cum titulo Imperii traderetur.* As he actually died in the Month of *January*, of the Year 888, who in his own Person alone, had united the Three most renowned Kingdoms of *Europe*, to wit, *Germany*, *Italy* and *France*, and thereby equall'd the Grandeur of *Charles the Great* : Our *Italians*, by undertaking to restore the Kingdom of *Italy*, and the *August* Title of *Emperor* to their own Nation, and thereby thinking to re-establish its Provinces better, brought upon themselves such Revolutions and Confusion, that *Italy* had never been so miserably afflicted, nor in such Disorder, by the intestine Broils of the People, and the Treachery and Wickedness of the Princes, as it was in these Times, when it was under the *Berengarii*, and the *Guidi*, the one Duke of *Friuli*, and the other of *Spoletto*, as we shall have occasion to relate.

\* Sigon de Reg. Ital.





## C H A P. II.

*The Condition to which the Jurisprudence, and other Parts of Learning were reduc'd in these Times, and of the new Collection of the Laws made by the Emperors of the East.*



**B**E H O L D the unhappy and lamentable Condition to which these our Provinces were reduc'd about the End of the Ninth Century; would to God their Disasters had ended there: It would truly be absurd to imagine, that in such wicked Times, amidst so great Confusion, Discipline could be maintained in its Purity and Force. All was Disorder, all Confusion; only in Rome, which was altogether owing to the Popes, the Monks, and the Clergy, some Learning was preserv'd, and the *Latin* Tongue was not quite extinct, at least in Writings: Whence Men of Letters have since been call'd Clergy, and the Illiterate, Laicks; for in the Writers of the last Age, such as *Dante*, *Pussavanti* and others, by Clergy, is understood learned Men, and by Laicks, the Illiterate. For which they are so much the more Praise-worthy, that tho' Pope *Gregory I.* had forbidden them to imploy their Studies on heathen Authors, in order to blot out all Memory of ancient Learning, and therefore rebuk'd *Didicrius*, Bishop of *Vienna*, very severely, for teaching *Grammar*<sup>1</sup>, yet amidst the so many Inundations of Barbarians, the Church of *Rome*, as much as the Circumstances of the Times would allow, retain'd some Remains of the gentile Learning, which otherwise would have been altogether lost and extinguish'd<sup>2</sup>. Who would believe, that Philosophy, Physick, Astrology, and so many other Sciences had been restor'd amongst us in these Times by the *Saracens*, by the Application they gave to the Books of *Aristotle*, *Galen* and other Authors; whereby *Averroes*, *Avicenna*, and many others made themselves so famous and renown'd? But hence it came to pass, that for a long time, the Sciences, Philosophy and Physick, &c. were so ill manag'd and cultivated in our Schools by *Aristotle's* being only in Vogue, and the so many other Philosophers neglected, that the Streams of Theology, Mathematicks, and other Sciences, run very muddy, as we shall shew in a more fit Place.

**A** N D as to what relates to our Jurisprudence, the Books of *Justinian* had been banish'd, and scarce known in *Italy*, and the *Roman* Law had only remain'd by Tradition amongst the Commonalty, who are the last in laying aside ancient Customs, and the Laws of their Fore-fathers; only the *Novellæ* of *Justinian* had been retain'd by the Ecclesiasticks, and often quoted by the Popes<sup>3</sup>: There was some use made of the *Theodosian Code*, as having been valu'd and corrected by *Charles the Great*. On the contrary, the *Longobard* Laws were in vogue, to which those that had been publish'd by *Charles the Great* and his Successors, as Kings of *Italy*, being added, they had full Authority and Force in our Tribunals; and by these all Law Pleas were decided.

**A** N D because by degrees, Fiefs had crept in and multiplied in these Provinces, the *Feodal* Customs, not Laws, began to get Footing; for the first amongst us who publish'd written Laws on them, was *Conrade the Salick*, as we shall relate.

<sup>1</sup> Gregor. 9. Epist. 48.

<sup>2</sup> Bacon de Verulam. de Augum. Scient. lib. 1. | <sup>3</sup> Jo. VIII. Epist. 163. V. Struv. hist. jur. Justin. cap. 5. 9. 7.

Their

Their Rules and Customs were, for the most part taken, as we have said, from the *Longobard* Laws; but the Laws and Customs of other Nations had likewise their Share in them: From the *Saxons* and the *Thuringians*, the perpetual Exclusion of Women from Succession: From the *Normans* and *Burgundians*, the Custom of preferring the eldest Sons; from the same *Normans*, the Custom of paying Fines on the renewing the ancient Investiture: From the *Longobards*, the preferring the maiden Sister, whom they call'd *in Capillis*, to the married Sister, who had got her Portion, in Places where Women (as in our Kingdom) are capable of succeeding to Fiefs. The Custom of Juries, and the determin'd Number of Twelve, was taken both from the *Longobards*, and the *Ripuarii*. Our Fore-fathers likewise learn'd from the *Germans*, the Necessity of having the *Pares Curia* present when Judgment was to be given in Cases of new Investitures, or Deprivation of Fiefs; and their Successions were regulated according to the Custom of Places, and not by written Laws, by which the Rights of Succession became so various and diverse, that the Compilers of this Law wisely call'd them *Consuetudines*; of which we shall have occasion to discourse more at length, when we come to treat of the Collection of the Feudal Books. It was owing to this likewise, that the *Roman* Law was in such disuse, that it was only preserv'd amongst the Commonalty, as an old Custom; for these our Provinces, by the multiplicity of Fiefs, were filled with a vast number of Barons, and the *Longobard* Laws, and Feudal Customs, which in a great Part were taken from them, were only respected and observed; and it was look'd upon as a Mark of Nobility to live according to the *Longobard*, and not the *Roman* Laws. And though *Charles the Great*, *Pepin*, *Lothaire* and *Lewis*, had left the People of the Provinces to live under whatever Law they thought best, yet the greatest Part chose the *Longobard*. Besides, when a Woman was married, though she had liv'd under the *Roman* Law, yet afterwards she was to be under the *Longobard*, according to which the Husband constantly liv'd, of which we have a clear and singular Example in *Doviat*<sup>1</sup>.

BUT the *Longobard* Laws, and the Feudal Customs were in Force and Authority only in those Provinces that were subject to the *Longobard* Princes; for hitherto they had not obtain'd in the Dukedom of *Naples*, nor the other Cities and Places where the Dominion of the *Greeks* continu'd, who neither acknowledg'd the *Longobard* nor the Feudal Laws: Therefore, perhaps some may think, that at least, in these Times, in the Dukedom of *Naples*, *Amalphis*, *Gaeta*, and all the other Countries subject to the *Greeks*, they liv'd according to the Laws of *Justinian*, and especially in those Times, in which the *Greeks* had re-taken many Places from our *Longobard* Princes, such as *Bari*, *Taranto*, and *Benevento*.

BUT they will be surpriz'd to hear, that the Books of *Justinian* had no better Fortune in the East than in the West, and therefore were not acknowledg'd in the Cities and Provinces that maintain'd themselves under the Dominion of the *Greeks*. This was owing partly to Remissness in *Justin*, who succeeded to *Justinian*; but much more to the Envy that the succeeding Emperors bore to the Glory of *Justinian*, who endeavour'd, by the means of new Constitutions and *Novellæ*, and new Collections, to eclipse his Books. And the greatest Blow they got, was in the Ninth Century, in which we now are, when in the Year 870, the Emperor *Basilus*, and shortly after, *Leo* and *Constantine* his Sons, order'd, That so famous Collection of the *Basilicæ* to be made. Therefore it will be proper that we treat at large of the many Collections made by the *Greeks*, and the Works of their Lawyers, who bestowed their Labour on that Subject, by which the true Causes shall be discover'd, why the Laws of *Justinian* had not that Force and Authority in the Dukedom of *Naples*, and all the other Cities subject to the *Greeks*, which they had afterwards in these Provinces, when they were restor'd again in *Italy* in the Time of *Lothaire II.* and were expounded in our Academies, and acquir'd that Force in our Tribunals, which continues to this Day. And I am induc'd the more willingly to do it in this Place, because being tir'd with these many preceding Disasters and Calamities, I would gladly refresh myself a little with Learning, which at this Time was not altogether lost and extinct in *Greece*, as it was in *Italy*.

<sup>1</sup> *Doviat* hist. jur. Civ.

## S E C T. I.

*New Collections of Laws made in Greece ; and their Use amongst us in those Cities that were subject to the Greeks.*

THE Books of *Justinian*, that is to say, the Collections of the *Pandects*, *Codes*, and other Constitutions, call'd *Novellæ* ; as soon as their Author died, underwent such strange Alterations among the *Greeks* themselves, that at last being laid aside, the *Roman* Law was not comprehended in them, but in other Volumes. This Neglect of them in the East, was chiefly owing to two Causes ; the First, was the so many other new Constitutions, which, by the succeeding Emperors (beginning from *Justin the Younger*, from the Year 566, to *Michael Paleologus* in the Year 1260.) from time to time were publish'd, which by altering and correcting what *Justinian* had establish'd in his Books, were the Cause of so many Changes and Novelties, that the Professors and Advocates studied only these new Constitutions, as containing what was necessary for the Practice of the Courts of Justice, and the Decision of Causes, and did not regard the *Justinian* Code, the Laws of which by the so many Corrections that had happen'd to them, were of little or no Authority, and therefore were altogether laid aside.

THE other Cause, was the so many Collections or Compilations made afterwards by the succeeding Emperors, some more compendious, others more full, which eclips'd those made by *Justinian*. The more compendious Collections being of various Sorts, got various Names : Some were call'd *Prochyra*, that is to say, *Promptuaria* ; others *Enchiridia*, that is to say, *Manualia* : Some others *Eclogæ*, which signifies *Delectus*, or Collections of the most choice Things, and by other Names, such as *Synopsis*, *Epitome*, or *Compendium*. The more full Collections went all under the same Name of *Basilicæ*, that is to say, Imperial, not, as some believed, that they took their Name from the Emperor *Basilius*, under whom they were first compiled. Among the *Greeks*, *Basileus* is the same as King or Emperor, therefore the Collections, which contain'd their Constitutions, were call'd *Basilicæ*, that is to say, Imperial.

WITH regard to the first Cause, viz. the so many Imperial Constitutions, in order to remove all Confusion, we must divide them into two Classes. Those establish'd by *Justin the Younger*, down to *Basilius Macedo* and his Sons, must be separated from the following publish'd after *Basilius*, which at first going under the Name of *Novellæ*, were at last collected together, for the most part, according to the Order of the Times they were publish'd in.

THERE were Twelve Emperors reckon'd, by whom the First were publish'd ; these were *Justin the Younger*, *Tiberius*, likewise, *the Younger*, *Heraclius*, *Constantine V. Pogonatus*, *Leo III. Iconomachus*, *Leo V. Armenus*, *Theophilus*, and *Basilius Macedo*, with *Leo* and *Constantine* his Sons. For Forty Years after the Death of *Justinian*, under the Emperors *Justin*, *Tiberius* and *Mauritius*, the Books of *Justinian* in *Latin*, in which Language they were written, had all Force and Authority in the Academies of *Constantinople* ; but *Phocas*, a most foolish Prince, succeeded in the Empire of the East, who neither could suppress the Invasions of so many foreign Nations, who possess'd a great Part of his Empire, nor preserve the Laws ; so that though the Books of *Justinian* did not altogether lose their Authority, yet they were transform'd and translated into the *Greek* Language, and by the *Greek* Lawyers were reputed as a new Body of *Greek* Law ; from which and the *Novellæ* that were still publishing, the Laws were quoted in the Courts of Justice ; so that the *Justinian* Codes began to lose their antient Force. <sup>1</sup>

<sup>1</sup> Arth. Duck de Aut. juris Civil. lib. 1. | <sup>2</sup> Zonar. Annal. tom. 3. cap. 5. num. 2.

BUT  
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BUT they receiv'd a greater Blow by the so many other *Novellæ Constitutiones*, which follow'd after *Basilus* and his Sons. There are Seventeen Emperors reckon'd, who during their Empire, had establish'd them. These were *Constantine VIII. Porphyrogenitus*, *Romanus Lecapenus the Elder*, *Romanus Porphyrogenitus the Younger*, *Nicephorus II. Phocas*, *Basilus the Younger*, *Romanus IV. Argyrophilus*, *Zoe the Empress*, *Isaacius Comnenus*, *Michael VII. Dux*, *Nicephorus Botoniates*, *Alexius Comnenus*, *Joannes Comnenus*, commonly call'd *Calo Joannes*, *Emanuel Comnenus*, *Alexius III. Comnenus*, *Isaacius Angelus*, *Joannes III. Dux*, who reign'd in *Asia Minor*, and in *Nicea*, while the *French* possess'd *Constantinople*, and *Michael Paleologus*, who having driven out the *Latins*, recover'd *Constantinople*.

THE Knowledge of these *Novellæ* did not reach us till many Ages after; when Sciences and Learning were restor'd in *France* and *Italy*, then it was that they were unveil'd and brought to light, not by one single Person, and all at once, but by degrees by many learned Writers, Lovers of Antiquity. They had no Force or Authority in these our Provinces, neither at the Time they were publish'd, as being all local, and concerning the Government of *Constantinople*, and other Cities of the East, neither till after the Books of *Justinian* were restor'd in *Italy*; for they are not to be found in the ancient Volumes, which by degrees began to be first receiv'd into the Academies of *Europe*, and afterwards by the Force of Reason, into the Tribunals. Our first Restorers of Learning had no Knowledge of them, and it was many Ages after, that they were found again by some learned Men, who translated them into *Latin*, and afterwards got them joined to the new Editions, which from time to time happen'd to be made of the vulgar Codes. *Eimondus Bonafides* caus'd many of them to be publish'd, and *Joannes Leunclavius* and *Carolus Labbeus* many others; and a great many of them, both *Greek* and *Latin*, may be read in *Leunclavius*, and in the *Corpus* of *Dionysius Gothofredus*, who join'd them to his Volumes, as they were interpreted, partly by *Henricus Agileus*, and partly by *Bonafides*. For which Reasons he would be at a Loss, that would make use of them now a-days, in our Tribunals for deciding of Causes, they never having acquir'd the Force of Laws in these our Parts; and the same may be said of the *Basilicæ*<sup>1</sup>. They are well worthy of Praise, who dug them out of the Darkness wherein they had been buried, and presented them to the Light of the World, because they often make clear those already received, and give greater Light to what relates to the History of the Times, and the Transactions of those Nations; and this is the only Use and Advantage that can be made of them and the *Basilicæ*; neither ought our Lawyers to expect any other from them. Thus we have many *Novellæ* of those Emperors concerning the *Greek* Customs and Usages, and other such things belonging to the *Greeks*, publish'd in some Places, and certain Cities, and particular Provinces, and which were not in Force, nor had Authority any where else<sup>2</sup>.

AMONGST all the other Emperors of the East, there was not one that publish'd so many Constitutions, and made so many Innovations, as *Leo VI. Son of Basilus*. This Prince was a great Lover of Learning, who, by the Study, and great Knowledge of the Laws, History and Philosophy, acquir'd as *Antoninus* did, the Surname of Philosopher. There are reckon'd One hundred and Thirteen *Novellæ* publish'd by this Emperor about the Year 890, which *Agileus* translated into *Latin*; but the greatest Part of them were not in Force, nor had Authority, but in the Tribunals of *Constantinople*, and very many of them were in disuse in *Leo's* own Time<sup>3</sup>. Many Monuments of this Prince's Erudition, and his Love of Arts and Sciences are extant, such as the many Books which he compos'd, which being kept from the Injury of Time, were long preserv'd in the *Palatine Library*, and that of *Constantinople*. He wrote many Books concerning military Discipline, which deserv'd to be translated into the *Latin* and *Italian* Languages: A Book about Hunting; besides diverse Oracles and Prophecies relating to *Rome* and *Constantinople*, and some small Theological and Historical Treatises; but above all, he applied himself most to the Study of the Laws, because vying with *Justinian*, who endeavour'd to outstrip *Theodosius the Younger*, he strove to excel him by his new Collections, and

<sup>1</sup> Struv. hist. jur. Græc. cap. 4. §. 2.

<sup>2</sup> V. Cujac. lib. 6. observ. cap. 10.

<sup>3</sup> Cujac. obs. 17. c. 31. Doviât. hist. jur.

| Civil. pag. 47.

his *Basilica* and *Promptuaria*, which he and his Father *Basilus* put in a better Method, and a more noble Form <sup>1</sup>, in order to eclipse the Fame of *Justinian*.

THE first then (to come to the 2d Cause of the Neglect of *Justinian's* Books) who put the greatest Damp upon *Justinian's* Laws by the means of new Collections, was *Basilus Macedo*. *Basilus*, by a strange Turn of Fortune in the Year 866. being proclaim'd Emperor, was a Prince of so great Spirit, that he often defeated the *Saracens*, and by his Prudence re-establish'd the Empire, which had been ruin'd by *Michael* his Predecessor; and having associated *Constantine* in the Empire, and given the Title of *Cæsar* to *Leo* and *Alexander* his Sons, afterwards in the Year 879, he gave the Title of Emperor to *Leo*. By his noble Exploits, having acquir'd great Fame, he design'd to excel *Justinian* in Glory, and by the means of new Collections to eclipse his Name and Books: For which end, in the Year 870 (associating with him in this Work, *Constantine* and *Leo* his Sons) he ordered a *Promptuarium* to be compiled; or, as the *Greeks* call it, *Prochyron* of Laws, in which, from many Volumes were compendiz'd the principal Sources of the Law, from whence the lesser Rivulets originally come. According to *Armenopolus* <sup>2</sup> it consisted of Forty Titles, and not Sixty as *Cujacius* writes; and we find it as yet among the Manuscripts in the *Vatican* Library, whither it was remov'd from that of the *Palatine*. It passes sometimes under the Names of *Basilus*, *Leo* and *Constantine*; sometimes under the Names of *Leo* and *Constantine* only, and also under that of *Leo* alone, with various and different Prefaces; so that 'tis very probable this Work was revis'd again by *Leo* the Philosopher, and reduc'd to a better Form.

*LEO*, not content with having put his Father's *Prochyron* into a better Form, and fill'd the East with so many *Novellæ*; put forth likewise the Compend of the Laws, a very elegant Work, which was made up purely of Definitions and Rules; but he employ'd his Study and Thoughts more in framing the *Basilica*: This great Work was compil'd about the Year 886, divided into Sixty Books, and, for the greater Conveniency, into Six Volumes. *Cedrenus* relates, that this Work was begun by *Basilus*, but finish'd by *Leo* his Son, who, by the Advice of *Sabbatius Protospatarus* (perhaps the same as we have said, who was sent into our Provinces, in order to drive away the *Saracens*) caus'd it to be publish'd, according to *Antonius Augustinus*, who takes it from *Matheus Blastares*.

IN this new Compilation he did nothing else but for the most part follow the same Order which *Justinian* had observ'd in his Laws, from whose Books, Edicts, and *Novellæ Constitutiones*, and the Constitutions of the succeeding Emperors down to *Basilus*, he took his subject Matter; he retrench'd all that was thought superfluous, and what had been disus'd by the Custom of After-times was left out; and moreover he added what had been establish'd by the new Constitutions of the succeeding Emperors; from which Work, comprehended in six Volumes, and divided into sixty Books, a new Body of Law nam'd *Basilica* started up, and which was written in the *Greek* Language: So that what *Justinian* had written on each Subject separately in many Books, to wit, the Institutions, the Pandects, the Code, and other Books of *Novellæ*, was put under one Title, and in the same Order which *Tribonianus* was pleas'd to observe in the Disposition of his subject Matter.

THESE were the Laws call'd *Basilica*, and nam'd *Priores*, because the Work did not end here; for *Constantine VIII.* Son of *Leo*, surnam'd *Porphyrogenitus* likewise bestow'd great Pains and Application on this Subject: *Constantine*, out of a Desire of Glory, like his Grandfather and Father, design'd to abolish altogether the Memory of *Justinian's* Books <sup>3</sup>, and by his Skill in Law and History, to convince the World that he was a Man who had Learning chiefly at Heart. Having revis'd the Work of the *Basilica*, he correct'd it in many Places, and in the Year 920, he publish'd another *De repetita Prælectione*, more refin'd and correct, of which he would have himself reputed the Author, and that the *Basilica Priores* should no more be minded, but that in the Courts of Justice and Schools, his own, which therefore he call'd *Posteriores*, should be in Force, and made use of by the Students and Lawyers of the East. Indeed this new Collection of the *Basilica* was receiv'd in the East, and continu'd to be the Foundation of the *Jus Græcum*, to the End of the *Greek*

<sup>1</sup> V. Arrh. loc. cit. num. 3. & 4.

<sup>2</sup> Harmen. in Præfat.

<sup>3</sup> V. Marq. Freher. in Præfat. ad jus Græc. Rom. Struv. hist. jur. Græci cap. 4. §. 2.

Empire<sup>1</sup>; and *Constantine* was reputed to be the first Author of it, which both *Luitprandus* and *Erveus* acknowledge. These were always reckon'd to be the true Books of the *Basilicæ*, to which *Constantine* himself made a new *Prochyron*, or Introduction, which is to be seen at this Day; and they are the same, which, after a Series of so many Ages, have been reviv'd by the Care and Diligence of some deserving Men, Lovers of our Jurisprudence, such as *Gentianus Erveus*, and *Hannibal Fabrottus*<sup>2</sup>, and which the Greek Interpreters have taken great Pains to comment on, and illustrate.

THIS Prince acquir'd no less Fame by his other renown'd Works concerning History, which are extant to this Day; he caus'd all the Historians to be collected into one Body, and dispos'd them into 53 common Places, tho' the History of *Porphrogenitus*, according to the usual Custom of the *Greeks*, in many Places be reckon'd fabulous, frequent Instances of which may be seen in this History.

MANY Greek Interpreters bestow'd their Labours on these *Basilicæ*, so that they had as great a Crowd of Greek Commentators in the East, as the Books of *Justinian*, after they were reviv'd in the West, had of Latin Commentators and Expounders. *Cujacius* mentions a great many of them, such as *Stephanus*, *Nicens*, *Taleleus*, *Isidorus*, *Eustathius*, *Eudoxius*, *Gobidas*, *Cumnus*, *Joannes*, *Agiothedoretus*, *Doxapater*, *Gregorius*, *Garidas*, *Bêstes*, *Baphius*, *Theophilus*, *Calocirus*, *Sestus*, *Callistratus*, *Leo*, *Phocas*, *Modestinus*, and *Domnius*; to which *Freerus* adds, *Patzus*, *Theophilizen*, *Phobenus*, *Theodorus*, *Hermopolita*, *Demetrius*, and *Cartophilaces*. In what precise Times these flourish'd we have no Certainty: Nevertheless if *Taleleus* be reckon'd amongst the Lawyers who commented on the *Basilicæ*, he must be another *Taleleus*, and not he who flourish'd long before in the Time of *Justinian*, who assisted in making the Pandects, as we have said elsewhere.

SO likewise this must be another *Stephanus*, and not he, who at the Command of the same *Justinian* bestow'd his Labour on the Digests, which he also translated into the Greek Language; neither can *Theodorus* and *Isidorus* be the same, who long before were employ'd by *Justinian* among those seventeen in composing the Latin Digests.

MUCH less can it be this *Theophilus*, who together with *Tribonianus* and *Dorotheus* compos'd the Institutions; and this *Phocas* can't be one of the twelve appointed for framing of the Latin Code. As for *Callistratus* and *Modestinus*, 'tis unquestionably certain, that these Civilians flourish'd not only long before *Porphrogenitus*, but even before *Justinian* himself. Therefore if it be not granted, that there have been several Lawyers at different Times of the same Name, these cannot surely be reckon'd amongst the Interpreters of the *Basilicæ*; altho' some of them had formerly been employ'd in translating the Volumes of *Justinian* into the Greek Language, as *Stephanus*<sup>3</sup> (if we may believe *Mathæus Blastares* on the Testimony of *Antonius Augustinus*) did the Pandects, or at least *Taleleus*, as *Suares*<sup>4</sup> and *Struvius*<sup>5</sup> believ'd, and as *Taleleus* certainly did the Code; whose Example was follow'd by *Cyrillus* in the Digests, by *Theodorus* in the Code, and *Theophilus* in the Institutions.

BESIDES these, there were others of uncertain Names; such as the *Anonymous Basilicus*, whom *Cujacius* believes to be the Interpreter of the same Collection of the *Basilicæ*, *Evantiophanes*, who made a Collection of the Laws that clash'd with one another, or the *Antinomies*, whom the Bishop of *Prejus* believ'd to be *Photius*, who in his *Nomocanon* writes that he had compos'd such a Book<sup>6</sup>.

*CUFACIUS* believes *Dorotheus* to be the Author of that prolix Paraphrase which goes under the Name of an Index; but *Gotofredus* takes it to be the Work of several Persons, such as *Basilicus* and *Baphius*, whom *Constantine* made use of, and regarded as much as *Justinian* did *Tribonianus*; for the last added many Things to that Index.

THEREFORE the Study of the Roman Laws was no less cultivated among the *Greeks* in the East, than it was afterwards among the *Latins*. For which end many of them began to comment upon them, and to interpret them variously, little minding the Prohibition of *Justinian*, who allow'd them only to be translated into

<sup>1</sup> Struv. loc. cit.

<sup>2</sup> Of these Editions V. *Suares* Notitia Basil.

<sup>3</sup> August. ad Novel. in Prolegom.

<sup>4</sup> Suar. in Notit. Basil.

<sup>5</sup> Struv. hist. Jur. Græc. cap. 4. §. 1.

<sup>6</sup> V. Doyiat. hist. Jur. Civ.

Greek, and the *Paratitli*; some added *Scholia*, Paraphrases and Glosses; others again loaded them with huge Commentaries; but their Works have never been publish'd among us, and the greatest Part of them have been destroy'd by Time, or are preserv'd in the Libraries of Princes and Learned Men. Those Works that have been publish'd, and are at present abroad in the World, are the *Nomocanon* of *Photius* Patriarch of *Constantinople*, which near to this very Time was publish'd in the Year 877, and divided into 14 Titles, to which *Theodorus Balsamon* added his *Scholia*.

THERE is the *Ecloga* of the *Basilicæ*, which by some is also call'd *Synopsis*; some, according to *Cujacius*<sup>1</sup>, take *Romanus the Younger*, Son of *Porphyrogenitus*, and Grandchild of *Romanus Lecapenus*, who reign'd about the Year 962, to have been the Author of it. This Work was found by *Joannes Sambucus* in our *Taranto*<sup>2</sup>, a City, in the Time of *Romanus*, subject to the Greeks. *Antonius Galateus*<sup>3</sup> relates, that *Nicetas* a Philosopher of *Otranto*, afterwards a Monk of *St. Basil*, collected many Codes from *Greece*, and therewith enrich'd the Library of his Monastery, which being under the Rule of *St. Basil*, not far from *Otranto*, became very famous and conspicuous in these our Parts.

JOANNES LEUNCLAVIUS caus'd this *Ecloga* to be printed in *Basil* in the Year 1575, and translated it into *Latin*; and *Carolus Labbeus* added the Corrections and Observations<sup>4</sup> to it. In the same *Leunclavius*<sup>5</sup> we read likewise of another *Synopsis* of *Michael Attaliatus* Proconsul and Judge, made in the Year 1071, by the Order of the Emperor *Michael Dux*, which goes under the Name of *Pragmatica*. A little after, in the Year 1071, *Michael Psellus*, famous for his Skill in the Laws and Philosophy, compos'd another *Synopsis* in Verse, which he dedicated to the same Emperor *Michael*.

LASTLY, *Constantinus Armenopolus*, a *Theffalonian* Judge, about the Year 1143, in the Reign of *Emanuel Comnenus* publish'd the Epitome of the Civil Laws, which he first caus'd to be printed in *Greek* at *Paris* in the Year 1540, by *Adam Suallenberg*; it was afterwards translated into *Latin*, and printed in the Year 1547. and 1549, by *Bernard Rey*, and again in *Lyons* by *John Mercer*, in the Year 1556: The Manuscript is yet preserv'd in the *Vatican* and *Palatine* Libraries.

CUJACIUS to all this likewise adds the Treatise of *Eustathius Antecessor de Temporum intervallis*, which may be seen printed amongst his Works. *Antonius Augustinus*, *Freerus*, and others, give us Account of other such *Greek* Writings<sup>6</sup>; and *Leunclavius* gives us many Military, Rural, and Maritime Laws, as *Carolus Labbeus*, gives the *Paratitli*.

FROM which may be gather'd, that at the same time, when the Study of the *Roman* Laws was laid aside by the *Latins* in *Italy*, by reason of the Incurfions of the *Saracens* and other Nations, and on account of the Dissentions among our own Princes, the *Greeks* continued to cultivate it with the utmost Care to the very last, until *Constantinople* was subdu'd by barbarous Nations, and the Empire of the East was utterly ruin'd. And tho' their Labour was not bestow'd on the Books of *Justinian*, yet they did not spare it on the other Collections made afterwards in Emulation of him, the Substance of which was taken out of his Books; but tho' they took much out of them, yet they added much more to them.

FOR these Reasons it was, that tho' the Dukedom of *Naples*, and many Maritime Cities of these Provinces maintain'd themselves long under the Dominion of the *Greeks*, yet nevertheless the Books of *Justinian* were not receiv'd in them; and tho' in the Time of the Emperor *Lothaire II.* the Pandects were found in *Amalphis*, a City once belonging to the Dukedom of *Naples*, and subject to the Emperors of the East, yet they were not taken for a Body of *Greek* Laws, by which the *Amalphitans* were govern'd; but their being found in this City was owing to the frequent Voyages which the *Amalphitans* made to *Constantinople*, after they became so exquisite in the Art of Navigation, and by continual Commerce made themselves known all over the *Levant*; for as there was no Vestige of *Justinian's* Books to be found in the other Cities of these Provinces subject to the *Greeks*, so neither would any have been found in *Amalphis*, had it not been for the

<sup>1</sup> Cujac. Obs. 6. cap. 10.

<sup>2</sup> Arch. Duck, lib. 1. cap. 5. num. 7. Struv. loc. cit. §. 4.

<sup>3</sup> Galat. de situ Japygiæ.

<sup>4</sup> Struv. loc. cit.

<sup>5</sup> Leuncl. in Jur. Græc. Rom.

<sup>6</sup> Suares loc. cit. Struv. loc. cit.

<sup>7</sup> Struv. loc. cit.



said Commerce with the East ; and what *Summontes* says, and with greater Assurance *Francisco Pietri*, that the Pandects were likewise found in *Naples*, is such an impudent Untruth, that 'tis surprizing to find Men so brazen-fac'd, as not to blush to affirm it so boldly, without the Authority of any Writer to vouch it. Only from the Letters of *Ivo of Chartres*, and the Decree of *Gratian* we may gather, that in the tenth and eleventh Centuries, some other Copy must have been handed about in *France*, for *Ivo* often in his Letters <sup>1</sup>, and *Gratian* in his Decree, not only quote the Digests, but also the Institutions, the *Novellæ* and the Code <sup>2</sup>. They were not known in these our Provinces which now make the Kingdom, before their being found in *Amalphis* ; and with our *Longobard* Princes their own Laws prevail'd ; neither were the *Roman* Laws heard of, but so far as they had continu'd by Tradition amongst the Country People, and what could be collected from the *Theodosian* Code corrected by *Charles the Great*.

NEVERTHELESS 'tis probable, that the *Basilicæ*, and the Works of these Greek Lawyers lately mention'd, were rather us'd in the *Further Calabria* ; seeing *Joannes Sambucus* found the *Ecloga* of the *Basilicæ* in *Taranto* ; and *Galateus* assures us, that in the Monastery of the Monks of St. *Basil* in *Otranto*, many Greek Books were found after the taking of *Constantinople*, and afterwards carried to *Rome* and put in the *Vatican Library* ; whence we may conclude, that in *Naples* and the other Cities subject to the *Greeks*, the *Novellæ Constitutiones*, publish'd by the last Emperors of the East after *Justinian*, and those their last Collections, from which the *Jus Græcum* was fram'd, had more Force than the Books of *Justinian* ; and that perhaps the *Neapolitan* Usages take their Rise from these last Laws of the *Greeks*, and not from the Ancient, as *Summontes* thought, which we shall take notice of when we come to discourse of the Collections of them.

THIS is said with regard to the State of those Times in which the *Greeks* had again become powerful in these our Provinces ; for afterwards when their Power among us was at a very low Ebb, and particularly in the Dukedom of *Naples*, where the Emperors of the East had only a Shadow of Authority left, because the Dukes govern'd this Dukedom too absolutely and independently ; but especially when the *Normans* appear'd among us, by whom the *Greeks* were driven out, neither they nor their Laws were any more regarded ; for the *Neapolitans* being in the Neighbourhood of the *Longobards*, conform'd themselves to the *Longobard* and the ancient *Roman* Laws, and not to the *Greek*, as all the other Provinces of which the Kingdom is now compos'd did ; for the *Normans* having driven out the *Greeks*, retain'd the *Longobard* Laws, and commanded not only the *Roman*, but likewise the *Longobard* Laws to be observ'd every where, but gave greater Authority and Force to the latter. Thus we see, that before the coming of the *Normans*, in the Peace made in the Year 911, betwixt *Gregory* Duke of *Naples*, and *Atenulphus* Prince of *Benevento*, which was afterwards rencw'd in the Year 933. by Duke *John* his Nephew with *Landulphus* I. ; among other Things it was agreed, that in the Cases or Differences that might arise betwixt the *Longobards* and *Neapolitans*, Judgment should be given *absque omni dilatione secundum legem Romanorum, aut Longobardorum, absque maliciosa occasione* <sup>3</sup>, which was practis'd in the other Provinces and Cities of the Kingdom, where both the *Roman* and the *Longobard* Laws were observ'd by the Inhabitants in their Differences ; for we read in *Leo Ostiensis* <sup>4</sup>, that about the Year 1017, there having a Dispute arisen betwixt the Monastery of *Monte Cassino*, and the Dukes of *Gaeta* and the Counts of *Trajetto*, concerning the Right to some Lands and Woods within the Limits of *Aquino*, which was to be decided by the Prince of *Capua* ; it was determin'd in Favour of *Monte Cassino*, *tam ex Romanis legibus, quam ex Longobardis*. From two Records of two Sentences pronounc'd in the Time of the *Normans*, the first in the Year 1149, in the Reign of King *Roger*, and the second in 1171, in that of King *William*, which we owe to the Care of *Camillus Pellegrinus* <sup>5</sup>, we see, that the *Longobard* Law was embrac'd by all, and in the Decision of Cases, greater Stress was laid upon it than upon the *Roman* Law ; the same was practis'd afterwards under Princes of other Nations who govern'd this Kingdom, as in the Course of this History we shall continue to take notice of.

<sup>1</sup> Ivo Epist. 46, 69, 79, 213, 224.

<sup>2</sup> V. Pancirol. lib. 3. c. 2. Struv. hist. Jur. Can. cap. 7. §. 17.

<sup>3</sup> The Instrument of this Peace is to be seen in Camil. Pel. hist. Princ. Long. pag. 323.

<sup>4</sup> Ostiens. in Chron. lib. 2. cap. 35.

<sup>5</sup> Pel. hist. Princ. Long. pag. 251, & 256.



## C H A P. III.

*The Kingdom of Italy passes from the French to the Italians : Greater Revolutions happen on that account in these our Provinces ; and the Rise of the Dukedom of Amalphis.*



**C**HARLES the Gross dying without leaving Male Issue, and the Italian Princes being resolv'd not to part with the Kingdom of Italy and the Title of Emperor, left no Stone unturn'd in order to keep it amongst themselves ; above all the rest *Berengarius* Duke of *Friuli*, and *Guido* Duke of *Spoletto*, both of them equally powerful, and assisted by numerous Parties, aspir'd to the Kingdom ; our Prince of *Benevento* could not attempt it, tho' formerly he could have more easily accomplish'd it than they, but his Principality was now much on the declining Hand ; and by being divided into so many Shares, had suffered many Calamities and Troubles. *Berengarius* and *Guido* then, in order to prevent Confusion betwixt them, and that the one might not obstruct the Designs of the other, propos'd two different Expeditions ; *Berengarius* was to invade *Italy*, and *Guido* *France*. Accordingly upon *Charles's* Death, *Berengarius* being supported by his Party, immediately without any Opposition possess'd himself of the Kingdom of *Italy* ; but it was not so easy for *Guido* to make himself Master of *France*, because the *French* had timely appointed *Eudo* Count of *Paris*, who was afterwards King of that Realm, as Tutor to *Charles the Simple*. *Guido* seeing himself prevented, return'd to *Spoletto*, and began to think of turning out *Berengarius*, who had already peaceably gone to *Pavia*, and, according to Custom, had made himself to be crown'd by *Anselm* Bishop of *Milan*, and fix'd his Royal Seat in that City, as his Predecessors had formerly done. In the mean time *Guido* having procur'd the Favour of the Pope and the *Romans*, and supported by a numerous Party in Opposition to *Berengarius*, got himself to be proclaim'd King of *Italy*. Thus by a most wicked and pernicious Example *Italy* became divided into two Factions, and the People being divided betwixt the two Parties acknowledg'd two Kings. Altho' *Berengarius's* Cause was the most just, nevertheless *Guido's* Faction, being favour'd by the Pope and the *Romans*, increas'd very much ; whereupon having rais'd a powerful Army, he march'd out of *Spoletto* fully resolv'd to drive out his Enemy. They made a cruel War against one another, and after various Success, *Berengarius* being routed, was at last forc'd to quit the Kingdom. *Guido* in the Year 890. having enter'd *Pavia*, easily made himself Master of all *Lombardy*, and being proclaim'd over all *Italy*, the following Year 891. he was also advanc'd to the Imperial Dignity ; for having gone to *Rome* he was crown'd Emperor by Pope *Stephen*, and proclaim'd *Augustus*. Thus after so many Revolutions the Empire fell into the Hands of the *Italians* ; and 'tis said, that *Guido* in return for such signal Service, confirm'd to the Pope all the Donations and Prerogatives which *Pepin*, *Charles the Great*, and *Lewis the Pious* had granted to the Church of *Rome*.

UPON his Return to *Pavia*, according to the Custom of the other Kings of *Italy*, he having conven'd the States both Ecclesiastical and Secular, granted many Privileges to the Churches and Cities ; and in order to establish his Kingdom of *Italy* in a better Form, in the Month of *May* this Year 891, he publish'd many Laws in *Pavia*. We have as yet to this Day some of the Laws of the Emperor *Guido* in the

the Volume of the *Longobard* Laws, which the Compilers added to that Volume, as being establish'd by him as King of *Italy*, which had all Force and Authority there: we read one of them in the first Book under the Title *De Convictis*; another in the same Book *De Invasiōibus*; another in the second Book under the tenth Title; another in the same Book under the Title *De Successiōibus*; and two others in the third Book under the twelfth and thirteenth Titles.

BY the Death of Pope *Stephen V.* which fell out this same Year 891, and the Election of *Sergius* in his Room, the Troubles in *Italy* and *Rome* increas'd; for some of a contrary Faction elected *Formosus*; and as *Guido* favour'd the Faction of *Sergius*, so on the other hand *Berengarius* declar'd for *Formosus*. *Berengarius* had had recourse for Assistance to *Arnolphus* King of *Germany*, natural Son of *Carlomann*, who had likewise declar'd for Pope *Formosus*, that by joining their Forces together he might recover the Kingdom; and this Prince who aspir'd to the Empire of the West, laid hold of the Opportunity with pleasure, and sent *Zuendebaldus* his Son into *Italy* with a powerful Army; but these Forces could do nothing against *Guido*, because after several Encounters they were always worsted, and at last *Zuendebaldus* being forc'd to quit the Undertaking, return'd to *Germany*, and *Guido*, flush'd with this Victory, associated his Son *Lambertus* with himself in the Empire.

BUT *Guido* did not continue long in this prosperous State, for *Berengarius* returning to *Worms*, where *Arnolphus* had caus'd a Diet to be conven'd, so order'd Matters, that he engag'd this Prince to go to *Italy* in Person in order to drive out *Guido*, and to restore himself to the Kingdom of *Italy*; this Expedition at this Time was attended with Success, he took *Bergamo*, the *Milanese*, and *Pavia* and *Placentia* yielded without Resistance; and he sent *Otho* the Grandfather of *Otho the Great*, whom we shall frequently have occasion to mention, to *Milan*, and restor'd *Berengarius* to the Kingdom. *Guido* with his Son flying towards *Spoletto*, was pursu'd by his Victorious Arms; but dying soon after in the Year 894. by a sudden vomiting of Blood, *Berengarius* could the better fix himself on his Throne; wherefore he made *Pavia* the Place of his Residence, and was wholly intent on settling his Kingdom.

BUT the Disputes did not end in *Italy* on the Death of *Guido*, forasmuch as those of his Faction persisting obstinately in their Engagements, combin'd more closely with his Son *Lambertus*, who had retir'd to *Spoletto*, and solicited him to accept of their Assistance against *Berengarius*.

NEITHER was their Effort in vain, for *Berengarius* being deserted by his Party, and press'd hard by *Lambertus*, was forc'd to quit *Pavia*, which was immediately possess'd by *Lambertus*, where, with great Rejoicings, he was proclaim'd King by his own Party. But *Berengarius* being driven out, had his recourse anew to *Arnolphus*, whom Pope *Formosus* had solicited on the same Head. *Arnolphus* being urg'd by these two, was at last resolv'd to go again into *Italy*, where being arriv'd, he took *Rome*, drove *Sergius* and his Faction out of it, and in the Year 896. was crown'd Emperor by Pope *Formosus*, who took an Oath of Fealty to him. This was the first *German* who had been Emperor of the West after the *French* and *Italians*; and in a short Time there were three Emperors seen in *Italy*, *Guido*, *Arnolphus*, and *Lambertus*, for *Berengarius* hitherto had been sole King of *Italy*. *Arnolphus* afterwards pursu'd *Lambertus*, but after various Turns of Fortune, Pope *Formosus* dying, and his Party declining, and on the contrary the opposite Faction increasing, *Stephen VI.* was elected, who exterminated the Faction of Pope *Formosus*, and annulling all that he had done, condemn'd him as guilty of *Simony*, and his Body was thrown into the *Tyber* by those of *Sergius's* Faction. He declar'd the Election of the Emperor *Arnolphus* void, and on the contrary anointed *Lambertus* Emperor; but afterwards his Party declining, *Stephen* was imprison'd by the *Romans*, and about the End of the Year 900. he was strangled, and *Romanus* elected in his Room. He revers'd all that his Predecessor had done, caus'd to be condemn'd and declar'd void all that had been done against *Formosus*; and having held the See but few Months, *Theodorus* succeeded him, who following the Footsteps of *Romanus*, restor'd all those whom *Stephen* had banish'd. *Rome* never was seen in so great Confusion and Disorder, as in these truly deplorable Times. Neither had the Church of *Rome* ever been in so pitiful a Condition as now, when the Popes were elected by Factions; and all Historians agree, that she was in a terrible Disorder; and Cardinal *Baronius* himself says, that she had fallen under the Dominion of two lewd Women, who plac'd their Gallants in *St. Peter's* Chair, that were unworthy

unworthy of bearing the Name of Popes; and that therefore the Church was many Years without a visible Head, but that she was preserv'd by our Lord Jesus Christ, who will never forsake her.

NO less were the Revolutions and Disorders among the Secular Princes. The Empire of *Lambertus* being become grievous to the *Italians*, they again plung'd themselves anew into Seditions; *Lambertus* was kill'd, and *Berengarius* restor'd, who immediately took Possession of the Kingdom. Every Body would have believ'd, that at least those of *Lambertus's* Party ought now to have put an end to Factions, and join'd with *Berengarius*; but the Event happen'd contrary to all Expectation: that there might not be wanting a Pretender, they set up *Lewis*, who at this Time reign'd in *Provence*, and was Nephew to the Emperor *Lewis II.* and invited him to come to *Italy*, and promis'd, that if he would drive out *Berengarius* they would proclaim him King. *Lewis* presently came to *Italy*, and having driven out *Berengarius*, who retir'd to *Bavaria* for Shelter, and being crown'd King of *Italy* by the Archbishop of *Milan*, was afterwards also proclaim'd Emperor, and magnificently receiv'd by *Adelbertus* Marquis of *Tuscany*.

IN the mean time *Berengarius* having march'd from *Bavaria* with a powerful Army, return'd to *Italy*, fought *Lewis*, imprison'd him, and caus'd his Eyes to be put out, but spar'd his Life. Thus did he reign alone in *Italy*; and afterwards in the Year 915. he was crown'd Emperor by Pope *John X.* The Levity of the *Italians* did not end here; for being soon weary'd of the Government of *Berengarius*, they invited *Rodolphus* King of *Burgundy*, and in Opposition to *Berengarius* proclaim'd him King of *Italy*; whereupon a bloody and cruel War ensu'd betwixt these two Princes, and at last *Berengarius* was kill'd by *Rodolphus's* Party in *Verona*. But *Rodolphus* enjoy'd the Kingdom but a short Time, for Disorders and intestine Factions prevailing, the *Italians* invited another Prince into *Italy* to rival him; this was *Hugo* Count of *Provence*, Nephew of *Lothaire* King of *Lorraine*; who being come into *Italy*, and having chas'd away *Rodolphus*, was immediately crown'd King by *Lambertus* Archbishop of *Milan*, in the Year 926, and restor'd the Kingdom to better Order; and to secure it to himself the longer, being frighted by the Examples of his Predecessors, he enter'd into a strict Alliance with *Henry* King of *Germany*, and *Romanus* Emperor of the East. Afterwards he associated *Lothaire* his Son in the Kingdom, that so in his own Life-time he might establish him in *Italy*: but all these Endeavours were in vain; *Rodolphus* was invited again, but that he might not expose himself to the Vicissitude of Fortune, he refus'd to come. Notwithstanding which, they did not want one to whom they had recourse, *Berengarius II.* born of a Daughter of *Berengarius I.* was the Person pitch'd upon, who being invited by the *Italians*, was proclaim'd King in Opposition to *Hugo*, against whom they had conceiv'd an implacable Hatred. *Lothaire* his Son lamenting the Misfortune of his Father, at last prevail'd with the People of the *Milaneses* to accept of him for their Sovereign; but his Reign was very short, for he died soon after, in the Year 949, and *Berengarius* with *Adelbertus* his Son were crown'd Kings of *Italy*. Neither would the Miseries and Afflictions of *Italy* have ended here, if at last the *Italians*, provok'd by the Tyranny of *Berengarius*, and guided by better Counsel, had not, by the Advice and Direction of the Pope, apply'd themselves to a potent and glorious Prince, who drove out those Tyrants rather than Kings, and put a Stop to so many Mischiefs: This was the great *Otto* King of *Germany*, whose glorious Exploits will give occasion to mention him frequently in the following Book of this History.

BEHOLD in what a lamentable Condition *Italy* was for upwards of sixty Years, when, by the failing of Male-Issue in the Off-spring of *Charles the Great*, the Empire was transferr'd from the *French* to the *Italians*; who, tho' they abhor'd the Dominion of Strangers, yet could not govern themselves better. Neither was there any that could give it Relief if it had not been transferr'd from the *Italians* to the *Germans*, in the Person of the Great *Otto*.

## S E C T.

## S E C T. I.

*The State of these our Provinces; and the aggrandizing of Amalphis.*

**I**N the mean time our *Longobard* Princes, and the *Greeks* who had the Government of these our Provinces in their Hands, seeing all going to wreck, and there being none that was able to put a Stop to their ambitious Designs, did not fail to encroach upon one another. The Title of Emperor of the West, or of King of *Italy*, as to them who took no manner of concern about it, was little better than extinct; whereupon the Power of the Emperors of the West ceasing, that of the Emperors of the East began to increase in these Provinces, and the Forces of the *Greeks* to be more considerable; whence it happen'd, that the *Greeks* having regain'd a great Part of *Puglia* and *Calabria*, and likewise made themselves Masters of *Benevento*, endeavour'd also to surprize *Salerno*; and whereas formerly the Princes of these States had laid their whole Strefs on the Emperors of the West for Assistance against the *Saracens*, now they wholly depended on those of the East; and the *Longobard* Princes themselves had obtain'd their Favour, and had frequently demanded the Honour of Patriciate, a Dignity in those Days the greatest that the *Greeks* could give: So that, as we have said, *Guaimarus* Prince of *Salerno*, for the better securing his State, got the Principality confirm'd to him by the Emperors *Leo* and *Alexander*, as it had been allotted to *Siconolphus* by the Division made with *Radelchisus*.

**T**HE State of these our Provinces towards the End of the ninth Century was this: The Principality of *Benevento* being confin'd to very narrow Bounds, having had the Principalities of *Salerno* and *Capua* disjoin'd from it, was in the Hands of the *Greeks*, and govern'd by *George* a Patrician, sent by the Emperors of the East, who were now wont to send Officers to govern *Benevento*. But the *Greeks*, through their Pride and Vanity, using the *Beneventans* ill, made them resolve to shake off the Yoke, and drive them out of that City.

**T**HE Principality of *Salerno* was govern'd by *Guaimarus*, which had been confirm'd to him by the Emperors *Leo* and *Alexander*, Sons of *Basilus*. *Capua* was under *Atenulphus*, who having driven out *Landulphus* and *Landon* his Brothers, had made himself Count of it. The County of *Capua* at this Time (according to the Anonymous Monk of *Cassino*<sup>1</sup> and *Erchempertus*) comprehended all betwixt *Caserta* and *Suessula*, in length reaching to *Aquino*, and once as far as *Sora*; and in breadth from *Cajazza* to the *Tyrrhenian* Sea, on both Sides of the Mouths of *Linturno*, *Vulturno*, and *Liri*<sup>2</sup>.

A good Part of *Puglia* and *Calabria* had come under the Dominion of the *Greeks*, to whose Cities they sent Patricians or Lieutenants to govern them. *Gaeta* with its small Dukedom likewise belong'd to the *Greeks*, who appointed a Duke for governing it; in the Year 812. Duke *Gregory* govern'd it, and at this Time *Docibilis* was Duke of it. *Naples* with its Dukedom was govern'd by *Athanasius*, both Bishop and Duke, arbitrarily and independently; but the Bounds of this Dukedom were much confin'd, by *Amalphis* being taken off of it, which was govern'd by a Duke apart, who acknowledg'd the *Greek* Emperor for his Sovereign.

**A**MALPHIS, which some reckon no older than from the Year 600, was first govern'd by annual Prefects, afterwards it had its perpetual Dukes, in the same manner as *Naples*; and being divided from the Dukedom of *Naples*, by Degrees it began to extend its Limits, and to be govern'd by a Duke in Form of a Commonwealth. Its Bounds reach'd Eastwards to *Vico Vecchio*; and Westwards near to the Promontory of *Minerva*, and on that Side the Island of *Caprea* was afterwards added to it, and the other two Islands of the *Galli*. The Emperor *Lewis* taking the *Amalphitans* under his Protection against the *Neapolitans*, at which, as we have said, *Basilus* was offended, assign'd these Islands irrevocably to *Amalphis*; whence we read, that

<sup>1</sup> Ignor. Cassin. apud Pell. n. 23, & 26.

<sup>2</sup> V. Pell. Chron. Com. Capuæ, pag. 142.

*Lewis* sent the *Amalpbians* to set Bishop *Athanasius* at Liberty, who had been made Prisoner by *Sergius* Duke of *Naples*; and for that reason, even as to what relates to the Ecclesiastical Polity, the Bishop of *Caprea* was Suffragan to the Archbishop of *Amalpbis*, and not to the Archbishop of *Naples*. Towards the North this Dukedom comprehended the City of *Lettere*, of old call'd *Castello di Stabia*, with *Gravatio Pirio*, now call'd *Gragnano*, *Pimentio*, and *Casale de Franchi*; and towards the South *Amalpbis* itself, *Scala*, *Ravello*, *Minori*, *Majuri*, *Atrani*, *Tramonti*, *Agerula*, *Citara*, *Praiano*, and *Positano*.

IN process of Time this Dukedom so exalted itself, that the *Amalpbians* became famous for Navigation all over the East, and increas'd both in Power and Riches; therefore they made and sustain'd many Wars; they assum'd the Power of making Laws in relation to Trade, and the Commerce of the Sea; which with us had the same Force and Authority as the *Rhodian* Law had with the *Romans*; and *Marinus Freccia*<sup>1</sup> testifies, that all Disputes about Navigation and Maritime Commerce were decided by the *Amalpbian* Laws. And who is it but knows, that the wonderful Invention of the Mariners Compass is owing to *Flavio Gisia*, a Native of *Positano*, a small Village of this Dukedom? They likewise assum'd the Prerogative of coining Money, which they laid out in all the Eastern Nations; whence the *Tarini Amalpbiani* became so famous, which are mention'd in our Customs, and many old Charters. They elected their Dukes out of their own Body, altho' they were afterwards confirm'd and made Patricians by the Emperors of the East. They became much more famous and renown'd in the Time of the *Normans*, as in the Progress of this History will be seen; and they enjoy'd this Liberty till the Year 1075, that *Robert Guiscard* having subdu'd *Salerno*, added this Dukedom to his Dominions; altho' for a long time they still retain'd some Vestiges of their decaying Liberty.

BEHOLD into how many Principalities and Governments, that which now makes one Kingdom was divided in these Times. The *Saracens* over-running every where, and carrying Destruction and Ruin along with them to every Place, it was no wonder that they at last gave way to a superior Force, and submitted to the powerful and brave *Normans*, who had now subdu'd the *Greeks*, *Saracens*, and *Longobards*.

<sup>1</sup> Freccia de Subfeud. pag. 27. In Regno non lege Rhodia maritima de cernuntur, sed Tabula  
quam Amalpbitanam vocant, omnes controver- | siæ, omnes lites, ac omnia Maris discrimina ea  
lege, ac sanctione, usque ad hæc tempora | finiuntur.



C H A P.



## C H A P. IV.

*The Principality of Benevento retaken from the Greeks; and the County of Capua reunited to it.*

**T**HE *Beneventans*, as we have said, not being able to bear the harsh and severe Government of *George* the Patrician, resolv'd to shake off the Greek Yoke<sup>1</sup>; they who had been us'd to govern, could ill bear to be in Slavery; therefore they wrote to *Guaimarus* Prince of *Salerno*, who had married *Jota* Sister of *Guido* III. Duke of *Spoleto*, that he would desire his Brother-in-Law to come to *Benevento* with a good Army, and they would deliver themselves up to him. This was not that *Guido* who aspir'd to the Empire, which he long contended for with *Berengarius*, as some have believ'd; he was the Son of *Guido* II. Duke of *Spoleto*, whom *Erchempertus* mentions<sup>2</sup>; for, as we have said, the Emperor *Guido* died of a sudden vomiting of Blood, in the Year 894, and *George* was driven out of *Benevento* by this other *Guido* in the Year 896. *Guido* then came immediately to *Salerno*, accompanied with gallant Soldiers, under pretence of seeing his Sister, and afterwards to *Benevento* with a sufficient Army; the *Beneventans* who would have none other, surrender'd themselves to him, and drove out *George*, and for Five thousand Ducats spar'd his Life: Thus did the Greeks lose *Benevento* five Years after they had taken it.

*GUIDO* held the Principality of *Benevento* not full two Years, for he return'd to *Spoleto*, and being employ'd in other Undertakings, resolv'd to yield it to *Guaimarus* his Brother-in-Law: *Guaimarus* attempted to take Possession of it; but the *Beneventans* because of his cruel and wicked Practices, not being willing to accept of him, they advis'd *Adelferius Castaldus* of *Avellino*, to way-lay him in order to frustrate his Designs: *Adelferius* surpriz'd him in the Night-time, and putting out his Eyes, oblig'd him to retire to *Salerno*, in the Year 898<sup>3</sup>. Of which the *Beneventans* being appriz'd, they resolv'd to restore *Radelchis* to the Principality, whom they had twelve Years before turn'd out of it. Thus was *Radelchis* restor'd in the Year 898.

**B**U T through his Ignorance of the Art of Government, his Simplicity and Indolence, he again lost the Principality; for suffering himself to be ruled by *Virialdus*, a cruel Man, who treated the *Beneventans* very ill, he was again turn'd out. He, at the Instigation of *Virialdus*, banish'd a great many Noble *Beneventans*, who retir'd to *Capua* for Shelter, and were there splendidly entertain'd by Count *Atenulphus*, who so cunningly ingratiated himself into their Affections, that they began to think how to drive out *Radalchis*, and advance him to the Principality of *Benevento*; and tho' the *Beneventans* had often, amidst their Junquetings and Pastimes, insinuated this their Design; *Atenulphus* seemingly understood it as spoken in Jest, but however knowing what they would be at, he likewise privately began to think on Means by which he might accomplish it.

That he might not be diverted from this Enterprize by *Guaimarus*, Prince of *Salerno*, he resolv'd to enter into a near Alliance with him, and by a very submissive and affectionate Embassy, with Prayers and Intreaties, he begg'd the

<sup>1</sup> Anon. Salern. par. 4. num. 6. apud Pell.<sup>2</sup> Erchemp. num. 74.<sup>3</sup> Anon. Salern. p. 4. num. 6.



Daughter of Prince *Guaimarus* the Elder, for *Landulphus* his Son, and protested, that he would be subject to him, as his Predecessors had been to the Princes of *Salerno*<sup>1</sup>; but by the Instigation of *Landulphus* and *Paudon*, who having been driven out of *Capua* by *Atenulphus* their Brother, had shelter'd themselves in *Salerno*, all these Offers were rejected: They boasted, that in a short Time they would turn him out of his Dominions, which he had usurped from them, and therefore were against making Peace with him. With them *Jota*, the Wife of Prince *Guaimarus* the Elder likewise joyn'd, who, scorning to give her Daughter to *Landulphus*, was wont to say, that the being descended of Royal Blood (for she was Daughter of *Guido* II. Duke of *Spoletto*) would, by no means, match her Daughter with one of her Subjects: She said so, because the Counts of *Capua* were formerly Subjects of the Princes of *Salerno*; for, by the Division made of these two Principalities, *Capua* was comprehended in that of *Salerno*, and not in that of *Benevento*.

Therefore *Atenulphus* seeing himself thus slighted, lost all Patience, and this his Design not succeeding, endeavour'd to make Alliance with *Athanasius*, both Bishop and Duke of *Naples*. This Duke had a Daughter, call'd *Gemma*: He sought her for his Son, to which *Athanasius* immediately consented, by means of which Match, they entered into a firm and settled Peace.

IN the mean time the Disorders in *Benevento* increased, and many Citizens, tho' they were not exil'd, yet voluntary flying, left their native Country, and shelter'd themselves in *Capua*; so that the *Beneventans* growing numerous in *Capua*, entered into a Conspiracy with their Kindred there; they imparted the Secret to *Atenulphus*, and taking Arms, with a few *Capuans* whom *Atenulphus* took along with him, went privately to *Benevento*, and by a secret Correspondence with those within, surpriz'd the City in the Night-time, surrounded the Palace where *Radelchis* was, and made him Prisoner. In the mean Time, all the Malecontents, and those that had been banish'd, over-running the City, in an Instant both the Nobles and People join'd them, and unanimously proclaim'd *Atenulphus*. *Atenulphus* seeing himself with so universal Consent thus rais'd to this high Dignity, did not fail, on his Part, to carry himself with extream Mildness and Humility to all, and in order to gain the *Beneventans* to be the more firm in his Interest, he was profuse in his Gifts to them: Thus *Atenulphus* from a *Caseldatus*, and after having govern'd *Capua* Thirteen Years as Count, this Year 900, was made Prince of *Benevento*; and thus was the County of *Capua* united to the Principality of *Benevento*, and of two, made one State in the same Person, to the great Dislike of some of *Radelchis*'s Party, who could not bear the Dominion of a Stranger, as they call'd *Atenulphus*, because he was not descended of the Race of the antient Dukes and Princes of *Benevento*.

*ATENULPHUS* did not divide these States, but retain'd the same Polity, neither was this the first Rise of the Princes of *Capua*; nor did the County of *Capua* now begin to be a Principality, as some have believed; for *Atenulphus*, as well as his Sons, were call'd Princes, because they held the Principality of *Benevento*; and if, sometimes, in some Records of our Antiquity, they are call'd *Capuan* Princes, it is because both *Atenulphus* and his Sons, *Landulphus* and *Atenulphus* who succeeded him, continu'd to keep their Residence in *Capua*, which they made their Seat; so that by degrees, according to the Custom of the Vulgar, they began to be call'd *Capuan* Princes, because they resided in *Capua*; not that *Atenulphus* had erected *Capua* into a new Principality, distinct from that of *Benevento*, which we see clearly from the Agreement made betwixt *Gregory* Duke of *Naples*, and the Princes *Landulphus* and *Atenulphus*, renewed afterwards in the Year 933, by *John*, Nephew of *Gregory*, who succeeded his Uncle, where, among other Things, we read; *In toto Principatu vestro Beneventano cum omnibus suis pertinentiis; nec in toto Comitatu Capuano; nec in Teano cum pertinentiis suis*; which *Camillus Pellegrinus* and the Anonymous *Salernitan* prove.

*ATENULPHUS*, the more firmly to establish the Principality in his Male-descendants, forthwith associated his Son *Landulphus* in the Year 901, who, from this Year, together with his Father, govern'd it; and after having stay'd some time

<sup>1</sup> Anon. Salern. par. 5.

<sup>2</sup> Anon. Salern. p. 5. num. 2.

<sup>3</sup> Anon. Salern. pag. 5. num. 5.

in *Benevento*, he return'd to *Capua*, where he resolv'd to reside, leaving the Government of that City to *Peter* its Bishop, for which he could not much commend himself, because he discover'd that the Bishop had conspir'd, with some *Beneventans*, treacherously to make himself Master of the City: Whereupon he immediately return'd to *Benevento*, imprison'd the Rebels, and turn'd out the Bishop, who, full of Shame, retir'd to *Salerno*, under the Protection of Prince *Guaimarus*, who receiv'd and furnish'd him all Things necessary, out of Hatred to *Atenulphus* his Enemy. The City of *Benevento*, by degrees, began to decay in its Splendor; for the Seat of its Princes being transfer'd to *Capua*, it thereby lost much of its Majesty, and afterwards being spoil'd by the *Saracens*, it lost all its Worth and Eminency; and, on the contrary, *Capua* began to be exalted and become more eminent.

AT the same time there happen'd, also, great Disorders in *Salerno*; for the *Salernitans* being uneasy under the harsh and cruel Government of *Guaimarus*, after *Adelferius Castaldus* of *Avellino* had put out his Eyes, openly rebell'd, and had their recourse to *Guaimarus* his Son, crying out, That they could no longer endure the Cruelty of his blind Father, but would have himself for their Lord; and having so said, they took him, and carrying him to the Church of St. *Maximus*, proclaim'd him their Prince; thus in the Year 901, having depos'd the cruel Father, they liv'd long under the mild Government of the Son, joyfully and with pleasure; so that in the Chronicles of the Princes of *Salerno*, the first *Guaimarus*, is call'd *Mala Memoria*, and the Second, his Son, *Bona Memoria*, just so as the *Normans* call'd *William the Wicked*, and *William the Good*.

\* *Leges Bajoariorum tit. 11. non invalidum viribus animi, corporisque constantem, atque Ducem suo è Regno ab filio dejici, sed Ducem non cæcum, vel non sardum, vetebant.*

## SECT. I.

*New Incurfions of the Saracens, and recourse had on that Account to the Emperors of the East.*

IN the mean Time, the *Saracens*, who had fortified themselves strongly in *Garigliano*, and over-running every where, infested the Principality of *Benevento*, and the County of *Capua*, could not be stopp'd by less or equal Forces. *Atenulphus* once join'd with *Gregory* Duke of *Naples*, who had succeeded *Atbanasius*, and with the *Amalpbians*, endeavour'd to exterminate them; but this Enterprize did not answer his Expectation: He perceiv'd that all would be in vain, if he got not foreign Assistance. It was to no Purpose to have recourse, as formerly, to the Emperors of the West; they were in as great Difficulties themselves, by reason of the so many Revolutions in which they were involv'd: It was wisely resolv'd then, to apply for Assistance to the Emperor *Leo*, who had succeeded his Father *Basilus*, and at this Time govern'd in the East, for which Purpose he sent his own Son *Landulphus*, his Partner in the Government, to *Constantinople*, who being courteously received by *Leo*, got a Promise of all the Assistance he could desire. As formerly the Emperors of the West were fond of assisting our Princes, so now those of the East sought to do the same, because by that Means they might be able to restore their Sovereignty over these Provinces, which they had lost by the Power of those of the West; therefore besides sending a powerful Army into them against the *Saracens*, *Leo*, in order to make himself acceptable to our Princes, likewise adorn'd them with the Dignity of *Patriciate*, which was much esteem'd in those Times; therefore he bestow'd it on *Landulphus*, as he did afterwards on *Gregory* Duke of *Naples*, and *John* Duke of *Gaeta*.

IN the mean time *Atenulphus*, whilst *Landulphus* was absent, in this Year 910, also associated his other Son of his own Name *Atenulphus*, in the Principality; and with great Anxiety was expecting the promis'd Succours, being altogether bent on

driving out the *Saracens* from these Provinces ; but all his Measures were broke by unexpected Death. He died in *Capua* in the Month of *April*, this Year 910, and some relate his Death to have been in the Month of *July*, the following Year. He was buried in *Capua*, so that the Tombs of the Princes his Successors, are not to be seen in *Benevento*, but henceforth in *Capua*, where they fix'd their Seat. He died regretted by all, after having held *Beneventum* Ten Years and Six Months. A Prince truly glorious, and who was the Raiser of his own Fortune, having, by his own incomparable Industry, from a simple *Casteldatus*, advanc'd himself to the Throne of the Princes of *Benevento* ; but much more commendable was he, for having brought about the Union of the Two States of *Benevento* and *Capua*, which was the Occasion of their longer Duration, and prevented their Ruin, which would have been sooner than it afterwards happened ; and for having educated his Sons in such a Conformity of Sentiments, that by a singular Example after his Death, with the greatest Unanimity they govern'd the Principality without the least Disturbance.

*LANDULPHUS*, while he was in *Constantinople*, hearing of his Father's Death, immediately return'd to *Capua*, where being made welcome by his Brother *Atenulphus*, both of them joyn'tly, with wonderful Concord, govern'd the State, neither would they divide it betwixt them, as the Father had advis'd, nor the one govern in *Benevento*, and the other in *Capua* ; but both having fix'd their Residence in *Capua* as formerly, apply'd themselves to the Government of the State.

IN the mean Time, the Army sent by the Emperor *Leo*, arriv'd under the Command of *Nicholas Picigli*, a *Patrician*, who, in order the more to secure the Friendship of the Neighbours, brought with him the Dignity of *Patriciate* from the Emperor, to *Gregory* Duke of *Naples*, and *John* Duke of *Gaeta*. And having joyn'd his Army with that of these Two, and with the Troops of *Guaimarus* Prince of *Salerno*, and being likewise considerably reforc'd from *Puglia* and *Calabria*, which were then for the most part under the Dominion of the *Greeks*, he incamp'd along the *Garigliano*, opposite to the *Saracens*. Pope *John* X. or XI. as some have written, who equally interest'd himself in the Expulsion of these Barbarians, and had therefore written many Letters about it to the Emperor *Leo*, would likewise have his Share in so glorious an Undertaking, in which he had also engag'd the Marquis of *Tuscany* his Brother, and came with a great Body of Men and pitch'd his Camp on another Part of the River. *Sigonius* believ'd, that *John* X. was the first Pope that had been seen at the Head of an Army ; but he certainly was not the first, since as we have said, *John* VIII. ought not to be robb'd of that Honour, who was the first that laid aside the Keys, in order to brandish the Sword.

THE *Saracens* sustain'd this Siege for three Months, under the greatest Hardships ; but at last being destitute of all manner of Provisions, out of Despair, set Fire to their Fortrefs and burnt all they had, not sparing the Treasure which they had plunder'd in different Places, and laid up here ; and then in a close Body all together, broke out with Fury, and ran to the Woods and the Tops of the Mountains to save themselves ; but being pursu'd by our People, there was a terrible Slaughter made of them : Thus in the Year 916, according to *Lupus Protaspatha* <sup>2</sup>, the *Saracens* were driven from *Garigliano*. But although this Province was freed from that Plague, yet the Remains of them being afterwards joyn'd by another Body that had come from *Africa*, and besieg'd *Rome* (which Undertaking they had shamefully given over) at last return'd to Mount *Gargano* in *Puglia*, where they built a strong Fortrefs, from whence they annoy'd all that Province, and at last went and pillag'd and burnt *Benevento*, and put all *Puglia* and the neighbouring Places in Confusion.

THE Damage which this Province suffer'd from the *Saracens* was not enough ; but the Inhabitants themselves must occasion greater ; for the *Appulians* and the *Calabrians* not able to bear the heavy Yoke of the *Greeks*, revolted from them, and gave themselves up to *Landulphus* Prince of *Benevento*, who was in hopes of restoring *Bari* and many Cities of *Puglia* to his Principality, therefore he turn'd his Arms against the *Greeks* ; but the *Appulians* and *Calabrians* were quickly reduc'd by the *Greeks*, who being terribly irrag'd against *Landulphus*, had recourse even to the

<sup>1</sup> Sigon. ad A. 1053. Post Joannem X. Pontifex nemo ad bellum prodierat. | <sup>2</sup> Ad An. 926.

Assistance of the *Saracens*, whom they invited out of *Africa*; and in the Year 919, reduc'd them in spite of what *Landulphus* could do; and that the City of *Bari*, the Seat of the Governor, together with *Puglia*, might be well govern'd, the Emperor sent a new Governor nam'd *Urfleus*, a noble and valiant Captain, who, with the utmost Care, apply'd himself wholly to the preserving of this Province from the Attempts of *Landulphus*; he went to encounter him at *Ascoli*, where, at the first Onset, *Landulphus* was taken by the *Greeks*, and besides, in the Heat of the Battle, *Urfleus* was killed; which so dishearten'd the *Greeks*, that they were defeated, so that this Prince not only recover'd his Liberty, but gaining a compleat Victory, he invaded *Puglia*, which afterwards, according to *Lupus Protospata* <sup>1</sup>, in the Year 929, in Confederacy with *Guaimerus* Prince of *Salerno*, he forc'd to submit and kept Possession of it Seven Years.

WHEREFORE, in these Times, the Success of our *Longobard* Princes and the *Greeks* was various: They frequently fought against one another, and once near *Matera* they had a sharp Encounter, where *Imogalaptus* the Governor was kill'd on the Spot; and the *Greeks* sometimes losing, sometimes gaining, though at last they recover'd *Puglia* and *Calabria* from the *Longobards*; yet, as *Baronius* believ'd <sup>2</sup>, they did not re-take that Part of *Campania* which is wash'd by *Vulturno*; for in these Times, and afterwards, it was always possess'd by the Princes of *Benevento*, and Counts of *Capua*, as *Pellegrinus* <sup>3</sup> well demonstrates. Thus it happened, that sometimes our *Longobard* Princes were Enemies, and sometimes Friends, Confederates and Dependents of the *Greek* Emperors, *Romanus* and *Constantine*, who succeeded *Leo VI.* 'Tis very true, that after *Puglia* and *Calabria* were restor'd to the *Greeks*, the Bounds of the Principalities of *Benevento* and *Galeno*, were much more confin'd than formerly under the *Longobard* Princes, when the Dukedom of *Benevento* was so far extended, that, as we have said, it comprehended all that which now makes the Kingdom of *Naples*.

PRINCE *Landulphus* reign'd together with his Brother *Atenulphus II.* Twenty Two Years, to the Year 932. Afterwards this Prince was turn'd out, and having retir'd to *Salerno*, was kindly receiv'd by *Guaimarus II.* his Son-in-Law. However *Landulphus* retain'd in his publick Writs his banish'd Brother's Name; and therefore at this Time, *Gregory* having succeeded his Nephew *John*, in the Dukedom of *Naples*, the Agreement made in the Year 911, betwixt the said *Gregory* and *Atenulphus I.* was received by him, in which Agreement, *John* Consul and Duke, promises to *Landulphus I.* and *Atenulphus II.* his Brother, though the last was a Fugitive in *Salerno*, and to *Atenulphus III.* Son of *Landulphus I.* not to molest the Principality of *Benevento* with its Dependencies, nor the Counties of *Capua* and *Teano* with their Dependencies, nor the People of those States; but to preserve a friendly Correspondence with them; and a solid and settled Peace was agreed upon betwixt these People, and that their Law Pleas should be decided *secundam legem Romanorum, aut Longobardorum*; and many other Articles were agreed to betwixt them, according to the Tenor of the *Longobard* Laws; whence, as we have observ'd elsewhere, it clearly appears, that from this Time amongst these People, the *Longobard* was the prevailing Law, and observ'd indifferently. And in this Agreement, 'tis likewise to be observ'd, that the Dukes of *Naples* were always subordinate to, and dependent on the Emperors of the East; for at this Time *Constantine* and *Romanus* reigning in *Constantinople*, that by these Promises and Agreements, nothing might be done in Prejudice of the Sovereignty which the Emperors of the East had over the Dukedom of *Naples*, Duke *John* adds, *Hæc omnia vobis observabimus, salva fidelitate Sanctorum Imperatorum.*

ATENULPHUS II. dying in *Salerno* in the Year 933, *Landulphus* associated *Atenulphus III.* his Son, and another *Landulphus*, likewise his Son, whom we shall call *Landulphus II.* in the Principality.

LANDULPHUS the Elder died about the Year 943, leaving these two Sons his Successors. But the Year following 944, *Landulphus II.* was left to reign alone. *Beneventum* was never separated from *Capua*, with respect to the Administration and Government, being always comprehended under one Dynasty, though because the Seat was in *Capua*, they were call'd *Principes Beneventanorum & Capuanorum* <sup>4</sup>.

<sup>1</sup> A. 929.

<sup>2</sup> A. d. A. 942. num. 11.

<sup>3</sup> Pellegr. ad Lup. Protosp. num. 940.

<sup>4</sup> Pellegr. par. 5. ad Anon. Saler.

PRINCE *Landulphus* II. in his Life-time, in the Year 959, associated with himself in the Principality, his two Sons, *Pandulphus*, whom *Ostiensis*, and other Writers, call *Iron-head* (whom we shall often have occasion to mention on account of his famous Exploits, and because the Principality of *Salerno* was likewise united in his Person) and another *Landulphus*, whom therefore we shall call III. who, *Landulphus* II. dying about the Year 963, succeeded him in the Principality; but *Landulphus* III. having divided with his Brother, the Principality of *Benevento* fell to his Share, and he fix'd his Seat in *Benevento*<sup>1</sup>; so that once more these two States were separated; *Landulphus* governing in *Benevento*, and *Pandulphus Iron-head* in *Capua*. But afterwards in the Year 969, *Landulphus* III. dying, although he left a Son *Pandulphus* II. yet nevertheless, *Pandulphus Iron-head*, out of a passionate Desire of Dominion, took the Principality of *Benevento* to himself, and his Son *Landulphus* IV. excluding his Nephew *Pandulphus* II. who, nevertheless, at last in the Year 981, having driven out *Landulphus* IV. recover'd it, and transmitted it to his Posterity, as we shall relate in the following Book.

IN the mean time, by the Death of *Guaimarus*, which fell out in the Year 933<sup>2</sup> *Gisulphus* his Son, succeeded in the Principality of *Salerno*. He govern'd the Principality long, with alternate Fortune; and in his Time, according to *Leo Ostiensis*<sup>3</sup>, in the Year 954, the Body of the Apostle *Mathew* was discover'd in *Pesto*, a City of *Lucania*, by the Revelation of that Saint himself; and that *Salerno* might not be short of *Benevento*, whither the Body of Saint *Bartholomew* had been transported from *Lipari*, that of Saint *Mathew* was transported to *Salerno*. Both of them came to us from most remote Parts; the one from the *Indies*, and this other from *Ethiopia*, where he suffer'd Martyrdom: From *Ethiopia* 'tis said to have been transported to *Britain*, from thence to *Pesto* in *Lucania*, and from thence to *Salerno*<sup>4</sup>. We shall likewise hear of the Body of Saint *Andrew* being worship'd in *Amalphis*, and that of Saint *Thomas* in *Ortona*, and in fine, many Cities of the Kingdom value themselves on having the Bones and Reliques of almost all the Holy Apostles.

<sup>1</sup> Pellegr. in Stem.<sup>2</sup> Pellegr. in Stem. P. *Salern*.<sup>3</sup> Ostien. lib. 2. cap. 5.<sup>4</sup> V. Baron. ad A. 954. & Pagi.

## CHAP. V.

### *The Ecclesiastical Polity.*



IS not to be expected that we shall find the Ecclesiastical State in any true Form or Regularity in these Times. The Church was in a most lamentable Condition, and in terrible Disorder, and in a Chaos of Wickedness: Popes were excommunicated by their Successors, their Decrees made void, and the Sacraments administered by them annul'd: Six Popes were turn'd out by those who wanted to succeed them, and Two even murdered. *Theodora*, a famous Roman Curtesan, by the Faction she had in *Rome*, made one of her common Bullies Pope, who call'd himself *John* X. At Twenty Years of Age, *John* XI. who was the bastard Son of Pope *Sergius*, who died Eighteen Years before, was likewise made Pope. Pope *Stephen* VIII. was so branded in the Face with Marks of Infamy, by order of *Albericus*, that he never any more shew'd himself in Publick. The Popes were no more elected by the Clergy; but the See of *Rome* was become a Prey to Covetousness and Ambition. In fine, such and so great Disorders and Inconveniencies were hatched in these Times,

Times, that all Historians agree, that these were not Popes, but Monsters; and Cardinal *Baronius* writes, that the Church was in these Times without a Pope, but however not without a Head, *Christ* her spiritual Head remaining in Heaven, who does not forsake her.

EVERY Body may judge how the other Churches of *Italy*, and of these our Provinces were manag'd, by considering what the State of the Members could be when the Head was so much indispos'd. In *Capua Landulphus* was both Bishop and Count of that City at the same Time; in *Naples Atbanasius* was both Bishop and Duke, and headed Armies, made Leagues with the very *Saracens* against the Pope and other Christian Princes, and destroy'd these our Provinces. Neither were these Matters better manag'd out of *Italy*; the great Men gave Bishopricks to their Soldiers, and also to Children under Age: Count *Eribertus* Uncle of *Hugh Capet*, made his Son of five Years old Archbishop of *Rheims*, and Pope *John X.* confirm'd that Election.

NOTWITHSTANDING all this, towards the End of this ninth Century, and in the Beginning of the Tenth, there were Canons establish'd in several Synods in order to put a Stop to so great Remissness of Discipline; but all to no purpose, they had no Effect for want of being put in due Execution. Some Bishops however, and likewise some private Men made a Collection of these Canons; but almost all of them bestow'd their Labours on Books of Penance; there came out the Penance-Book of *Theodorus of Alitgarius*, and of a great many more<sup>1</sup>. There were besides, some other Collections of Canons, such as that of *Jarlandus Crisopolitanus*, intitled *Candela*; that of *Isaccus*, surnamed *the Good*, Bishop of *Langres*; another of *Erardus* Bishop of *Tours*; and one of *Walter* Bishop of *Orleans*; but above all these Collections, that of *Reginon* Abbot of *Prum*, made in the Year 906, by Order of *Ratbodus* Archbishop of *Triers*, was the most universal, which comprehended all the Ecclesiastical Law, and was the most Methodical that appear'd in these Times<sup>2</sup>; therefore *Burcardus*, *Ivo* of *Chartres*, and other Compilers of Canons after them, have made use of it, and have in a manner transcrib'd it in their Collections.

BUT notwithstanding the so great Remissness in the Ecclesiastical State with regard to Discipline and Spiritual Matters, yet for all that, the enlarging of Jurisdiction, and the Increase of Temporal Riches were not in the least neglected. The Popes made use of their Authority not only over the Laicks by Censure and Dispensations, but likewise over the Metropolitans and Bishops; they made new Regulations by suppressing the Rights and Prerogatives of the Metropolitans and Bishops, and they likewise claim'd the Direction of all Ecclesiastical Affairs within their Provinces and Diocesses.

RECOURSE was often had to *Rome* in those Days, not out of Devotion, but in order to obtain Dispensations in every case, and the Apostolical Dispensations were made a Cloak to cover Avarice and Ambition; the Prohibition establish'd by the Canons in so many Councils, serv'd only to oblige a great many People to run to *Rome* in order to obtain Dispensations; the forbidden Degrees in Matrimony were therefore extended to the fourth Degree; and the Spiritual Affinity betwixt the Godfather and Godmother, and their Sons and Daughters was introduc'd, which was also extended to Degrees more remote. But the Popes being such as we have above describ'd, dispens'd with every Thing, tho' against the Canons, and the Ecclesiastical Customs, making no Distinction betwixt what they could, and what they could not do, looking upon every Thing that was brought before them by those who had recourse to them, as an Augmentation of their Grandeur; if those that applied to them were Rich and Great, for their own Advantage they prohibited what was desir'd of them; the People partly by their own Simplicity, partly standing in awe of those in Power, approv'd of what they could not prevent: So that it became an establish'd Opinion, that no sooner any Thing whatsoever was confirm'd by the Pope, than all by-past Crimes were blotted out.

MANY would be apt to believe, that the little Concern the Ecclesiastical Order had for Spiritual Matters, and the Looseness of Discipline would have cool'd the ardent Zeal of the Laicks in making Donations to the Churches and Monasteries, and put an End to the new Acquisitions of the Ecclesiasticks; yet it was not so, because by how much more the Care for Spiritual Matters was diminish'd in the Prelates, so much the more

<sup>1</sup> V. Struv. hist. Jur. Can. §. 14.

<sup>2</sup> Baluz. Præfat. ad Anton. August. de emendar. §. 17.

were they intent on preserving Temporal Riches; and they had converted the Spiritual Arms of Excommunication, which were formerly only made use of for the Correction of Sinners, to the Defence of their Temporal Possessions, and likewise to the Recovery of them, if by chance they had been lost through the Negligence of their Predecessors. There was not a Council held in this Age, in which, among other Things, there were not Excommunications fulminated against those that had taken Possession of the Goods of the Church, or that had alienated them. The Terror which the Church Censures struck in the People in those Days, was so great, that they were afraid of nothing so much; and it was a wonderful Thing, that the Officers and Soldiers, otherwise most wicked, and without the Fear of God, who robb'd what belong'd to others without any Regard to the offending the Divine Majesty, took great care in preserving the Goods of the Church intire, for fear of Excommunication. Whence it was, that many of small Substance, being desirous to secure what they had from Violence, made Donations of it to the Church, on Condition that they should hold it of her in Fief for a small Acknowledgment. This secur'd the Possessions from being touch'd by those in Power, as such of which the Church had the direct Dominion; afterwards the Male-Line of the Feudatories failing, which often fell out by reason of the frequent Wars, and popular Seditions, the Estates fell to the Church: Whence arose the Distinctions betwixt *Feudum datum*, & *Feudum oblatum*, of which *Struvius*<sup>1</sup>, *Thomasius* and *Ertius*<sup>2</sup> have fully treated. Whence comes the Origin of our Papal *Investiture*, of which we shall treat in its Place; and whence in fine was introduc'd the Custom of having recourse not only to the Emperors and Princes, but also to the Popes, that by the means of their *Præcepta*, otherwise call'd *Mundiburda*, the Possessions put under their Protection and Custody might be protected, by threatening the Invaders and Disturbers of them with terrible Anathema's, by condemning their Souls in company with that of the Traytor *Judas*, to eternal Punishment in the everlasting Fire of the Bottomless Pit, amongst the blackest and most hideous Devils in Hell; they made use of this and such most frightful and horrible set Forms, for this very Purpose.

IN these Times the Political and Temporal State of these our Provinces was involv'd in as great Confusion and Disorder as the Ecclesiastical, insomuch that our *Italians* and the Popes themselves, not longer able to bear so many Calamities and Miseries, resolv'd at last to have recourse to *Otho* King of *Germany* for Assistance, whose Reign, as well as those of the other *Otho's* his Successors, shall be related in the following Book.

<sup>1</sup> V. Struv. hist. Jur. Feud. cap. 8. §. 6.

<sup>2</sup> Tho. Hert. de Feudis oblati.



T H E





THE  
CIVIL HISTORY  
Of the KINGDOM of  
NAPLES.

BOOK VIII.



**W**HILST *Italy* was groaning under the Tyrannies of the last *Berengarius* and *Adelbertus* his Son, the *Italians* being reduc'd to the utmost Misery, resolv'd to have recourse to the Assistance of *Otho* Son of *Henry* King of *Germany*, who having subdu'd the *Saxons* and the *Sclavonians*, by his glorious Exploits had acquir'd no less Fame than *Charles the Great*, and had made himself illustrious and renown'd over all *Europe*. *Adelaide* the Widow of *Lothaire* join'd in the Invitation, who possessing the City of *Pavia*, which had been assign'd to her as her Dowry by her Husband *Lothaire*<sup>1</sup>, and being as yet young and of a graceful Behaviour, was sought in Marriage by *Berengarius* for his Son *Adelbertus*; but because she would not consent to the Marriage, *Berengarius* besieg'd her in *Pavia*, took her and sent her Prisoner to the Castle of *Garda*; she found Means to make her Escape, and begg'd the Assistance of King *Otho*, offering to marry him, and yield to him her Right to the Kingdom of *Italy*. *Porphyrogenitus*<sup>2</sup>, *Luitprandus*<sup>3</sup>, and others have taken *Adelaide* to be the Daughter of *Berta* and *Rodolphus* King of *Burgundy*; but *Leo Ostiensis*<sup>4</sup> says, she was descended from a noble Family in *Tuscany*, and our Anonymous *Salernitan*<sup>5</sup> makes her to be Sister to *Gisulphus* Prince of *Salerno*: however that may be, *Otho*, who was not ignorant of her virtuous Life and Conversation, came quickly to her Assistance, and arriving in *Italy* with a powerful Army, reliev'd her from

<sup>1</sup> Putean. lib. 4. Ab. de Noce in Chron. Ostiens. lib. 1. cap. 61.

<sup>2</sup> Porph. lib. 6. de Admin. Imp. cap. 26.

<sup>3</sup> Luitprand. lib. 4. cap. 6.

<sup>4</sup> Ostiens. lib. 1. cap. 61.

<sup>5</sup> Anon. Salern. par. 7. num. 2.

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the Oppression of *Berengarius*, and being taken with her Beauty and agreeable Manners, married her, and carried her along with him to *Germany*, leaving *Conrade* Duke of *Lorraine* to prosecute the War against *Berengarius* and his Son, who were forc'd to go to *Otho* in *Germany*, and submit themselves to his Will<sup>1</sup>; *Otho* having taken their Oaths and Homage, restor'd them to their Dominions, excepting to the *Veronese* and *Friuli*, which he gave to his Brother *Henry* Duke of *Bavaria*. But no sooner were *Berengarius* and *Adelbertus* restor'd to their Dominions, than they began to plot against *Otho*, and to abuse his Subjects; they afflicted *Italy* with uncommon Oppressions, and us'd the Pope, and all the other Bishops and Lords of *Italy* very ill. Therefore they made their Complaints to *Otho*, and begg'd his Protection, inviting him to return to *Italy* in order to drive out these Tyrants. The Pope and the *Romans* offer'd him the Kingdom and the Imperial Crown; *Valpertus* Archbishop of *Milan* likewise offer'd to crown and anoint him King of *Italy*, for which end they sent him a magnificent Embassy.

*OTHO* being assur'd of the cordial Affections of all the *Italians*, was unwilling to let slip so fair an Opportunity, and having held a Dyet in *Worms*, made his Son *Otho* II. to be crown'd King of *Germany* in *Aix la Chapelle*, when he was but seven Years of Age; and having settled the Affairs of *Germany*, assembled a numerous Army, with which he march'd through *Bavaria*, and, by the Way of *Trent*, together with his Wife *Adelaide*, he arriv'd in *Italy*. He was receiv'd by the *Italians* with universal Acclamations; and tho' *Adelbertus* had endeavour'd to oppose him with considerable Forces, yet being deserted by his Men, he gave over the Enterprize, and flying, made his Escape to the Island of *Corfica*<sup>2</sup>. In the mean time *Otho* enter'd *Pavia* without any Opposition, and oblig'd *Berengarius* with his Wife and Family to fly; from thence he went to *Milan*, where he was receiv'd with great Rejoicings by all the Inhabitants. The Archbishop *Valpertus*, remembring his Promise, call'd a Council of Bishops, and in the Sight of all the City, *Berengarius* and *Adelbertus* were depriv'd of the Kingdom, and *Otho* was proclaim'd King of *Italy*; then they conducted him to the Church of *St. Ambrose* in great Pomp and solemn Ceremony, and with the Consent of all the People, the Archbishop anointed him, and set the Iron Crown upon his Head: Thus *Otho*, whom we shall now call King of *Germany* and *Italy*, having this Year 961, with so much Success acquir'd so great a Kingdom, with solemn Oaths promis'd that he would defend *Italy* with all his Might against the Invasion of any Tyrant whatsoever. From thence having return'd to *Pavia*, the Year following 962, together with Archbishop *Valpertus*, he went to *Rome* with a gallant Army, in order to receive the Imperial Crown from the Hands of the Pope; he likewise carried *Adelaide* with him, and was receiv'd by the *Romans* with no less Acclamations and Rejoicings, than *Charles the Great* was when he enter'd that City. The Rejoicings, Concourse, and ardent Desire of the People were the same at his being proclaim'd Emperor of the West; so likewise the solemn Ceremonies which Pope *John* XII. practis'd on this Occasion, were no ways different from those made use of by *Leo* at the Coronation of *Charles the Great*; *Otho* together with *John* went to the Church of the *Vatican*, where every Thing proper for so august a Ceremony being ready prepar'd, he was presented by Archbishop *Valpertus* to the Pope, who anointed him, and put the Imperial Crown upon his Head, whilst all the People cry'd out, *Prosperity and Victory to Otho Augustus, Roman Emperor*<sup>3</sup>; afterwards having solemnly sworn to defend *Italy* against the Attempts of *Berengarius*, and whoever should offer to disturb it, he return'd to *Pavia*. *Sigonius* relates, that *Otho* also caus'd to be restor'd to the Pope some Lands belonging to the Church, which in the late Revolutions in *Italy* had been taken from her; and says, that *Otho* III. likewise confirm'd the Donations that had been made by *Charles the Great* and *Lewis the Pious* to the Church of *Rome*; so that *Chioccarelli*<sup>4</sup> was in the Wrong, in attributing this Charter of Confirmation to *Otho* I. and not to III. as *Sigonius* did.

IN this manner was the Empire transferr'd from the *Italians* to the *Germans*, of which the Popes will have themselves reputed the Authors, just so as they pretended to be with respect to *Charles the Great*<sup>5</sup>. Thus the Empire of the West having formerly gone from the *French* to the *Italians*, was afterwards transferr'd to the

<sup>1</sup> Frisingens, lib. 1. cap. 19.

<sup>2</sup> Anon. Salern. par. 7. num. 1.

<sup>3</sup> Anon. Salern. par. 7. num. 1. *Luicbrand.*

lib. 6. cap. 6.

<sup>4</sup> Chioc in Judic. tom. 1. Reg. Juris.

<sup>5</sup> V. Du Pin, de Antiq. Eccl. disc. Diss. ult. *Germans*

*Germans* in the Person of *Otho*, who held it by Right of Conquest, and by the free Election of an oppress'd People, who at that Time could find no other Protector, to deliver them from the Tyranny of *Berengarius*. *Otho* by our Writers <sup>1</sup> is commonly said to be the first *German* Emperor, altho' *Arnolphus*, as we have said, was such before him; because say they, the Empire was adjudg'd to *Otho* and all his Successors for ever, by Pope *Leo VIII.* in the Year 964; with the Consent of all the *Romans*; and the *Roman* Empire was united to the *German* Kingdom by an indissoluble Knot <sup>2</sup>, which cannot be said of *Arnolphus*, who at that Revolution of Affairs, in the midst of so many Factions, was elected Emperor more by Party-Intrigue, than a free and universal Consent.

<sup>1</sup> Frising. lib. 6. c. 17. & 24. Radevic. lib. 1. c. 6.    <sup>2</sup> V. Struv. hist. Jur. Pub. cap. ult. §. 2.



## CHAP. I.

*Otho re-establishes the Kingdom of Italy: His Expeditions against the Greeks, and the Advancement of the County of Capua to a Principality.*



**O**THO being settled in the Kingdom of *Italy*, in Imitation of *Charles the Great*, turn'd all his Thoughts on re-establishing it with better Laws and Institutes, after so many Revolutions: Many of his Laws for these Ends are still extant, and *Goldastus* <sup>1</sup> collected an intire Volume of them, by which not only the *German* Kingdom, but also the *Italian* was resettled. Not that *Otho's* Laws concerning Fiefs were more clear and express than those of *Charles the Great*, as the Abbot of *Noce* <sup>2</sup> from the Authority of *Sigonius* believ'd; for the first Maker of the Feudal Laws was *Conrade the Salick*, as we shall relate. But *Otho* acquir'd much greater Authority over these our Provinces, than *Charles the Great* himself, and the Sovereignty which he exercis'd in them was much greater than his. Our *Longobard* Princes, such as the Princes of *Benevento* and *Salerno*, and the Count of *Capua*, were not in a Condition to oppose his Dominion, as *Arechis* and *Grimoaldus* did that of *Charles* and *Pepin* his Son; on the contrary, they declar'd themselves his Vassals and Feudatories, by subjecting their States to him, and by acknowledging him King of *Italy*, with the very same Authority that their Predecessors had own'd in the ancient *Longobard* Kings, and in order to gain his Favour and Protection, each of them strove who should out-do one another in Obsequiousness and Respect to him.

IN these Times, as we have said, *Pandulphus Iron-Head*, together with his Brother *Landulphus III.* govern'd the Principality of *Benevento*, and the County of *Capua*, who no sooner were appriz'd that *Otho*, with *Adelaide* his Wife, was on his way to *Capua*, in order to make sure of the Fidelity of these Princes, and of *Gisulphus* in particular (who tho', as the Anonymous *Salernitan* believ'd, he was his Brother-in-Law, yet was suspected to have a Dependance upon the *Greeks*, from whom he had got the Honour of Patriciate) than they went out to meet them with a great Retinue, and conducted them to *Capua*, the Place of their Residence,

<sup>1</sup> Goldast. Conf. Imp. tom. uno, pag. 215.    <sup>2</sup> Ab. de Noce in not. ad Chron. Ofsien. lib. Seqq. tom. 3. pag. 303. Seqq.

<sup>1</sup> Ab. de Noce in not. ad Chron. Ofsien. lib. 1. cap. ult. in fine.

where they entertain'd this Prince honourably, and with great Magnificence<sup>1</sup>. They remain'd here during the Year 963, in which Time they sent an Embassy to Prince *Gisulphus* in *Salerno*, with many Gifts, inviting him to come to *Capua* to see his Sister. *Gisulphus*, tho' jealous of some sinister Design, at last with his Attendants set out for that City, and being met by *Pandulphus* and *Landulphus*, they presented him to the Emperor *Otho*, who with much Gladness rose from his Throne, and stepped down to meet him, and having embrac'd one another, they kiss'd each other with many Tokens of Affection. The Empress *Adelaide* (if we may credit the Anonymous *Salernitan*) seeing her Brother, run to embrace him, and grasping him about the Neck, kiss'd him many times, reproaching him for not coming to see his Sister without being invited: *Gisulphus*, after such kind Embraces of his Sister and his Brother-in-Law, to his great Contentment, and that of his Retinue, return'd to *Salerno*.

IT was at this Time, that *Pandulphus Iron-Head* being in great Favour with *Otho*, obtain'd by Imperial Authority, that the County of *Capua* should be advanc'd to a Principality, and that he should be call'd Prince of *Capua*, as those who succeeded him in *Capua* were; and from this Time, not from that of *Atenulphus I.* the Rise of the Princes of *Capua* must be dated, as *Pellegrinus* demonstrates. To which Honour, succeeded afterwards in the Year 988, that of *Capua's* being likewise advanc'd to be a Metropolis; and that *John* Brother to *Landulphus*, from being Bishop of that City was rais'd to be Archbishop by *John XIII.* as we shall more at length relate when we come to treat of the Ecclesiastical Polity of this Age.

THUS did our Princes acknowledge for Sovereign the Emperor *Otho* as King of *Italy*, who by Virtue of the same Right undertook to drive the *Greeks* out of *Puglia* and *Calabria*, which Provinces they possess'd, and likewise to reduce the Dukedom of *Naples* under his Dominion.

IN this Year 964, *Nicephorus Phocas* succeeded to the Empire of the East, who taking it ill that *Otho* should have acquir'd so great Authority in *Italy*, and that he had resolv'd to drive the *Greeks* from *Puglia* and *Calabria*, had provided these Provinces with good Garrisons. Their Cities were govern'd by *Stratici*, a Sort of Magistrates that had continu'd long there, down to the *Catapani*; and he had conven'd the strongest Body of his Troops in *Bari* the Metropolis of *Puglia*: He took it no less amiss, that he had no other Title given him but that of Emperor of the *Greeks*, and that *Otho* should assume that of Emperor of the *Romans*.

BUT *Luitprandus* Bishop of *Cremona*, a Creature of *Otho's*, advis'd him, that before he enter'd into a War with *Nicephorus*, he should try if by a near Alliance he could obtain of him, what would be uncertain to be got by a doubtful and cruel War; for which end, he thought the readiest and most effectual Way was, if *Nicephorus* would give the Princess *Anna*, or *Theophania*, in Marriage to *Otho* his Son, and for a Portion yield the two Provinces of *Puglia* and *Calabria*. This Princess was the Daughter of the Emperor *Romanus Argirus*, and the Empress *Theophania*, who by an execrable Paracide had poison'd *Argirus*, that she might marry *Nicephorus*. It was at this Time that *Otho* sent to *Constantinople* a magnificent Embassy to *Nicephorus*, and pitch'd upon the famous *Luitprandus* Bishop of *Cremona*, for Ambassador to go and demand that Princess; this Bishop became famous no less for his many Works which he has left us, than for this Embassy.

NEVERTHELESS this Embassy of *Luitprandus* did not take Effect, for *Nicephorus* not being able to conceal from him the Malice that was lurking in his Breast against *Otho*, treated him scurvily, and after having made him stay four Months to no purpose in *Constantinople*, dismiss'd him without coming to any Conclusion.

IN the mean time, *Otho* flattering himself that his Design would take Effect, had recall'd his Son *Otho* to him, who remaining with his Father in *Rome*, was in this Year 968, associated in the Empire, and anointed and crown'd with the Imperial Crown by the Pope. And *Nicephorus* at the same time, in order to deceive *Otho* the more, and to bring his Design about, before he dismiss'd *Luitprandus*, sent Ambassadors to him, offering him his Alliance, and to send the Princess *Theophania* to *Calabria*; and therefore he might send his People as soon as possible thither to receive her.

<sup>1</sup> Anon. Salern. pag. 7. num. 2.

*OTHO* not being sufficiently acquainted with the *Greek* Faith, believ'd him, and likewise acquainted the Dukes of *Saxony* with it, giving them Hopes, that in a short Time he would recover *Puglia* and *Calabria*; and that his Son *Otho* being married, would return to *Germany*, therefore he sent his People immediately for that purpose; but they had no sooner arriv'd than they were catch'd unawares in an Ambush, which *Nicephorus* had caus'd to be laid for them; many were kill'd, and the rest made Prisoners, and carried to *Constantinople*.

UPON which, *Otho*, detesting the *Greeks*, and bitterly inrag'd, invaded and laid waste the Borders of *Calabria*, and turn'd that Province topsy-turvy. At this Juncture our *Longobard* Princes join'd him, who as Feudatories were oblig'd to follow him in his Wars; and *Pandulphus Iron-Head* went likewise to *Calabria* against the *Greeks*, and the *Saracens*, who had been call'd by the *Greeks* to their Assistance; and *Gisulphus* Prince of *Salerno*, tho' his Fidelity was suspected, on account of the Attachment he had for the *Greeks*, yet on this Occasion (having a little before put himself under the Protection of *Otho*) shew'd himself willing to assist in this Expedition.

THUS did an obstinate War against the *Greeks* and *Saracens* begin; and whilst *Pandulphus* was in *Calabria* with *Otho*, he was advis'd of the Death of Prince *Landulphus* his Brother. He had held the Principality of *Benevento* eight Years; and tho' he had left *Pandulphus* his Son, nevertheless *Pandulphus* the Brother no sooner heard of his Death, than he went to *Benevento*, leaving the Emperor in *Calabria*; and having excluded his Nephew, he advanc'd his own Son *Landulphus* to be Prince, who was therefore call'd *Landulphus* IV. <sup>1</sup>

FROM thence *Otho* return'd to *Ravenna*, and in the Year 969, *Pandulphus*, with a Reinforcement sent him by *Otho*, and some young *Beneventans* and *Capuans*, invaded *Puglia*, and encamp'd with his Army near *Bovino*. But the *Greeks* making a furious Salley from the City, engag'd him, and after a doubtful Battle, at last *Pandulphus* was beaten and made Prisoner by the *Greeks*, commanded by *Eugenius* a Patrician, and Lieutenant of the Province, who immediately sent him Prisoner to *Constantinople*. In the mean time *Gisulphus* Prince of *Salerno* was on his march to reinforce *Pandulphus*, but being too late, whether by any Opposition on his March, or that he march'd slowly, purely out of conceal'd Malice, he quickly return'd to *Salerno*.

THE *Greeks*, flush'd with this Victory, invaded the Borders of *Benevento*, took *Avellino*, and advanc'd towards *Capua*; and plundering all the Country, besieg'd the City itself, which for forty Days they kept closely block'd up.

NOW that the *Neapolitans* saw the *Greeks* go on prosperously, they join'd *Eugenius* near *Capua*. At this Time *Marinus* was Duke of *Naples*, the Knowledge of which we owe to the Anonymous *Salernitan*, for there is no Memory of the Dukes of *Naples* in these Times after *Jabu* in the other Historians; and that Charter mention'd by *Summontes*, believ'd by the new Historian *Jannettastus*, the Translator of *Summontes*, to be genuine, wherein there's mention made of Duke *Oligamus Stella*, whom *Jannettastus* makes to be the Successor of *Jabu*, and of *Ginellus Capaco*, *Baldassare Joannes*, and *Sarrus Brancaccius* Consuls, is an arrant Forgery, both because Surnames were not as yet in use, and because *Capaccius* <sup>2</sup> and others testify that it was never found amongst the Writings of the Monks of *St. Sebastian*, where it was suppos'd to be preserv'd: So that our *Pellegrinus* <sup>3</sup> is in the Right when he says, that we are not to expect an uninterrupted Series of the Dukes of *Naples*, as of *Amulphis*; neither can we be assist'd in the Matter by any old Charters dated in *Naples*, because they express nothing but the Names and Times of the *Greek* Emperors, to whose Dominion that Dukedom was subject.

MARINUS with his *Neapolitans* invested *Capua*, where he did nothing but burn and plunder the Country about; *Eugenius* seeing that they were trifling away their Time to no purpose, and afraid of *Otho*, it being rumour'd about that he was on his march with a vast Army of *Germans*, *Saxons* and *Spoleitians*, towards *Capua*, in order to relieve it, that he might not be catch'd napping, rais'd the Siege, and march'd to *Salerno*, where he was receiv'd by *Gisulphus*, and splendidly regal'd while he remain'd there, which confirm'd the Jealousy that was entertain'd of him, that he had still been in the Interest of the *Greeks*, and had only feign'dly appear'd

<sup>1</sup> Anon. Salern. p. 7.

<sup>2</sup> Capac. Forast.

<sup>3</sup> Pellegr. in Tumul. Boni Consul.

to be in that of *Otbo*, and therefore had been so slow in sending Assistance to *Pandulphus*. *Eugenius* after having continu'd some Days in *Salerno*, return'd to *Puglia*<sup>1</sup>: Not many Days after, the vast Army of *Otbo* arrived at *Capua*, and not finding the *Greeks* there, they began to over-run and lay Waste, all the *Neapolitan* Territories, and being joyn'd by the *Capuans*, laid close Siege to the City of *Naples*. But not being able to take it, they return'd back, and besieg'd *Avellino*, which a little before had surrendred to the *Greeks*, who were now in Possession of it; but it was easily recover'd by the *Beneventans*, from whence they march'd to *Benevento*, with a Design to advance into *Puglia*, to drive the *Greeks* out of that Province, where they had assembled all their Troops, and had fortified themselves in *Bari* with a strong Garrison.

WE ought not in this Place to pass over in Silence, that which we shall discourse of at more length, when we come afterwards to treat of the Ecclesiastical Polity, that *Otbo's* Army having halted in *Benevento* this Year 969, before he would undertake so doubtful an Expedition, and advance with the Arm of Flesh, he thought fit to begin, as it became him, by having recourse to the Assistance of Heaven. Hitherto the Church of *Benevento* had been govern'd by Bishops; but now *John XIII.* out of regard to *Otbo*, and the Princes *Pandulphus* and *Landulphus*, as the Year before he had rais'd *Capua* to be a Metropolis, would do the same to *Benevento*, therefore he rais'd it to a Metropolis, and assign'd it many Churches for Suffragans, and the first Archbishop that he appointed was *Landulphus*, in this Year 969, to whom he granted the Use of the *Pallium*, and confirm'd to him the *Sipontine* and *Garganican* Churches. Whilst then *Otbo's* Army was making ready for this Expedition, the Archbishop *Landulphus*, with holy Ceremony, solemnly celebrated Mass, which was heard by all, and after that was over they all receiv'd the Body and Blood of our Lord Jesus Christ, from the Hands of the said Archbishop; and getting his Benediction, they began their March joyfully towards *Puglia*<sup>2</sup>. Whence 'tis to be observ'd that in these Times in our Provinces, and in *Italy*, the Communion under both Kinds was continued, and the Participation, as well of the Blood as of the Body was allow'd, neither was the Cup taken away till much later Times.

THE Army of *Otbo*, which consisted of *Beneventans*, *Germans*, *Saxons* and *Spoleitians*, arriving at *Ascoli*, was met by *Abdila* a *Patrician*, who, with a good Body of *Greeks*, pretended to attack him, for *Eugenius*, by reason of his Cruelty, had been made Prisoner by his own Men, and sent to *Constantinople*. There was a sharp Ingagement near *Ascoli*, and at last the *Greeks* were defeated, and the *Beneventans*, after having made a great Booty, return'd in Triumph to *Avellino*<sup>3</sup>.

IN the mean time, *Otbo* march'd with his Army towards *Naples*, and carried off all the Cattle in the Neighbourhood, and as he was returning, was met by *Aloara*, the Wife of Prince *Pandulphus*, with her Son all in Tears, who requested him to relieve her Husband, whom *Nicephorus* treated cruelly in a dark Prison in *Constantinople*<sup>4</sup>. *Otbo* immediately return'd to *Puglia*, where he made terrible Havock, laid close Siege to *Bovino*, and burnt many Places in the Neighbourhood; but whilst these things pass'd in *Puglia*, *Nicephorus* this Year 970, suffer'd a violent Death; for *Theophania* his Wife, together with *Joannes Zimisceus*, caus'd him to be cruelly murder'd; and the same Year *Zimisceus* was elected Emperor of the East: Who undoing what his Predecessor had done, immediately set *Pandulphus* at liberty, sent him to *Puglia*, and recommended him to *Otbo*, intreating he would restore him to his Dominions. *Zimisceus*, in order to gain *Otbo's* Friendship, sent him *Theophania* (whom *Nicephorus* had refus'd him) to be married to his Son *Otbo*; she was conducted to *Rome*, where with great Splendor, she was married to *Otbo*, and proclaim'd Empress<sup>5</sup>. *Pandulphus* being arrived at *Bari*, was immediately sent for by *Otbo*, who receiv'd him very graciously, and restor'd him to his Dominions and former Dignity: Whereupon *Pandulphus*, in order to gratify *Zimisceus* for his Liberty, us'd his Interest so much with *Otbo*, that he made him give over his Undertaking; so that a Peace ensuing, *Otbo* desisted from invading *Puglia* and *Calabria*, and therefore these Provinces were never conquer'd by *Otbo*, as many Writers have

<sup>1</sup> Anon. Salern part 2.

<sup>2</sup> Anon. Salern. part 7. num. 5. Missamque ab Archiepiscopo Landulpho audierunt, & Corporis & Sanguinis Domini Nostri Jesu Christi participati sunt. Et sic accepta benedictione a

prædicto Sanctissimo Pontifice, Apuliam venerunt.

<sup>3</sup> Anon. Salern. loc. cit.

<sup>4</sup> Anon. Salern. part 7. num. 66.

<sup>5</sup> Sigon. A. 972.

believ'd,



believ'd, contrary to what the anonymous Cotemporary Writer relates. *Otho* set out for *France*, and never return'd more to these Provinces; for in the Year 973 he died, after having acquir'd, by his wonderful Exploits, the Surname of *Great*, and may justly be compar'd with *Charles the Great*.



## C H A P. II.

*Otho succeeds his Father. Disturbances in the Principality of Salerno, to which at last Pandulphus succeeds.*



**A**FTER the Death of *Otho the Great*, *Otho II.* his Son, who during his Father's Life-time, had been associated in the Empire, began to govern the Kingdom of *Italy* alone, and exercise all that Sovereignty there, that his Father had acquir'd, which, by reason of the Quarrels amongst our *Longobard* Princes, became very great in these Provinces, for whilst *Pandulphus Iron-head*, who had return'd to *Capua*, together with *Landulphus* his Son in *Benevento*, govern'd these two Principalities, there happen'd such strange Revolutions and Convulsions in *Salerno*, as turn'd all that Principality topsy-turvy. The Origine of these Mischiefs, was the too great Confidence that *Gisulphus* had in his Relations, whom he had recall'd from Banishment, and rais'd to that Height, that by unparallel'd Ingratitude, they prov'd the Ruin of his Dominions.

*AT ENULPHUS II.* who, as we have said, being driven out of *Capua*, had retir'd to *Salerno*, under the Protection of *Guaimarus II.* his Son-in-Law, left many Children, who being Exiles as well as the Father, for a long time went wandering up and down. One of them nam'd *Landulphus*, at first retir'd to *Salerno* with his Father, and went afterwards to live in *Naples*; but thereafter by the Intercession of *Gaidelgrima* his Sister, who was Wife of *Guaimarus II.* and Mother of *Gisulphus I.* he was invited back to *Salerno* by this Prince his Nephew, in order to please his Mother. *Gisulphus*, besides his having receiv'd him very affectionately, likewise gave him the County of *Consa*; but because he was a very cruel and intolerable Man, the *Consans*, not being able to bear him, drove him out of *Consa*, neither could *Gisulphus* long endure him in *Salerno*, from whence being expell'd, he was necessitated to return again to *Naples* with his Family: He had Four Sons, *Guaimarus*, *Indolphus*, *Landulphus* and *Landenulphus*.

IT happen'd, that whilst *Landulphus*, with his Sons, were in *Naples*, *Gisulphus* was taken ill, whereupon *Gaidelgrima* his Mother, laying hold of the Opportunity, fell into Tears, which *Gisulphus* perceiving, ask'd her what she ail'd: She quickly answer'd, I lament, because after the Loss of my Husband, I have no Body to comfort me in my great Affliction, now that you are taken ill, and my Brother is at so great a Distance: What would you have me to do then, answer'd *Gisulphus*? Re-call him with all his Family, reply'd she. *Gisulphus*, overcome by his Mother's Tears, consented, and when he recover'd of his Illness, *Landulphus* was immediately invited back to *Salerno*, who brought Three of his Sons along with him, leaving *Landulphus*, a Man of a subtle Wit and full of Deceit, in *Naples*.

*LANDULPHUS* was received by the Prince with great Marks of Esteem, enrich'd with many Lands, and likewise restor'd to the County of *Consa*; and not foreseeing what might happen to him, he rais'd him to that Degree, as the anonymous



*Salernitan*<sup>1</sup>, who was his Cotemporary, relates, that he was the next to himself in *Salerno*. He was also most liberal to his Sons: To *Guaimarus* he gave the County of *Marisco* in the Principality of *Salerno*, with its Privileges and Emoluments. To *Indulphus* he gave the County of *Sarno*: To *Landulphus*, the County of *Lauro*, likewise in the Principality of *Salerno*; who dying soon after in the Year 971, *Landulphus* was call'd from *Naples*, to whom *Gisulphus* gave the said County of *Lauro*, to the great Indignation of the *Salernitans* and Nobles of that City, who saw *Gisulphus* so imprudently advance these Princes.

*LANDULPHUS* the Father being rais'd to such Grandeur, began to think of Means whereby he might invade the Principality of *Salerno*; and seeing himself so powerful, he likewise procur'd the Assistance of the Dukes of *Amalphis* and *Naples*, and being aided by his Sons, especially *Landulphus*, a prudent and cunning Man, by bribing the Keepers, found means to enter the Prince's Palace, where seizing the unhappy *Gisulphus*, together with the unfortunate Princess *Gemma* his Wife, Daughter of *Alfanus*, and Kinswoman to the Duke of *Spoletto*; he imprison'd them, giving out, that they had been murder'd, which put the City all in an Uproar. The *Salernitans* believing them dead, were in the utmost Consternation, and not knowing what to do on such a Turn of Affairs, were forc'd to swear to Prince *Landulphus* their Tyrant, who being afraid they might discover that *Gisulphus* and the Princess *Gemma* were still alive, caus'd them to be removed from *Salerno* to *Amalphis*: So that having rid himself of them, the same Year 972 or 973, he assum'd *Landulphus* his Son for his Colleague in the Principality.

AT this Time, *Manfo*, a Patrician, govern'd as Duke of *Amalphis*; and in *Naples*, as we have said, *Marinus*, a Patrician. These hearing of the Conspiracy, as soon as they understood that *Gisulphus* had been driven out of *Salerno*, went thither with some Troops, in order to assist *Landulphus*, and to fix him in the Principality<sup>2</sup>. Never was greater Ingratitude heard of, than what *Marinus* Duke of *Naples* was guilty of on this Occasion, who having so soon forgot the Favours he had receiv'd from *Gisulphus*, as also the so many Oaths he had sworn, by which he was bound to assist him, now join'd with the Tyrant in order to drive him out of his Dominions.

BUT these Designs and wicked Counsels were soon confounded; for the *Salernitans* being convinc'd that *Gisulphus* and the Princess *Gemma* were not dead, but still alive in *Amalphis*; began immediately to make an Uproar, and to fret at themselves, for having been so credulous, and at the Steps they had taken. To this was also added, that *Indulphus*, who had seen *Landulphus* his Brother admitted as Colleague in the Principality, and himself not minded, contrary to what his Father had promis'd him with many Oaths, began to aim at the Principality, by soliciting *Marinus* Duke of *Naples*, to assist him in the Undertaking; therefore it was resolv'd, in order to quell the Tumults in some measure, to seize *Indulphus*, and send him to *Amalphis*, which was done; the Pretender being remov'd, the *Salernitans* were obliged to swear to *Landulphus the Younger*, a very cruel and cunning Prince. But by wicked Counsel not long after, *Indulphus* was recall'd to *Salerno*, who dissembling the Injury, began to curry Favour with the *Salernitans*, to whom he was very profuse; and having brought over to his Party the chief Men, and the Adherents of Prince *Gisulphus*, he was at great Pains to convince them, that now the Tyrants being driven out, they ought to deliver themselves up to *Pandulphus Ironhead*, who would be able with his Forces, to restore *Gisulphus*, and in the mean time, endeavour to fortify themselves in the Castles, that upon the coming of *Pandulphus* they might be in a Condition to assist him. In effect, many noble *Salernitans*, and amongst the rest, *Risus* and *Romoak*, two renown'd Personages, repenting them of the Part they had acted in the Conspiracy, went to *Amalphis* to the dethron'd Princes, and there, with many Oaths and Tears, express'd their Sorrow for the Wrong that had been done them, promising to use their utmost Efforts to restore them to their former Dignity.

PRINCE *Pandulphus* being invited by the Adherents of Prince *Gisulphus* and the *Salernitans*, who had fortified themselves in several Castles, in order to receive his Assistance, compassionating the Case of that unfortunate Prince, who was his first Cousin, with incredible Joy, undertook to restore *Gisulphus* to *Salerno*; and con-

<sup>1</sup> Anon. Salern. part 7. num. 7.

<sup>2</sup> Anon. Salern. p. 7. num. 10.

vening some of his Forces, march'd towards that Place. He was met by *Indulphus*, who demanded the County of *Consa* for himself; but *Pandulphus* declaring that he could not grant it, he was extremely griev'd, and return'd to *Salerno*, where he was made Prisoner by his own Men, and deliver'd up to *Landulphus*. In the mean time, *Iron-head* having joy'd the *Salernitans* that were in the Castles, took all the Places belonging to the Principality of *Salerno*, laid Waste all the Country about, and closely besieg'd *Salerno*. The two *Landulphus*'s, the Father and Son, made a bold Resistance, and not trusting to the *Salernitans*, rely'd upon *Manso*, the Patrician, whom they kept with them in the Palace with his *Amalpbians*, to whom the Custody of the Towers that surrounded the City was given; but they could not long hold out against the Forces of *Pandulphus*, who at last, in the Year 974, took the City, and having driven out the Tyrants, took Possession of it, not for himself, but that same Year restor'd it to its lawful Prince. *Gisulphus* and *Gemma*, whether they had so agreed betwixt themselves, or whether purely out of Gratitude for so many Favours receiv'd, not having Children, adopt'd *Pandulphus* the Son of *Pandulphus* for their Son, whom they likewise made Prince of *Salerno*, and Copartner with *Gisulphus* during his Life, which lasted to the Year 978<sup>1</sup>, when he died, and left *Pandulphus* Successor in *Salerno*; on which *Pandulphus* the Father also assum'd the Title of Prince, together with his Son, so that three Titles center'd in the Person of *Pandulphus Iron-Head*, for he was call'd Prince of *Capua*, *Benevento*, and *Salerno*. Whence the Anonymous *Salernitan*, who liv'd in these Times, to which he continu'd his History, and dedicated it to this Prince, in a Verse which he compos'd in his Praise, calls him Prince of these three Cities, thus:

*Tempore præterito Tellus divisa maligno  
Unitur tuo ecce, tuente Deo<sup>2</sup>.*

AS the Valour and Prudence of *Arenulphus E.* was able to ward off the Ruin of the *Longobards*, which by reason of the many Revolutions and Disturbances in these Provinces, was imminent: so at this Time the Power of *Pandulphus Iron-Head* put a Stop to their impending Fall; and some Good might have been expected from the Valour of this Prince, if that most mischievous Custom of the *Longobards*, of dividing their Dominions equally amongst their Sons, had not been already so inveterate; for tho' at present the Titles were united in one single Person, yet nevertheless *Iron-Head* gave the Principality of *Benevento* to *Landulphus IV.* his Son, and that of *Salerno* to *Pandulphus* another of his Sons. All the *Longobard* Princes of the Race of *Landulphus I.* Count of *Capua*, those likewise of *Benevento* and *Salerno*, were wont to give Fiefs to all their Sons; who at first liv'd in Friendship and Amity with one another under the same Law, each one contenting himself with his Share; but such is the Corruption of Human Nature, that in process of Time it bred Discord among them, which split them into Factions, and gave Occasion to Strangers to invade them. At this Time Political Maxims were taken from the Holy Scripture, the Barbarity of the Times not affording them other Books whereby they could be better instructed in the Politicks of this World: They had read the Admonition of *David*, who says, There's not a more pleasant Thing, than *habitere fratres in unum*, and propos'd it as the Rule of their Conduct; but they were not sensible that this was a Thing much to be wish'd-for, and when attain'd, much to be valu'd, but by Human Nature difficult to be put in Practice; and they might have learn'd from the same Scripture, that a Kingdom divided against itself cannot stand. However that may be, they had no mind to give all to the eldest Son; therefore this Succession taking Place, the principal City was retain'd by him, and the other Brothers were invest'd with Counties, and other Fiefs, who being all of the same Stock, from Dependants, made themselves absolute Lords. Thus *Radelchisus* Prince of *Benevento*, as we have related, having had twelve Sons by *Carenada*, besides *Raginfarinus* who succeeded him, made them all Counts. The same happen'd to the Principality of *Salerno*, which, as we have said, was divided by *Gisulphus* into so many Counties, amongst the Sons of *Landulphus*, to the great Indignation of the *Salerni-*

<sup>1</sup> Pell. in Not. ad Anon. Saleq. pag. 216. In Archivo Cavenfi: Nos Pandulphus Princeps filius b. m. D. Pandulphi Princ. declaro, quod *Gisulphus & Gemma adoptaverunt me in filium.*

<sup>2</sup> We read this Verse in Pell. loc. cit. p. 223. *tans,*

*tans*, that besides the Nobles of *Salerno*, it was possess'd by many, who liv'd well fortified in their Castles, with absolute and independent Authority.

BUT above all, the Principality of *Capua* suffer'd most by being thus dismember'd, for from the Race of *Atenulphus*, as from the *Trojan Horse*, there issu'd so many Counts and Lords, as not only fill'd *Capua* with Counties and Lordships, but likewise *Benevento*. From the Blood of that Prince were descended the Counts of *Venafro*, *Sessa*, *Isernia*, *Marfico*, *Sarno*, *Aquino*, *Cajazza*, *Teano*, and many more: Which, as we have said, tho' at first given as Governments, and not as Fiefs, were afterwards turn'd into Lordships; and hitherto the Thing was tolerable, because the Grant, either by the Death or Felony of the Count, became void, and the County did not go to the Heir; but in the Times we now speak of, the Practice was, for the Reason formerly given, that the Grants were made to the Sons and Heirs, and Investitures given *pro se & Hæredibus*, as we read among the ancient Records of the Investiture given in the Year 964, in *Capua* by *Pandulphus Iron-Head*, and *Landulphus* his Son, of the City of *Isernia* with its Dependencies, to *Landulphus* and his Heirs<sup>1</sup>.

THUS the Counties and Fiefs, not only came to be multiplied, and afterwards divided into so many Parts, by being vested in those of the same Blood, who were apt to aspire to be independent Lords, that thereby the State was brought into Confusion and Disorder, and at last became a Prey to other Nations.

<sup>1</sup> We read this Investiture in Ciarlant. on Samnium, pag. 241. Concedimus, & confirmamus tibi supranominato Landulpho Comiti dicto fratri nostro, & hæredibus tuis prædictam Civitatem Iserniæ cum omnibus Castellis, &c. ad avendum, & possidendum, & fruendum, & dominandum vos, & hæredibus vestris.

## S E C T. I.

*Surnames of Families restor'd among us, which for a long Time had been disus'd.*

FROM the Number of so many Fiefs and Counties possess'd by different Families, Surnames took their Rise; for the *Longobards* having no Surnames for denoting the particular Families, they took them from the Cities and Lands which they possess'd, and where they had fix'd their Residence; thus by Degrees the Custom of the ancient *Romans* began to take Place again in these our Provinces; tho' Surnames began under our last *Longobard* Princes, yet it was the succeeding *Norman* Princes that settled them, as a distinguishing Mark of Families.

THE *Romans*, who knew nothing of Fiefs, took their Surnames from other Things, and not from the Places which perhaps had been possess'd by their Forefathers. But as the Pastoral Employment and Agriculture were in great Esteem amongst them, many Families took their Surnames from Rural Things belonging to these: From Agriculture, the *Lactucini*, the *Melii*, the *Frondisii*, the *Fabii*, the *Pisones*, the *Lentuli*, and the *Cicerones*; and from the Pastoral Employment, the *Bubulci*, the *Bupecii*, the *Fuvenci*, the *Portii*, the *Scrophæ*, the *Pilumni*, the *Junii*, the *Satirii*, the *Tauri*, the *Vituli*, the *Vitellii*, the *Suilli*, the *Capriani*, the *Ovini*, the *Caprii*, the *Equini*, and others, of which *Tiraquellus*<sup>1</sup> has given us a long Catalogue.

THE *Roman* Families likewise took their Surnames from Nature, according as she was favourable in bestowing some special Comeliness of Person, or graceful Behaviour, or as she was unfavourable in deforming the Body or the Mind with some Vice; thus from the Bigness of the Feet came the Surname of the *Planci*; that of the *Craffi* from Fatness; that of the *Cincinnati* from the Hair; the *Nasones* from their big Noses, and a great many more. Often from Qualities, as *Metellus Celer* from his Nimbleness; sometimes from Chance, as *Valerius Corvinus*; sometimes from a conquer'd Place, as *Scipio Africanus*, and so of the rest<sup>2</sup>.

<sup>1</sup> Tiraq. de nobilit. c. 3. num. 10. V. Alex. ab Alex. dier. gen. V. Sirm. in Sidon. tom. 1. in præfat,

<sup>2</sup> Vide Knipschild. de Fideicom. cap. 1. num. 20.

BUT

BUT amongst our last *Longobards*, Surnames were taken for the most part from Cities and Castles, which their Forefathers had possess'd, and whither they went to reside, and pass their Time. Thus from the Castle of *Presensano*, the Surname of *Presensano* is deriv'd, which Family, together with the Castle, fail'd in *Capua* after the Time of King *Robert*. Thus likewise, according to *Erchempertus* <sup>1</sup>, *Marino* was surnam'd *Malpbitano*, because he govern'd in *Amalphis*, and was Duke of it; and in the same Author <sup>2</sup>, *Landulphus* was call'd *Suessulanus*, because he govern'd in *Suessula*; and *Leo Ostiensis* <sup>3</sup> says, *Gregory* was surnam'd *Neapolitanus*, because he was Duke of *Naples*; and the same Author <sup>4</sup> gives *Landulphus* the Surname of *Sancta Agatha* (of which more afterwards) only, because he was Count of that City. And seeing all those Noblemen had their Descent from *Capua*, and from the Progeny of *Atenulphus*, therefore by the Writers of those Times they were likewise call'd noble *Capuans*; whence came the Surname of the illustrious *Familia Capuana*, and for a long time all those were call'd noble *Capuans*, who were descended of the Race of the Counts and Princes of *Capua*, tho' they were divided into many Families, as the most accurate *Pellegrinus* demonstrates <sup>5</sup>: Whence it came, that some of them for a long time after retain'd the Surname of *Capuani*, or *Capua*; and others took theirs from the Places they possess'd, tho' of the same Family. Thus the Family of *Sesto*, descended of the Counts of that Place, and of *Landulphus*, who was surnam'd *Sesto*, took its Surname from a Castle of that Name in the County of *Venafro*, of which *Petrus Diaconus* makes mention <sup>6</sup>; which Family liv'd in the greatest Splendor under King *William II.* and had the chief Military Employments, as may be seen in *Luigi Lello* <sup>7</sup>.

AND as these three Families of *Franco*, *Citello*, and *Roselle*, were of *Longobard* Extraction, so likewise ought they to be reputed of the Race of Prince *Atenulphus*, and come from the Places possess'd by their Forefathers, as *Pellegrinus* shews; and many other *Longobard* Families, that derive their Origin from these Princes of *Capua*, and *Atenulphus*, even after the *Longobards* were driven out, continu'd in these our Provinces under the *Normans*, as we shall more particularly relate hereafter, when we shall have occasion to treat of the People of that Nation: So that it occasion'd *Leo Ostiensis* to say, that *Atenulphus*, and his Descendants, for many Generations, held the Principalities of *Benevento* and *Capua*, for a Hundred and seventy-seven Years; seeing for a long time there were many Barons of the Race of *Atenulphus* in these Principalities, who were Lords of many Fiefs, and establish'd their own particular Families, by giving their Relations Investiture of many Fiefs, and from whom are descended many Counts, Barons, and other Nobles over all *Italy* on this Side of the *Tyber*; and the same was done in the Principality of *Salerno*. Likewise the Family of *Colimonta*, from which *Pellegrinus* proves the Family of *Barrile* to be descended, takes its Origin from nothing else but from the Castle of *Colimonta*, which we now call *Collemezzo*; as the noble Family of *Gaetana*, from *Gaeta*; for *Leo* <sup>8</sup> *Ostiensis* calls all those *Gaetani*, who held the City of *Gaeta* as Dukes. Thus likewise the Surnames of the illustrious Family of *Aquino*, has risen from the Counts of that City; and those of *Sangri*, *Sanseverini*, *Aquivivi*, and many others, are taken from the Cities and Lands possess'd by their Forefathers <sup>9</sup>.

LIKEWISE amongst our last *Longobards* Surnames were taken, tho' but seldom, from the Names of their Forefathers; thus the Family *Atenulpho* had its Name from *Atenulpho*, who was Father of *Peter* a Cardinal of the Holy Church; and very many others. Surnames were also taken from Magistracy, and Offices as well Ecclesiastick as Secular, and from the Professions of their Forefathers; whence the Family *Mastrogiudice* according to *Freccia* <sup>10</sup> had its Rise, as also those of the *Doci*, *Alfieri*, *Conti*, *Ferrari*, *Cavalcanti*, *Filastoppa*, and many more. From Behaviour also, and good or bad Inclinations; from Colour, Garments, Beards, the Chin; from Plants, Flowers, Animals, and from an infinite Number of other Occasions and Accidents <sup>11</sup>.

<sup>1</sup> Erchemp. num. 26.

<sup>2</sup> Ibid. num. 27. & 62.

<sup>3</sup> Ostiens. lib. 1. cap. 49.

<sup>4</sup> Lib. 2. cap. 15.

<sup>5</sup> Pell. de Stem. Princ. Long. pag. 287.

<sup>6</sup> In Auctuar. ad Ostiens. lib. 4. cap. 75.

<sup>7</sup> Aloyf. Lellus in Elencho Privilegiarum Archiepisc. Ecclesie Montis Regalis, num. 14.

<sup>8</sup> Ostiens. lib. 2. c. 35.

<sup>9</sup> V. Ammirat. Fam. Neapol.

<sup>10</sup> Freccia de Subfeud. pag. 24.

<sup>11</sup> V. Dufresne in Glos. v. Cognom.

BUT 'tis to be observ'd, that tho' this Custom of transmitting Surnames to Posterity, for the better distinguishing of Families, began with us about the End of this Xth Century, yet it was seldom us'd; for we very rarely find Surnames in the Charters and other Writs of these Times. They began to be a little more frequent amongst the *Normans* in the XIth and XIIth Centuries; but in the XIIIth and XIVth they were so diffus'd and establish'd, that commonly every Body, tho' of mean Extraction, had Surnames, and transmitted them to their Posterity.

## S E C T. II.

*The unfortunate Expedition of Otho II. against the Greeks, and the Death of Pandulphus Iron-head.*

THE Custom of our last *Longobards*, of dividing their Dominions into so many Parts, was at last the Occasion of their Ruin, and afforded a fair Opportunity to the *Normans* to drive them out of these Provinces; for tho' these Barons held their Counties of the Princes of *Capua*, *Benevento*, and *Salerno*; yet forasmuch as they were of the same Lineage of *Atenulphus*, many of them aspir'd to the same Principalities of *Capua*, *Benevento*, and *Salerno*, from which some of them had been driven out; and tho', as we have said, *Pandulphus Iron-head* by his Valour and good Success, together with his Sons *Landulphus IV.* and the other *Pandulphus*, had govern'd these three Principalities; yet *Iron-head* was no sooner dead in *Capua*, in the Year 981<sup>1</sup>, than Revolutions and Disorders began anew in these Provinces. To this likewise was added, that *Pandulphus*, who had procur'd that there should be a firm and lasting Friendship maintain'd betwixt the Emperors of the East and those of the West, was no sooner dead, than all Correspondence was broke off, and the old Quarrels renew'd; for *Otho II.* who could not endure that *Puglia* and *Calabria* should remain in the Possession of the *Greeks*, under the Emperors *Basilus* and *Constantine*, who in the Year 977. had succeeded *Zimisces*, disingag'd himself the best way he could from the Affairs on the other Side of the Mountains, and in the Year 980. march'd to *Italy* with an Army, accompanied by the Empress *Theophania*<sup>2</sup>.

THE Custom, as we have said, was already introduc'd, that when the Emperors of the West came into *Italy*, they stopt at *Roncaglia*, a Place not far from *Placentia*, where, in imitation of the Dyets, the Dukes, Marquisses, and Counts of many Parts of *Italy*, the Magistrates of the Cities, and also the Ecclesiastical State met in order to treat of the most important Affairs of *Italy*; they examin'd the Complaints of the Subjects against their Lords; they gave the Investiture of Fiefs; adorn'd many Barons with Titles; establish'd many Laws concerning the Ecclesiastical State, and remedied some former Abuses. *Otho* this Year being come to *Placentia*, assembled the Dyet in *Roncaglia*, wherein he made many useful Laws. Of this *Otho* are these Laws, which we have in the second Book of the *Longobard Laws*, and many under the Title *Qualiter quisq' se defendi debeat*<sup>3</sup>, wherein rejecting the Proof by Oath, he retain'd that by Duel, and many others collected by *Melchior Godalfus* in his Volumes<sup>4</sup>.

*Otho* therefore having, in some measure, settled the Affairs of *Italy*, went to *Rome*, where at a Dinner, he caus'd many Noblemen whom he suspected of Disloyalty, to be inhumanly murdered; from whence the Year following 981, he came to *Benevento* with his Army, where he continu'd for some Time: He was likewise receiv'd into *Naples* by the *Neapolitans*, who, little minding the Allegiance due to their Sovereigns the Emperors of the East, also gave him Succours; and whilst he remain'd in these our Provinces, he found Means to augment his Army with those Troops furnish'd by *Benevento*, *Capua*, *Salerno* and *Naples* for invading *Puglia*. While he staid here, he inquir'd into the Complaint of *John* Abbot of *St. Vincent* in *Vulturno*, against *Landulphus* Count of *Isernia*, who had taken

<sup>1</sup> Pell. in Stem. Princ. Capuæ.

<sup>2</sup> Sigon. A. 980.

<sup>3</sup> LL. Long. lib. 2. l. 35, 36, 37, 38, 39,

40, 41, 42, 43, 44.

<sup>4</sup> Goldast. tom. 1. p. 225. tom. 3. p. 205.

Possession of three Castles belonging to that Monastery ; he gave Sentence in favour of the Monastery, and caus'd a Charter to be drawn up for that end in *Benevento*, dated the Tenth of *October* this Year 981<sup>1</sup>.

THE same Year that *Pandulphus Iron-head* died in *Capua*, it happen'd that *Vesuvius* vomited out Fire and Flames. It was a common Opinion among the Vulgar, that such Signs, were either preceded or follow'd by the Death of some rich, powerful and wicked Man, whose Soul was carried by the Devils through this Gulf into Hell ; which Opinion had its Rise, as often falls out in these Cases, from the Vision of a Hermit, who, as *Peter Damian* relates, fancied he had seen the Soul of *Pandulphus* carried by the Devils into the tormenting Fire of Hell<sup>2</sup>. Indeed *Iron-head* was the most rich and powerful Man in these our Provinces, in that Age : He was not only Prince of *Capua*, *Benevento*, and *Salerno* ; but was likewise Marquis of *Spoletto* and *Camerino*, whereby he was in Possession of little less than the Half of *Italy*<sup>3</sup> ; and though we read of many pious Works done by him, and that he had a great Esteem for Pope *John XIII.* and had enrich'd the Monastery of *Cassino* in his Life-time with many Donations and Privileges, that according to *Osienfis*<sup>4</sup>, he was in great Esteem with the Monks ; nevertheless, the Vision of this Hermit made all these Actions not to be valu'd, and it was believed, that he had done them, not out of a sincere Love to Piety and Religion, but for worldly Ends ; to which was added, the heinous Crime of driving *Landulphus* his Nephew out of the Principality of *Benevento*.

THUS likewise, *John* Prince of *Salerno*, who was Grandfather to the last *Guaimarus*, being murder'd by his own People in the Year 1052, when *Vesuvius* vomited Flames, *John*, who was of that Opinion, said, *Procul dubio Scleratus aliquis dives in proximo moriturus est, atque in Infernum descendens* ; which soon after was applied to Prince *John* himself, who, the Night following, was unexpectedly found dead in the Arms of one of his Mistresses<sup>5</sup> ; whence the Vulgar were the more confirm'd in that Opinion, which long continued, even to the Time of our Grandfathers ; and it was likewise foolishly believed, that *Vesuvius* was one of the Mouths of Hell.

BUT to return to our Purpose, *Pandulphus* dying, left, as we have said, *Landulphus IV.* his Son in *Benevento*, to whom in his Life-time he had given that Principality, and who, for a few Months after the Death of his Father, govern'd *Capua*. He left *Pandulphus* another of his Sons, Prince of *Salerno*, whom *Gisulphus* had adopted, and who after the Death of his Father, govern'd that Principality for some Months ; he also left other Sons, to wit *Atenulphus* a Count, *Landenulphus* a Marquis, *Gisulphus* who was Count of *Teano*, and *Laidolphus*<sup>6</sup>.

BUT the Death of this Prince soon broke that Union, which could not long continue, for *Pandulphus II.* who had been turn'd out of the Principality of *Benevento* by him, no sooner heard of his Death, than he reveng'd himself of the Wrong he had receiv'd : he drove *Landulphus IV.* out of the Principality, took *Benevento* to himself, and transmitted it to his Posterity ; and *Landulphus* died soon after ; for *Otho* having march'd with his Army (which was compos'd of many Nations, and likewise *Beneventans*, amongst whom were this *Landulphus* and *Atenulphus* his Brother) towards *Taranto*, in order to fight the *Greeks*, and *Saracens*, who had been invited to their Assistance ; in the Battle which was fought the Year following 982. had his Army defeated, and amongst the rest, the Princes *Landulphus* and *Atenulphus* were killed, and *Otho* himself with Difficulty escap'd<sup>7</sup>.

WHEREUPON it fell out, that after *Landulphus's* Death, *Landenulphus* his Brother, and *Aloara* his Mother succeeded to the Principality of *Capua*, and *Otho* having recruited his Army the best way he could, when he return'd to *Capua*, confirm'd the Principality of *Capua* to *Aloara* and *Landenulphus*, who govern'd it from the said Year 982 to the Year 993, when *Landenulphus* was cruelly murdered by his own People in the Month of *April*<sup>8</sup>, four Months after his Mother's Death.

THIS Expedition of *Otho* against the *Greeks*, was so unfortunate, and the Defeat of his Army so great, that it was firmly believed, if the *Greeks* had known

<sup>1</sup> Baron. A. 981. num. 4.

<sup>2</sup> V. Pellegr. part 7. ad Anon. Salern.

<sup>3</sup> Pellegr. part 7. Anon. Salern.

<sup>4</sup> Lib. 3. cap. 2.

<sup>5</sup> Pellegr. loc. cit. pag. 222.

<sup>6</sup> Pellegr. in Stem.

<sup>7</sup> Sigon. 982.

<sup>8</sup> Pellegr. in Stem.

how to make use of their Victory, they might have carried their Arms to the Gates of Rome. But as the Greeks had perceiv'd the Disloyalty of the *Neapolitans*, and their other Subjects in this Battle; so *Otho* had more Reason to impute the Loss of it to the *Beneventans* and *Romans* <sup>1</sup> (who abhor'd him on account of the cruel Murder committed on the many Noblemen at the foresaid Feast, for which they afterwards gave him the Surname of *Sanguinarius*) who in the Heat of the Battle had deserted him. Wherefore 'tis said, that the Year following 983, *Otho* having return'd to *Capua*, and recruited his Army, march'd on a sudden to *Benevento*, and pillag'd that City, and in order to vex the *Beneventans* the more, he wrapped up the Bones of *St. Bartholomew*, for which they had so great Devotion, and carried them to *Rome*, and resolv'd afterwards to transport them to *Germany*; but being prevented by Death, which happen'd this same Year in *Rome*, he could not put his Design in Execution; so that they remain'd in that City, where they are at this Day, ador'd in a Church in the Island *Lycaonia* in the *Tyber*, which is now much more famous all over the World, on account of those Bones, than for its Rise, which *Livy* describes in his incomparable History.

THE *Beneventans* cannot bear what is related concerning this Translation by *Otho Frisingensis* <sup>2</sup>, *Goffredo of Viterbo* <sup>3</sup>, *Blondus* <sup>4</sup>, *Sigonius* <sup>5</sup>, and other more modern Authors. They, from the Authority of *Robertus Tuitensis* <sup>6</sup>, who takes it from *Baronius*, and of *Ostiensis* <sup>7</sup>, will have it that about the Year 1000, *Otho* III. not II. having return'd to *Benevento* from *Monte Gargano*, fought the Body of the Holy Apostle from the *Beneventans*, who, not daring to deny him, had recourse to Fraud, and in place thereof, gave him the Body of *St. Paulinus* Bishop of *Nola*, for which they likewise had a great Veneration: Of which *Otho* being afterwards appriz'd, was much offended at the Cheat, and return'd anew to *Benevento*, which he besieg'd for many Days; but not being able to take it, he was oblig'd to return to *Rome*. But *Martinus Polonus* <sup>8</sup> by adapting himself to the Humour of the *Romans*, who will have it to be in the *Tyber*, relates likewise, that *Otho* III. return'd to *Benevento*; but that he fought none other but the Body of *St. Paulinus* from the *Beneventans*, who, without any Guile, gave it him. Thus a bitter Dispute concerning these Bones hath arisen among the modern Writers; and the *Romans* and *Beneventans* worship two Bodies of the same Saint in different Places; and the *Neapolitans* likewise pretend, that the Head of this Saint is neither at *Rome* nor *Benevento*, but in *Naples*, in the Monastery of the Monks of *Queen Donna*, and that it was given them by *Mary* the Wife of *Charles* II. of *Anjou*, Son of *Charles* I. who got it from the *Beneventans* after he had defeated *Manfred*; and our Historian *Giannettasio* believes it to be matter of Fact, notwithstanding the bitter Contest which to this Day continues betwixt the *Romans* and *Beneventans*. We have seen in these our later Times, a great many Writers tormenting themselves about this Subject, who, after all their Endeavours to prove, that this Body was either carried to *Rome*, or remain'd in *Benevento*, have yet the greatest Part of their Work upon their Hands, to wit, to shew us how it was brought from the *Indies* to *Lipari*, as *Sigebertus* relates. But these Disputes not being to our Purpose, we willingly leave them to those who take Pleasure in such Matters.

<sup>1</sup> Sigon. 982.

<sup>2</sup> Otho Frisingens. lib. 6. cap. 25.

<sup>3</sup> Gofridus Viterb. part 17. de Ot. 2.

<sup>4</sup> Blond. hist. Rom. dec. 2. lib. 3.

<sup>5</sup> Sigon. de Reg. Italiæ, lib. 7.

<sup>6</sup> Rob. Tuitensis lib. 2. cap. 24.

<sup>7</sup> Leo Ostiens. lib. 2. cap. 24.

<sup>8</sup> In Chronic. lib. 4.







## C H A P. III.

*The Greeks recover greater Strength in Puglia and Calabria. The Advancement of the Dukedom of Bari, at this Time the Seat of the Catapani.*



THE Greeks, who under the Emperors *Basilus* and *Constantine* had gain'd so signal a Victory over *Otho* II. establish'd themselves more firmly in *Puglia* and *Calabria*; and governing these Provinces with great Authority, incroach'd upon the Borders of the Principalities of *Benevento* and *Salerno*, and pretended likewise to exercise Sovereignty over the *Longobard* Princes. But remembering the late Treachery of their Subjects, in order to keep them in Awe, they resolv'd to have strong Garrisons in these two Provinces. They were also afraid of being attack'd again by the *Germans* under *Otho*; and that the *Saracens*, tho' coop'd up in a few Forts, might disturb them with their usual Inroads, for these never slipt a fit Opportunity for making IncurSIONS into *Puglia* from *Monte Gargano*, where they had fortified themselves. Therefore at this Time they had built many strong Castles. They founded in the Plains of *Puglia* a City, which, in order to revive the glorious Name of *Ilium*, they call'd *Troja*, which remains to this Day, for the *Normans*, next to *Melpbis*, distinguish'd it above all the other Cities of that Province, which at present is call'd *Capitanata*. They likewise founded there, *Draconaria*, *Cividade*, and *Pirenzuola*, Cities not now in being, and other Towns<sup>1</sup>. In order to keep their Subjects the more in Awe, they appointed a new Magistrate in *Puglia*, in their Language, call'd *Catapanus*, who had full and unlimited Power, and govern'd these Provinces with absolute Sway. *Bari*, where the *Stratigo* formerly resided, was appointed for his Seat, so that this City exalted itself above all the other Cities of *Puglia*.

OUR *Gulielmus Appuliensis*<sup>2</sup> derives this Title of *Catapanus* from the unlimited Power that was given to this Officer, and says he was call'd *Catapanus*;

*Quod CATAPAN Græci, nos JUXTA dicimus OMNE.  
Quisquis apud Danaos vice fungitur hujus honoris,  
Dispositor populi parat omne quod expedit illi,  
ET JUXTA quod cuique dari decet, OMNE ministrat.*

BUT *Charles Du-Fresne*, in his Notes on the *Alexiade* of the Princess *Anna Comnena*, laughs at this Etymology of *Gulielmus Appuliensis*, and will have it, that *Catapanus* amongst the *Greeks*, was the same as *Capitaneus* amongst the *Latins*: Which *Leo Ostiensis* likewise ridicules, who in his Chronicle<sup>3</sup>, besides taking it to be the proper Name of a Man, whereas 'tis known to be a Title of Dignity, reckons that the Province of *Capitanata*, which took its Name from these Officers, came to be corruptly call'd so by the Vulgar, when it ought to be call'd *Catapanata*; yet *Du-Fresne* maintains, that *Catapanus* amongst the *Greeks*, was the same as *Capitaneus* amongst the *Latins*, and therefore it ought to be call'd *Capitanata*, and not *Catapanata*:

<sup>1</sup> Leo Ostiens. lib. 2. cap. 50.

<sup>2</sup> Gul. Appul. lib. 1.

| <sup>3</sup> Ostiens. lib. 2. cap. 50.

*Nicetas* <sup>1</sup> likewise calls this Prefecture *Capitanata*, which being compos'd of many Cities or Towns, was under the Command of one Captain.

THE *Catapani* having fix'd their Seat in *Bari*, *Lupus Protospata*, who, according to *Pellegrinus* <sup>2</sup> was certainly of *Bari*, at least of *Puglia*, gives us a long List of them, and the first, that about this Time in the Year 999, according to him, govern'd this Province, was *Tracomotus*, or *Gregorius*, who besieg'd *Gravina*, and took *Theophilactus*. In the Year 1006, *Xipheas* was sent to be *Catapanus* of *Puglia*, who in the Year 1007 died in *Bari*, to whom *Curcua* succeeded the Year following 1008. Under whose Government the Inhabitants of *Bari* rebelling, chose for their Prince *Melo* of *Longobard* Extraet, who resided in *Bari*, and will be famous in the History of the *Normans*; but they being suppress'd by the *Greeks*, *Melo*, with his Brother-in-Law *Dastus*, made their Escape, and wandered up and down. He went first to *Ascoli*, but being afraid of Treachery, he went to *Benevento*, from thence to *Salerno*, and afterwards to *Capua*, soliciting these *Longobard* Princes to assist him in freeing *Bari* from the Tyranny of the *Greeks*. *Curcua* dying in the Year 1010, *Basilus* succeeded him as *Catapanus*, in whose Time *Freccia* <sup>3</sup> says, that *Bari facta est Sedes magnorum virorum Græcorum*. Thereafter in the Year 1017, *Andronicus* was *Catapanus*, who fought and defeated *Melo* <sup>4</sup>.

THE Year following 1018, he was succeeded by *Basilus Bugianus*, whom *Gulielmus Appulienfis* <sup>5</sup> calls *Baganus*, and *Leo Ostiensis* <sup>6</sup>, *Bajanus*. Who, that he might be recorded in the History of *Italy*, dismember'd a Part of *Puglia*, bordering on the Principality of *Benevento*, and made a new Province of it, which he call'd *Capitanata*, and, as we have said, he built some Cities and Towns, such as *Troja*, *Draconaria*, *Fiorentino* and others. In 1028, *Christophorus* was made *Catapanus*; then *Patus*, who govern'd to the Year 1031, and the following Year *Anatolicus*. In 1033, *Constantinus Protospata* came to be *Catapanus*, who was call'd *Opus*. Thereafter *Maniacus*, to whom in the Year 1038, *Nicophorus* succeeded, who, in 1040 died in *Ascoli*. To him succeeded *Michael*, who was also call'd *Duchianus*, and after him at last in the Year 1042, *Exaugustus*, the Son of *Bujanus* was *Catapanus*, during whose Government, the *Greeks* were driven out of these Provinces, after he had been beaten and taken Prisoner in a Battle near *Benevento* by the *Normans*: And tho' these Provinces came afterwards under the Dominion of the *Normans*, but not all at once, therefore we read in *Lupus*, and the Anonymous of *Bari*, of other *Catapani* after *Exaugustus*, whom we shall mention as occasion offers.

THE Power then of the *Greeks*, after this Defeat of *Otho II.* till the *Normans* came to have Dominion in these Provinces, was become much more considerable than what it had been the preceding Years, both with regard to the Largeness of their Bounds, which they had extended, and the absolute Empire, which the Emperors of the *East* had acquir'd in the Political and Temporal, and the Patriarchs of *Constantinople*, over the Metropolitans and Bishops of *Puglia* and *Calabria*, in the Ecclesiastical and Spiritual Government.

*PUGLIA*, which in the Time of *Arcbis*, and the other *Beneventan* Princes, his Successors, belonged to the Principality of *Benevento*, was now dismember'd from it, and being again come under the Dominion of the *Greeks*, very much diminish'd this Principality. The *Greeks* on this side reach'd as far as *Troja* and *Ascoli*, and excepting *Siponto* and *Monte Gargano*, which were still united to this Principality, towards the East, all that Tract of Country, to the very utmost Point of *Italy*, belong'd to them. *Calabria*, according to the modern Appellation, was likewise added, which included not only *Bruzio*, *Reggio*, *Crotone*, and other neighbouring Cities; but it also comprehended a great Part of the ancient *Lucania*, and on that side was bounded by the Principality of *Salerno*, which was thereby confin'd to a narrower Compass than it had been in the Time of Prince *Siconulphus*. On another side they very much confin'd the Principality of *Capua*, insomuch that the Dominion of the *Greeks* was never at any time so far extended as now, when drawing a Line from *Monte Gargano*, to the Promontory of *Minerva*, which is the greatest Breadth of the Kingdom; all towards the East and South, was under

<sup>1</sup> *Nicetas* in *Man. lib. 2.*

<sup>2</sup> *Pellegr. Castigat. in Chron. Lupi Protosp.*

<sup>3</sup> *Apud Pellegr. in Cast. p. 81.*

<sup>4</sup> *Chron. Anon. Barenf. apud Pellegr.*

<sup>5</sup> *Guil. Appul. lib. 1.*

<sup>6</sup> *Ostiens. lib. 2. cap. 50.*

their

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their Dominion; as the other Part towards the West and North, was subject to the *Longobard* Princes; but as the Principality of *Salerno* extended itself without this Line, towards the East and South; so likewise the *Greeks* had not altogether lost their Dominion towards the other Part, which was not intirely subject to our *Longobard* Princes; so far as in this Extent, the Three Dukedoms of *Amalphis*, *Naples* and *Gaeta* were included, in which, though they were govern'd in the Form of Commonwealths, and often not only elected their Magistrates out of their own Body, but likewise their Dukes; nevertheless, the *Greek* Emperors always preserv'd some Marks of their Authority and supreme Dominion in them, as we have seen, from what hath been formerly said, with regard to the Dukedom of *Naples*; and the Dukes of *Amalphis* were wont to be confirm'd by the Emperors of the East, from whom they got the Dignity of *Patriciate*.

AND the same may be said of *Gaeta*; for though *Leo Ostiensis* says, that *Gaeta* was subject to the Pope, and that therefore *John VIII.* had given it to *Pandulphus* Count of *Capua*; nevertheless it was soon recover'd by the *Greeks*. The Popes claim'd this City, by those Rights which *Charles the Great* gave them, when he pretended to take it from the *Greeks*, and make a present of it to the Church of *Rome*, as he had done *Terracina* and the other Spoils of the *Greeks*; but *Archbis* immediately oppos'd it, and ordered Matters so, that this City quickly was restor'd to the *Greeks*, and was first govern'd by Patricians, and afterwards by Dukes. But because the Popes do not so easily part with Rights, which they fancy they have once acquir'd; they always kept up their Pretensions, and when Junctures and Times favour'd them, not being able to defend *Gaeta* of themselves, they gave it to some powerful Prince, who was able to preserv'e it from the *Greeks*, as *John VIII.* did, who gave it to *Pandulphus*; but because he was severe in his Government over the *Gaetans*; *Docibilis*, who was then Duke of *Gaeta*, had recourse to the *Saracens* for Assistance, in order to drive him out; so that we see, that at the same Time that *Ostiensis* says *Gaeta* was subject to the Pope, there is mention made of Dukes of that City, who depended on the *Greek* Emperors, such as *John*, *Gregory*, *Docibilis*, and others; and in many Charters made in those Times in *Gaeta*, some of which we owe to *Ugbertus*, we see the Names of the reigning Emperors of the East inserted. Thus in one, made in the Year 812, we read *Imperantibus Domino nostro piissimo imperatore Augusto Michasio, & Theophilo, magnis pacificis Imperatoribus*. And in another made afterwards, which *Ostiensis* mentions in the Year 884, thus, *Imperantibus Domino nostro Leone & Alexandro pacificis magnis Imperatoribus*. Which is evident; for the *Normans*, after having driven out the *Greeks*, took the Title, not only of Princes of *Capua*; but also of Dukes of *Gaeta*; though they alter'd nothing of its Policy, but left it to be govern'd by its own particular Dukes and Consuls.

THE *Greeks*, though they had so much extended their Bounds, not knowing what Fiefs were in these Times, had not erected Dukedoms, Counties, or other Baronies, either in *Puglia* or *Calabria*; but we find a great many of them in the Provinces, subject to the *Longobard* Princes. They were known, as we have said, in the Counties of *Marsico*, *Molise*, *Isernia*, *Apruzzi*, *Teano*, and many others; but were never heard of in *Puglia* and *Calabria*, till they came under the Dominion of the *Normans*; for the *Normans* being of the same Extraction with the *Longobards*, receiv'd them together with their Laws and Customs: So that Fiefs were introduc'd into all those Places which they took from the *Greeks*; from whence sprung (besides the Counts of *Puglia* and *Calabria*) the Counts of *Capitanata*, *Principato*, *Lavello* and *Loritto*; the Counts of *Conversano* are often mentioned, both in ancient Charters, and in the *Antiquities* of Princess *Anna Commana*, as also in the Chronicle of *Leo*, in *Makoterra*, *Odericus Vitalis*, and a great many other Writers; the Counts of *Catanzaro*, *Sinopolis* and *Cosenza*; the Counts of *Aversa*, and those of *Lecco*; the Counts of *Avellino*, *Fondi*, *Gravina*, *Montecorvoso*, *Tricarico* and many more, of whom we shall have occasion to speak when we come to the Times of the *Normans*. Formerly, when these Places were subject to the *Longobards*, they were, as we have said, divided into *Castellani*, which were not

\* *Ostiensis* lib. 1. cap. 43.

† *Ughet* tom. 1. *Ital. Sacr. de Epif. Cajet.*

‡ *Ab. de Nuce* ad *Ostiensis* lib. 1. cap. 43.

§ *V. Du-Presne* in *Not. ad Alexiad. Annæ Comnenæ*.

true Fiefs, but their Cities were committed to the Government of those *Longobard* Noblemen as an Office, neither could they be chang'd into Fiefs, as was practis'd in those Provinces that had been long in the Possession of the *Longobards*; because the *Greeks*, who took them partly from the *Saracens*, who had taken them from the *Longobards*, and partly from the *Longobards* themselves, as we have said, never knew what Fiefs were.

THIS Increase of Power in the *Greeks*, and the Growth of their Dominion, was the Cause that the Churches of these Provinces, which according to the Disposition of the Emperor *Leo*, were subject to the See of *Constantinople*, were more strictly ty'd down to the Obedience of the Patriarchs of *Constantinople*. Whereupon the Prohibitions of *Nicephorus Phocas* became of greater Force against the *Latin* Rites, and which the Patriarchs of *Constantinople* inforc'd so much, as to command all the Bishops of *Puglia* and *Calabria*, for the time to come, not to make use of unleaven'd Bread in the Sacrifices, according to the *Latin* Rites, but of leaven'd, according to the *Greek* Usage; which made the Breach betwixt them and the Popes wider, who on no account would allow of it; therefore they begg'd the Emperor *Otho*, as we have said, to send *Luitprandus*, Bishop of *Cremona* to *Constantinople*: Which Disputes much increas'd in the Pontificate of *Leo IX.* when the Patriarch *Michael Cerularius* excommunicated all the *Latins*, comprehending also Pope *Leo* himself, because, among other Reasons, they did not observe the Prohibition of unleaven'd Bread. Whence it came, that to this Day, there have continued in these Places, some Vestiges of the *Greek* Rites, which many Churches still retain; tho' the Popes have neglected no Opportunity to abolish altogether these Vestiges of the Power of the Patriarchs of the East, and tho' they may have succeeded in many Cities, yet nevertheless, they are not quite extinct, but still continue in some.

FOR the same Reason we have ground to believe, that in such Times in these Places, the *Novellæ* of the Emperors of the East, and the Collections of the *Basilicæ*, the Eclogues and the other Books, which we have mention'd in the preceding Book, have had some Force and Authority, and, as we have said, the Eclogue of the *Basilicæ* being found in *Taranto*, and that famous Library of *Greek* Authors having been preserv'd for a long Time in *Otranto*, of which *Antonius Galateus* makes mention, are strong Indications of the Truth of it. However 'tis true, that though these Books may have had some Authority, it could last but for a short time, for these Places having soon fallen under the Dominion of the *Narmans*, who embrac'd the *Longobard* Laws, they would acknowledge no other but the Laws of these Princes, or the *Longobard*, which is evident from the very Customs of the City of *Bari*, taken from the *Longobard* Laws: This City having been a long time under their Dominion, and govern'd by their *Casteldati*, of which we shall have occasion to treat elsewhere.

SUCH then, was the State of these Provinces, which now compose our Kingdom towards the end of the Tenth Century, after the Death of *Otho II.* whilst the Brothers *Basilus* and *Constantinus* reign'd in the East. *Puglia* and *Calabria* (Provinces which so far extended their Bounds, that they comprehended all *Puglia*, *Apigia*, *Mesapia*, both the *Calabrias*, with that Part of *Lucania*, which stretches itself towards the *Ionian* Sea, and therefore had hemm'd in the three Principalities of *Capua*, *Benevento* and *Salerno*) were subject to the *Greeks*. The Dukedoms of *Amalphis*, *Naples* and *Gaeta*, though they retain'd the Form of Commonwealths, yet by a most antient and just Title, they depended on the Emperors of the East. *Aloara*, with her Son *Landenulphus*, reign'd in *Capua*. In *Salerno*, *Pandulphus* his Brother; in *Benevento*, *Pandulphus II.* who having driven out *Landulphus IV.* the Son of *Iron-bead*, had likewise soon after associated in the Principality *Landulphus* his Son, whom therefore we shall call *Landulphus V.*

BUT there would have been less Confusion, if these Three Principalities, tho' much diminish'd by the *Greeks*, had at least acknowledg'd only three Lords; they not only own'd the Emperors of the West, as Kings of *Italy* for their Sovereigns, who, in these later Times, govern'd with a high Hand, but likewise their being divided into many Counties, was the occasion of their Ruin. The Principality of *Capua* was divided into the Counties of *Fondi*, *Sessa*, *Aquino*, *Teano*, *Alife*, *Caserta* and others; that of *Benevento* into the Counties of *Marfi*, *Isernia*, *Cbieta*, and some others; that of *Salerno*, into the Counties of *Consa*, *Capaccio*, *Corneto* and *Cliento*; and many

many Noblemen had made themselves Lords of the Castles of that Principality ; so that many of these Counts reckoning themselves, as they were, of the same Race of *Atenulphus*, some of them as being descended from the Princes of *Salerno*, from Vassals, made themselves absolute Lords of their Counties, such as the Counts of *Aquino*, *Marfi*, *Isernia*, *St. Agatha* and others. The very Monks of *Cassino* pretended to an absolute Dominion over all those Castles, which, by degrees, they had acquir'd from the Bounty of sundry *Longobard* Princes ; and the Abbot of *Nuce* <sup>1</sup> has endeavour'd to maintain, that they possess'd them as Free-holds, and not as Fiefs, that they acknowledg'd no Lord, and therefore were subject to no Services, for which Cause they fortified them, hired Soldiers for defending them, and maintain'd Troops, after the same manner as the Abbot of *St. Gal* and other Prelates in *Germany* do.

I T would have been a Miracle then, if the Dominion of the *Longobards* had lasted longer in these Principalities ; for they had introduc'd such a Polity, as gave a fair Opportunity, and pay'd the Way for the *Normans* to subdue them. Neither could the Dominion of the *Greeks* be of long Duration in these Provinces ; for they behav'd themselves so haughtily towards their Subjects, neglecting to drive the *Saracens* out of them, that they were the Occasion of their own Ruin, and open'd a wide Door to the *Normans*, who, in process of Time, subjected them to one single Prince, and laid the Foundation of a very ample and well regulated Monarchy, as we shall see in the following Books.

<sup>1</sup> Ab. de Nuce Chr. Off. lib. 1. cap. 5.



## CHAP. IV.

Otho III. *succeeds to the Kingdom and the Empire. New Revolutions happen in Italy, and in these our Provinces on that Account ; and his Death.*



THE News of *Otho II's* Death, which happen'd in *Rome* in the Year 883, coming to *Germany* when it was least expected, put all those Princes into Confusion ; for tho' *Otho II.* had left another *Otho* his Son, yet he was only Seventeen Years of Age, which prompted the ambitious *Henry* Duke of *Bavaria*, first Cousin to the deceas'd *Otho*, to aspire to the Kingdom of *Germany*. The *Romans* demanded an *Italian*, nam'd *Crescentius*, for Emperor ; but the *Germans* quickly broke these Measures, which they saw would be attended with Revolutions and Confusion ; and elected *Otho III.* for their King, with the Consent likewise of Pope *Benedict*.

BUT this Prince being so young, and unfit for governing so great a Kingdom, was the Occasion of terrible Disorders, no less in *Germany* than in *Italy* ; for while *Otho* was altogether intent on quelling the Tumults which his Election had occasion'd in *Germany*, Sedition and grievous Mutinies arose in *Italy*. Pope *Benedict* dying in *Rome*, *Peter*, Bishop of *Pavia* was elected, who call'd himself *John XIV.* ; and 'tis very probable, that he being *Otho's* Chancellor, was, by his Recommendation, advanc'd to that Dignity. But *Boniface*, the Cardinal Deacon, who had

<sup>1</sup> Sigon. A. 984.

formerly possess'd that Chair, and had been driven out of it, and fled to *Constantinople*, being provok'd by the Injury which he thought had been done him, return'd from *Constantinople* and came to *Rome* in the Year 985. and having rouz'd up those of his Faction, and gain'd the People, got the Upper-hand; he imprison'd Pope *John*, and shut him up in the Castle *St. Angelo*, where at the End of four Months he died of Hunger; but *Boniface* surviv'd him only other four Months, for he died suddenly, and *John XV.* was exalted to the Pontificate, who made *Amatus* Metropolitan of *Salerno*, whom *Benedict* a little before had made Archbishop.

BUT *Crescentius*, who in Opposition to *Otbo*, had assum'd the Title of Consul, and made himself Master of Castle *St. Angelo*, frighted *John*, and oblig'd him to retire into *Tuscany*, and to beg *Otbo* to come into *Italy* to re-establish him in his See. The *Romans*, who knew by Experience how much the Visits of the Emperors us'd to cost them, recall'd *John*; but nevertheless *Crescentius* maintain'd his Authority in *Rome*. *Otbo* coming into *Italy* in the Year 996, stay'd some time in *Ravenna*, and while he was in that City Pope *John* died. The *Romans* by the Emperor's Order were forc'd to elect *Bruno*, his Cousin German, Pope, who took the Name of *Gregory V.* but *Crescentius* quickly turn'd him out, and plac'd *John* Bishop of *Placentia* in the Chair. This Action was not long unpunish'd, for *Otbo* came immediately with his Army, and re-establish'd *Gregory*. *John* with *Crescentius* fled to the Castle *St. Angelo*; but the Emperor besieg'd it, which would have been very hard to take, if *Crescentius*, who defended it vigorously, had not been treacherously kill'd. The new Pope *John* was taken, his Eyes put out, his Nose and Ears cut off, and in that Condition carried through the Streets of the City upon an Ass, with his Face to the Tail of the Beast. Such were the Revolutions and Disorders of *Rome*; neither was there less Sedition in *Milan* on account of the like Reasons.

BUT the Disorders were greater in these our Provinces, and in *Capua* more than any where else. In these Times, as we have said, *Landenulphus* and *Aloara* his Mother govern'd the Principality of *Capua*, but this Princess died after she had rul'd eleven Years with her Son, and within less than four Months after, some of his wicked Subjects, in the Year 993, having enter'd into a Conspiracy, impiously murder'd him just as he had come out of the Church of *St. Marcellus*, and *Laidolphus* his Brother was elected Prince in his Place; but the Death of that unfortunate Prince did not pass unreveng'd, for *Trafmondus* Count of *Chieti*, his Kinsman, having invited *Rinaldus* and *Oderisus* Count of *Marfi*, to his Assistance, two Months after march'd to *Capua*, and kept it besieg'd for fifteen Days, laying waste all the Country about; and shortly after *Otbo III.* being apprised of the villainous Assassination of *Landenulphus*, sent the Marquis *Ugo*, with Orders not to raise the Siege till the Murderers were deliver'd into their Hands, six of whom were hang'd, and the rest put to Death by different Torments. And afterwards, it having come to the Knowledge of *Otbo*, that *Laidolphus*, who had succeeded in the Principality, had had a Hand in the Death of his Brother, he thought it was a very wicked Thing to allow such an impious Man to reign in that Place, therefore in the Year 999. he depriv'd him of the Principality, and banish'd him to the other Side of the Mountains, appointing at the same time, *Ademarius* a *Capuan*, Prince, who was the Son of *Balsamo*, his own Creature, whom he had brought up from a Child, and to whom a little before he had given the Title of Marquis: So that according to the Prophecy of *St. Nilo*, he was the last that reign'd in *Capua ex Semine Aloara*. But *Ademarius* enjoy'd this Promotion but a short time, for on account of his unworthy Behaviour he was quickly turn'd out by the *Capuans*, and *Landulphus* of *St. Agatha*, preferr'd to the Principality, who was the Son of *Landulphus* Prince of *Benevento*, and Brother to *Pandulphus II.* who reign'd in *Benevento* after he had driven out *Landulphus IV.* At this very Time there were other Misfortunes which invited the *Saracens* into this Principality; for these cruel Enemies having over-run and destroy'd *Campania*, in the Year 1000, assaulted *Capua* and took it. Of which *Otbo* being apprised, he immediately went into *Italy*, defeated the *Saracens*, and drove them out of *Capua* and its Confines.

THERE happen'd no less Disorders in the Principality of *Salerno*, for after *Iron-head's* Death, his Son *Pandulphus*, as we have said, was left Prince, having been adopted by Prince *Gisulphus I.* but he held it only a few Months after his

<sup>1</sup> Sigon. A. 951.

<sup>2</sup> Ofsiens. lib. 2. c. 15. V. Cam. Pel. in serie Com. cap. pag. 207.

Father's



Father's Death, for being depriv'd of his Assistance, the same Year 981. that his Father died, he soon lost the Principality, into which *Manso* Duke of *Amalphis* intruded himself, who together with *John I.* his Son, held it two Years <sup>1</sup>. *Otbo II.* immediately the same Year 981, in the Month of *December*, not being able to bear the Intrusion of *Manso*, besieg'd *Salerno*, in order to drive him out of it, as not being its lawful Prince; but *Manso* having found Means afterwards to pacify the Emperor, he prevail'd so much with him, that he allow'd him to keep the Principality.

NEITHER did *Otbo* design to restore *Pandulphus*, perhaps because he was likewise reputed an unlawful Prince, having succeeded to that Principality by the Adoption of *Gisulphus*; for the Feudal Law <sup>2</sup>, which by Degrees had been introduc'd into these Places, prohibited adopted Sons to succeed to the Fiefs of the adoptive Fathers. However that may be, *Manso*, according to the *Salernitan* Chronicle, as we have said, associated *John I.* his Son in the Principality. But afterwards, in the Year 983, *Otbo II.* dying, the *Salernitans*, not pleas'd with the Government of *Manso* Duke of *Amalphis*, on account of the continual Enmity and Jarrings which were betwixt the *Amalphitans* and the *Salernitans*, quickly drove him out, who had likewise been already turn'd out of the Dukedom of *Amalphis*, (altho' he afterwards recover'd it, and reign'd for other sixteen Years) and in his Room elected *Giovanni di Lamberto*, who was nam'd II. to distinguish him from *Giovanni I.* the Son of *Manso*, call'd *di Lamberto* from his Father's Name, perhaps a-kin to the Dukes of *Spoleto*, who often made use of the Names of *Lamberto* and *Guido*; as this *Giovanni* call'd his Son *Guido*, whom he made his Colleague in the Principality. *Giovanni II.* with *Guido*, reign'd from the Year 983 to 988 <sup>3</sup>; but *Guido* dying that Year, he associated his other Son, nam'd *Guaimarus*, with whom he reign'd to the Year 994. The same Year, one Night as *Vesuvius* began to vomit out Fire, *Giovanni* was found dead lying by a Whore <sup>4</sup>: So that the Vulgar were the more confirm'd in their Belief, that when *Vesuvius* vomited Fire, the Soul of some rich wicked Person was carried to Hell. *Guaimarus III.* so call'd, because there had been two Princes in *Salerno* of that Name before, and *Ostiensis* <sup>5</sup> likewise calls him the Elder, to distinguish him from *Guaimarus* his Son, who succeeded him in the Principality; after the Death of his Father govern'd *Salerno* to the Year 1018. Afterwards, having associated his said Son *Guaimarus IV.* he held it to the Year 1031. in which he died. His Wife was *Guaidelgrima* Daughter of *Pandulphus II.* Prince of *Benevento*, and Sister of *Pandulphus IV.* Prince of *Capua*, whom *Ostiensis* therefore calls his Brother-in-Law <sup>6</sup>.

*BENEVENTO* was never after seen in so majestick and flourishing a Condition as formerly, for by reason of the Disorders and Tumults which had lately happen'd on account of the turning out of *Landulphus IV.* the Principality was govern'd by *Pandulphus II.* who was always jealous of, and quarrelling with the Princes of *Capua*. However, in order to maintain the Principality in his Posterity, in the Year 987. he had associated his Son *Landulphus*, who was nam'd V. who afterwards begot a Son likewise nam'd *Pandulphus*, whom the Grandfather in the Year 1014. associated with himself in the Throne, and reign'd together with his Son and Grandson to the Year 1014, when he died <sup>7</sup>. *Landulphus V.* continu'd in the Principality together with his Son *Pandulphus III.* to the Year 1033. in which he died; this *Pandulphus III.* likewise in the Year 1038. associated a Son of his nam'd also *Landulphus*, and therefore was call'd VI. To the Calamities of *Benevento* was added, that *Otbo III.* hated the *Beneventans*, because it was said, That they, together with the *Romans*, deserted *Otbo* his Father in the Battle against the *Greeks*: So that having return'd from *Monte Gargano* in a great Rage to *Benevento*, because of the Hatred he bore the *Beneventans*, he took from them the Body of *St. Paulinus*, and carried it to *Rome* <sup>8</sup>.

IN the mean time, *Otbo*, to quiet the many Disorders which had continu'd in *Rome* on account of the Rebellion of *Crescentius*, not thinking it sufficient to have caus'd this Tyrant to be put to Death, went to *Rome* in the Year 1001, lest the *Romans* should endeavour to stir up new Commotions; but not being able to suppress a new Conspiracy that was hatch'd against him, for want of sufficient Forces, he

<sup>1</sup> Chron. Salern. apud Pellegr. in Stem. Princ. Salern.

<sup>2</sup> Lib. 2. tit. 26.

<sup>3</sup> Pell. in Stem. Princ. Salern.

<sup>4</sup> Pet. Damian. lib. 1. epist. 9.

<sup>5</sup> Ostiens. lib. 1. c. 37.

<sup>6</sup> Idem lib. 2. cap. 57.

<sup>7</sup> Pellegr. in Stem.

<sup>8</sup> Sigon. ad A. 1001.



thought it more convenient to leave *Rome*, and march towards *Lombardy*. 'Tis said, that at his departing, the Wife of *Crescentius*, whom the Emperor, in Expectation of the Kingdom, had intic'd to grant him the last Favours, now seeing herself disappointed, all in Tears, gave him a Pair of poison'd Gloves <sup>1</sup>, with which *Otbo*, being insensibly infected, died. *Leo Ostiensis* <sup>2</sup> and *Antoninus* Archbishop of *Florence* <sup>3</sup> relate, that he died of Poison prepar'd in a Potion, and not in Gloves; which is more probable, it being repugnant to the Rules of Physick, according to the Observations of *Redi*, that Poison given in such a manner, could have so much Force and Power as to coagulate or thin the Blood so as to kill a Man. Indeed, *Otbo* was scarcely got to *Paterno*, not far distant from the City of *Castellina*, when he was taken ill, and there, before he expir'd, declar'd that he died of Poison: Some will have it that he died in *Sutri* this same Year 1001, such as the Anonymous *Cassinenfis*; others, to wit *Sigonius*, follow'd by *Baronius*, in the Year after, 1002. We have many Laws of this Emperor still extant, likewise collected by *Goldastus* <sup>4</sup>; but not having left Male-Issue, and the Race of the *Otbo's* being extinct in him, the *Germans* were put in a terrible Confusion on account of the new Election, which of necessity behov'd to fall upon a Prince of another Family. This therefore gave a fresh Occasion to our *Italians* to aim at the Empire and the Kingdom of *Italy*, which they pretended to, by setting up *Ardoino* the Son of *Dodo* Marquis of *Eporedia*, which renew'd their wonted Confusion.

<sup>1</sup> Sigon. & Baron. ad A. 1002.

<sup>2</sup> Ostiens. lib. 2. cap. 24.

<sup>3</sup> Antonin. 2. par. tit. 16. cap. 3. §. 4.

<sup>4</sup> Gold. tom. 3. pag. 311.



## CHAP. V.

### *The Institution of the Electors of the Empire, and the Election of Henry Duke of Bavaria.*



IS commonly believ'd that at this Time, the Institution of the Electors of the Empire had its Rise; for 'tis said, that *Otbo* III. despairing of Male-Issue, and foreseeing the terrible Disorders that were like to ensue in *Germany* on account of the Election of his Successor, resolv'd in his Life-time, with the Advice and Authority of *Gregory* V. to establish a Method of Election; and that in order to prevent Confusion, he restricted what was the Right of all the Princes of *Germany*, to only seven Electors; and from thence those we now call the Electors of the Empire had their Rise.

BUT as the Author from whom this College had its Institution is uncertain, so likewise the Time when such a Custom was introduc'd is more uncertain, Writers differing in their Opinions about it. Some ' carry it too far back, and will have *Charles the Great* to be the Author of it; but all Writers reject this Opinion as repugnant to History; for 'tis manifest that this College was instituted a long time after; and from what has been related in the preceding Books of this History, 'tis very clear, that the Successors of *Charles the Great* were elected Emperors, not by certain Princes of *Germany*, but by all the Princes of *France*, yea rather by the preceding Emperor in his Life-time, or by his last Will; and the Empire, as if it had been Hereditary, continu'd in the Race of *Charles the Great*, till *Lewis* III. the

<sup>1</sup> Jordanes in Chronico ex Inn. III. in cap. venerabilem, de Elect. & Electi potestate.

last of *Charles's* Lineage, not leaving Male-Issue, was overcome by *Berengarius* of *Verona*, and lost both his Life and the Empire. Whereupon, as we have seen in the foregoing Books, the Empire began to decline; for the *Italians* and *Romans* acknowledg'd none others for Kings of *Italy* and Emperors, but those only, who by Strength of Arms overcame their Enemies; thus *Berengarius*, *Lewis Boson*, *Hugh of Arles*, *Lothaire* his Son, *Rodolphus* of *Burgundy*, and others, by possessing themselves of *Italy*, set up to be Emperors. On the other hand, the Princes of *France* and *Germany* acknowledg'd *Conrade* King of *Germany*, who was of the Race of *Charles*, for Emperor, who being at the Point of Death, as *Naclerus* relates<sup>1</sup>, persuaded these Princes to elect *Henry* Duke of *Saxony* for his Successor. But neither *Conrade* nor *Henry* had ever the Title of Emperor, until after these Events that *Otho the Great* was elected (according to *Naclerus*) *ab omni populo Francorum, & Saxonum*, who having conquer'd *Italy*, acquir'd likewise, with the Consent of the People of *Rome*, the Title and Dignity of Emperor, and was anointed and crown'd by the Pope in *Rome*. And those who succeeded *Otho*, such as II. and III. *Otho's*, as if it had belong'd to them by Hereditary Right, were also elected Emperors by all the Princes of *Germany*, as we have seen: So that to carry back this Custom to the Time of *Charles the Great* is a manifest Error.

THIS false Opinion gave Rise to another, that the Origin of this College ought to be dated from the Time of *Otho* III. who despairing of Male-Issue, and foreseeing the Confusions that were like to happen about the Election of his Successor, with the Advice and Authority of *Gregory* V. confin'd this Faculty which belong'd to all the Princes of *Germany*, to seven only.

BUT *Onufrius Panvinus*<sup>2</sup> likewise rejects this Opinion, and will have it that this College of seven Electors was not instituted till after the Death of *Frederick*, by Pope *Gregory* X.; for he says, that a long time after the Death of *Otho* III. all the Princes of *Germany*, as formerly, both Bishops, and Laicks, elected the Emperors; and that *Henry* II. *Conrade* I. and II. *Henry* IV. and V. *Lothaire* II. *Frederick* I. and *Philip* I. were thus elected. But this Opinion is as false as the other, seeing that long before *Gregory* X. these seven Electors are mention'd by ancient Writers: *Martinus Polonus*, who wrote under *Innocent* IV. *Leo Ostiensis*, who flourish'd under *Urban* II. and the Council of *Lyons* which was held under the same *Innocent* IV. mention them. Whereupon *Baronius*, in order to avoid falling into the Error of *Onufrius*, stumbles upon another, and says, that the College of Electors was first instituted by *Innocent* IV. in the Council of *Lyons*, and not by *Gregory* X. but that Opinion is likewise found to be erroneous by what is said of *Gregory* X.; for the Writers who flourish'd before the Council of *Lyons*, or about that Time, speak of this College as a Thing very ancient. The Author of the Book *De Regimine Principum* (unjustly attributed to *St. Thomas*, so that our *Cujacius*<sup>3</sup> wrongfully loads this Saint with Reproaches, believing him to be the Author of it, and says, that he rav'd through the whole Book) flourish'd before the Council of *Lyons*. *Ostiensis*, who wrote his Chronicle before this Council, and *Augustinus Triumphus*, who soon after wrote concerning the Institution of the seven Electors, carry it back to the Time of *Gregory* V. and mention it as a Thing of great Antiquity; whence 'tis very unlikely that it had its Rise in the Time of the Council of *Lyons*. Besides, the seven Electors mention'd in that Council, differ both from the present and the ancient. *Martinus Polonus* says, that to his Time they consisted of the three Chancellors, to wit, the Archbishop of *Mentz*, Chancellor of *Germany*, the Archbishop of *Triers*, Chancellor of *France*, and the Archbishop of *Cologne*, Chancellor of *Italy*; and four other Princes likewise Officers of the Empire, to wit, the Marquis of *Brandenburg* Great Chamberlain, the Elector Palatine Butler, the Duke of *Saxony* Sword-bearer, and the King of *Bohemia* Cup-bearer. For those mention'd in the Council of *Lyons* were different Persons, to wit, the Dukes of *Austria*, *Bavaria*, *Saxony*, and *Brabant*; the Bishops were those of *Cologne*, *Mentz*, and *Saltzburg*.

IN so great a variety of Opinions it seems more probable, that the Institution of the College of Electors was in the Time of *Otho* III. but that the Custom and Practice of having only seven Electors present at Elections, was later<sup>4</sup>; for grave

<sup>1</sup> Nacl. generat. 31. A. 937.

<sup>2</sup> Honufr. in lib. de Comitibus Imperii.

<sup>3</sup> Cujac. de Feud.

<sup>4</sup> V. Du Pin, de Antiq. Eccl. disc. diff. 7.

Authors relate, that *Otho* having no hopes of Male-Issue, and to avoid Confusion in the Election of his Successor, consulted *Gregory V.* about the Method that was proper to be observed in the Election of the Emperors, to which likewise the Consent of the Princes of *Germany* was requisite, to whom such Election belong'd; and 'tis probable, that for Peace sake, and to shun Confusion and Factions, some yielded their Privilege, by restricting the Number of the Electors to seven: Altho' it be not recorded in History that such a Practice took Place so soon; for many Princes not being willing to part with this their Prerogative, would likewise be present at the Elections. So we read, that *Henry* the Successor of *Otho*, was not elected by the seven Electors, but, according to *Naucnerus*, by the Princes of *Germany*; and we have also other the like Instances of many Princes and Prelates of *Germany* being present, so that among the Letters of *Gregory VII.* we have one of that Pope directed to all the Bishops, Dukes, and Counts of *Germany*, for electing a new King in case *Henry* should not recover his Health. Thus those who say that the College of seven Electors was instituted under *Otho III.* and those who will have it to be begun no sooner than *Gregory X.* or *Innocent IV.* will be easily reconcil'd; for these mean the Use and Practice, and those the Institution only.

BY which we see, that the Reasonings of *Bellarmino* and his Followers are as vain, and to as little purpose on this Subject, as on that other, concerning the Translation of the Empire to the *French*, in the Person of *Charles the Great*, or to the *Germans* in that of *Otho*, in attributing this Institution to the Authority of the Pope; for neither the Pope nor the Emperor himself could restrict this Faculty to seven only, and deprive the rest of the Princes of *Germany*, who were to be Losers by it, of their Privileges, without their Consent; and as they could not do it, so in Fact it was not done; and Writers testify, that this Prerogative was confin'd to seven by the Consent of the other Princes. The ancient Chronicle, of which some will have *Albertus Stadenfis* to be the Author, in the Year 1240. bears, that with the Consent of the Princes, the Bishops of *Triers* and *Mentz* elect the Emperor; and *Augustinus Triumphus*<sup>1</sup> relates, that in the Time of *Otho*, *Gregory V.* having summon'd, and ask'd the Consent of the Princes of *Germany*, instituted the seven Electors. *Leopold*<sup>2</sup> likewise reports, that in the Time of *Otho III.* who had no Sons, it was ordain'd, that the Election of the Emperor should be made by certain Princes of *Germany*, Officers of the Empire, or of the Imperial Court: But none gives us a more exact Account of this Institution than *Naucnerus*<sup>3</sup>, who says, that *Otho III.* having no Male-Issue, with the Advice of the Princes of *Germany*, establish'd, that upon the Death of the Emperor, the Election should be made in *Frankfort*, appointing for Electors the three Archbishops, and the four Officers of the Empire abovemention'd; whence it was afterwards introduc'd, that the Election of the Emperor, who was not so call'd; but only *Cæsar*, or King of the *Romans*, until he had been crown'd by the Pope in *Rome*, should solely belong to these Electors. Thus the Emperor *Otho*, out of many Princes, pitch'd upon seven Officers of the Empire for Electors, perhaps by the Advice of the Pope, but chiefly with the Consent of the Princes who gave up their Right; and Pope *Gregory V.* approv'd of the Establishment made with the Consent of the Princes: So that such an Institution ought to be attributed to the Emperor, or rather to the Princes of *Germany* themselves, than to the Pope, as Cardinal *Cusanus*<sup>4</sup> observed. And tho' the Practice was not so early as the Establishment, nevertheless afterwards in process of Time, the Princes of *Germany*, preferring the Good of the Publick to their private Interests, dispens'd with their Privileges, and confin'd the Number of Electors to seven only, who obtain'd such Authority, not from the Pope nor the Emperor, but from the common Consent of all those, to whom such Election formerly belong'd; and the Imperial Authority depends altogether on their Election, and on none other; and if it was the Custom to take the Golden Crown in *Rome* from the Pope, that was only reputed a Solemnity and Ceremony, and was nothing but what was common with him to other Bishops, who anointed and crown'd their own Princes, as was done in the Kingdoms of *Italy*, *France*, *Spain*, and others: So that the Emperor *Maximilian*, as *Guicciardin* relates<sup>5</sup>, in a Speech which he made to the Electors

<sup>1</sup> August. Triumphus, lib. de potestate Eccl. qu. 35.

<sup>2</sup> Leopoldus de Jure Imperii, c. 3.

<sup>3</sup> Naucner. generat. 24. A. 994.

<sup>4</sup> Card. Cusan. de Concord. Cast. 1. 3. c. 4.

<sup>5</sup> Guicc. hist. lib. 7.

before

before he went to *Italy*, protested, and plainly declar'd to them, that he had resolv'd to go to *Italy* to receive the Imperial Crown with Solemnity (which he knew to be rather Ceremonial than Substantial) because, said he, the Imperial Dignity and Authority depend intirely on your Election.

THE Institution then of this Electoral College, though it had its Rise from the Time of *Otho* III. yet it was not observ'd in the Election of *Henry* Duke of *Bavaria*, who succeeded him; for this Prince, according to the wonted Manner, was made King of *Germany* by the Princes and Prelates thereof. In the mean time, our *Italians* perceiving that *Otho* had left no Sons, conspir'd anew to get the Empire and Kingdom of *Italy* into their own Hands. In effect, *Ardoinus* was proclaim'd King of *Italy* in *Pavia*, and tho' it was disputed with him by *Henry*, yet he possess'd it very near two Years. The Archbishop of *Milan* looking upon this Election of *Ardoinus*, without his Authority, as an Affront, mov'd *Henry* to drive him from the Throne. Not only the Pope, but the Archbishops of *Milan* likewise, pretended that the Election of the Kings of *Italy* belong'd to them; for they look'd on the Ceremony of their crowning and anointing Kings, which at first was practis'd to render the Action more Solemn, to be a Matter of Right necessarily belonging to them, and claim'd it, as if the Election had absolutely depended on them. A Warning (as there are an infinite Number of such to be observ'd in the Course of this History) both to People and Princes to be upon their Guard against Priests meddling in their Affairs, or any thing that belongs to them; for what at first they get by way of Courtesy, or out of Respect to their Dignity, they afterwards claim as their Due; and then, with the utmost Ingratitude, deny that they owe it to them; but attribute it to their own Authority and Character. Thus *Arnulphus* Archbishop of *Milan* (if we may credit *Sigonius*) held a Council of his Bishops, and depos'd *Ardoinus*, and confer'd the Kingdom of *Italy* upon *Henry*: So that the Popes were grievously offended at this Fact, with regard to Depositions, which they boast to be solely in their Power, with respect to Kingdoms and Empires, though at this Time even the Archbishops of *Milan* pretended to depose the Kings of *Italy*. In the mean time *Henry*, upon *Arnulphus's* Invitation, sent Duke *Otho* into *Italy* to drive out *Ardoinus*, and the War was carried on with doubtful Success; but *Arnulphus* perceiving, that *Ardoinus*, who had laid Waste all the *Milanesse*, could not so easily be driven out of *Italy*, wrought so by his Legates, that *Henry* came to *Italy* himself with a powerful Army, took *Verona*, where *Ardoinus* had fortified himself, and confin'd him to *Pavia*, to which he laid close Siege, made himself Master of it, and after having pillag'd it, he set Fire to it and reduc'd it to Ashes; afterwards he went to *Milan*, and was immediately crown'd King of *Italy* by the Archbishop; whereupon, many of our *Italians* deserted *Ardoinus*, and sided with the Archbishop and *Henry*.

NOW, that *Henry* had vanquish'd and ruin'd his Rival, he went this Year 1013 to *Roncaglia*, where, following the Example of his Predecessors, he held a Dyet, in which he made many Laws, as King of *Italy*, for he had not as yet assum'd the Title of Emperor. There were present in the Dyet, according to Custom, many Princes, Marquisses, Counts, Judges, and likewise many of the Ecclesiastical State, both Archbishops and Bishops. It was at this time, that this Prince enacted those Laws which we have in the first and second Books of the *Longobard* Laws<sup>1</sup>, and by the antient Compiler of these Books, they were added to the others, made by *Henry* as King of *Italy*. *Sigonius* mentions other of his Laws<sup>2</sup>, and many more were collected by *Godalfus*<sup>3</sup>.

*HENRY* went shortly after to *Ravenna*, from whence he sent Ambassadors to *Rome* to Pope *Benedict* VIII. by whom he signified to him, that he was ready to come to *Rome*, in order to take the Imperial Ensigns and Crown: He immediately set out for that City, where being kindly received by the Pope and the *Romans*, according to Custom, with the usual Ceremonies and Solemnity, he was crown'd with the Imperial Crown by the Pope, and proclaim'd *Augustus* by the People; from whence, after having confirm'd the Privileges granted by his Predecessors to

<sup>1</sup> V. Pellegr. in Append. pag. 300. & igne cremavit eam.

<sup>2</sup> Lib. 1. l. 36 37. de homicid. liber. hom. l. 4. de Parricid. lib. 2. l. 16. de prohib. nupt. V.

Struv. hist. ur. Germ. §. 15.

<sup>3</sup> Sigon. ad A. 1013.

<sup>4</sup> Goldast. tom. 3. p. 311, 312.

<sup>5</sup> Ostiens. lib. 2. cap. 31. A. 1014.

the Church of *Rome*, he quickly return'd to *Germany*, whither he had been recall'd. Thus the Empire and Kingdom of *Italy* went from the Race of the *Otbo's* to the House of *Bavaria*, in the Person of *Henry II.*; and *Ardoinus*, who held the Kingdom of *Italy* almost Two Years, having given over all Hopes of being restor'd, became Monk in a Monastery near *Turin*.

BUT while *Henry* reign'd in the West, and *Basilius* in the East, there happen'd Events in these our Provinces, so prodigious and great, as at last terminated in the Dominion of a new People, who, from most slender Beginnings, by the means of their gallant Actions, were able to unite these our Provinces, formerly divided into so many Parts, and subject to so many Princes, under one Head, and who at last digested them into the Form of a well-founded and fix'd Kingdom. These were the courageous and valiant *Normans*, whose Origine and famous Exploits shall be the ample and shining Subject of the following Books of this History.



## CHAP. VI.

*The Ecclesiastical Polity of these our Provinces, during all the Tenth Century, to the coming of the Normans.*



THE Ecclesiastical Polity, which was introduc'd among us in these Times, began to have some Resemblance to the present, with regard to the Promotion of Bishops, to be Metropolitans. The Popes giving the *Pallium*, claim'd by this new Pretence, a Power over the Bishops to oblige them to go to *Rome* to receive it, when he advanc'd them to Metropolitans. From whence comes the Origine of the Claim, that the Causes of their Diocesses, either in Case of Appeal, or Negligence in deciding them, ought to be brought to *Rome*: And in fine, they pretended to inspect into all their Affairs; for which Cause they made many new Metropolitans and Bishops. They were supported in this by the *Otbo's*, Emperors of the West, and especially *Otbo I.* who, to oppose the Ambition of the Patriarchs of *Constantinople*, defended them, and also extended their Authority over some of those States that belong'd to the *Greek Empire*. *Otbo I.* had good Reason to support them; for there was never any Emperor so much favour'd by the Popes as he was. Although the Synod held in *Rome* by *Adrian* be disputed, wherein 'tis said, the Power of electing the Pope was given to *Charles the Great*; yet without all Controversy, *Leo VIII.* in a general Council held in the *Lateran*, granted to *Otbo the Great*, and to all the *German* Emperors his Successors for ever, not only the Kingdom of *Italy* and the *Roman* Patriciate, and by an indissoluble Knot, united the Empire of the West to the Kingdom of *Germany*, whence *Otbo* and his Successors were afterwards Sovereigns of *Rome*; but likewise Power of disposing of the Holy See, and of electing the Pope at his own Will and Pleasure. Besides, he confirm'd to him the Right of *Investiture*, which *Adrian* had granted to *Charles the Great*, by giving him Power, with the Ring and Staff, to invest the Archbishops and Bishops in their Churches. We have a full Account of this Council held in *Rome* from *Luitprandus* <sup>1</sup>,

<sup>1</sup> Luitprand. lib. 6. cap. 21.

*Ivo Carnutenfis* <sup>1</sup>, from whom *Gratian* took it <sup>2</sup>; and likewise inserted it in his Decree; and *Theodorick* of *Nismes*, from an antient *Florentine Code*, likewise inserted it in his Treatise of the Rights and Privileges of the Empire <sup>3</sup>.

THUS by their mutually favouring one another, the antient Discipline came to be much more corrupted, and the antient Disposition of the Churches to be chang'd. The Popes therefore ordain'd many Bishops, and erected many Metropolis's; but the Advancement of these was according to the Disposition of the Cities of the Empire, by always adapting the Ecclesiastical Polity to the Temporal; which exactly was the Case of these our Provinces.

#### The Principality of *CAPUA*.

*BENEVENTO* and *Salerno* had formerly been the most conspicuous Cities in these our Provinces, subject to the *Longobards*; but at this Time *Capua* outshin'd all the rest. Therefore (laying aside what the Patriarchs of *Constantinople* did in the Cities subject to the *Greek Empire*) the first City of our Kingdom that was advanc'd to be a Metropolis by the Popes, was *Capua*. The Emperor *Lewis*, in the Year 873, had a mind to make *Capua* a Metropolis; but as *Erchempertus* relates <sup>4</sup>, being diverted by other Affairs, his Design did not take Effect. But *John XIII.* being cruelly persecuted by the principal *Roman* Lords, who drove him out of *Rome*, coming to *Capua*, was kindly receiv'd by Prince *Pandulphus*; the Pope out of Gratitude for this Favour, in the Year 968, rais'd *Capua* to a Metropolis, and consecrated *John*, the Brother of this Prince, Archbishop <sup>5</sup>. He had for Suffragans the Bishops of *Atina*, which Bishoprick was suppress'd in the Time of Pope *Eugene III.* that of *Isernia*, which formerly had been united to the Churches of *Venafro* and *Bojano*, that of *Sessa*, which afterwards was disjoyn'd from this Metropolis, and put under the immediate Subjection of the Pope; and in process of Time, Bishops still multiplying in this Principality, he also had for Suffragans, the Bishops of *Cajazza*, *Carniola*, *Calvi*, *Caserta*, *Teano* and *Venafro*. The Bishops of *Aquino*, *Fondi*, *Gaeta* and *Sora*, were likewise his Suffragans, but these being afterwards withdrawn from the Church of *Capua*, were subjected to the Apostolick See immediately.

#### The Principality of *BENEVENTO*.

THE Principality of *Benevento* did no less deserve this Honour than that of *Capua*; its being of greater Extent than all the other Principalities and Dukedoms requir'd it more. Therefore the Archbishop of *Benevento* had likewise more suffragan Bishops than all the Metropolitans of our Kingdom. *Benevento* was also in the Year after 969, by the same Pope *John XIII.* advanc'd to be a Metropolis; and as it was the Head of so large a Principality, so the Polity of the Church keeping pace with that of the Empire, the Bishop of *Benevento* became the Head of all the Churches of the Principality. Out of respect to the Emperor *Otho*, and Prince *Pandulphus*, *Landulphus* was appointed Archbishop of *Benevento*, to whom Pope *John* gave the *Pallium*, and Title of Metropolitan <sup>6</sup>. What is particularly observ'd in this Church is, that the Bishop of *Benevento*, before he was advanc'd to the Rank of Metropolitan, had *Siponto*, and many other Cathedral Churches subject to him. He was the most favour'd, both by the Popes and the Emperors, and had many Prerogatives and Privileges from his own Princes. He was once honour'd with those two signal Prerogatives, which now are reserv'd to the Pope alone, to wit, to wear a round Mitre, in the fashion of the antient Pontifical \* *Triple Crown*. \* *Tiara*, with one single Crown, embellish'd with Gold; and while he was visiting his Province, to carry along with him the venerable Sacrament of the Altar; and he as yet retains, after the Manner of the Popes, the Custom of signing his Bulls with a leaden Seal. The Archbishop of *Benevento* had once the

<sup>1</sup> Ivo in Pannom. lib. 8. c. 136.

<sup>2</sup> Grat. c. 23. dist. 63.

<sup>3</sup> V. Struv. hist. jur. publ. §. 2.

<sup>4</sup> Erchemp. num. 36.

<sup>5</sup> Leo Ostiens. lib. 2. cap. 9. Sigon. lib. 7. A. 966. Baron. Annal. ad A. 968. Pellegr. in

Serie Ab. Cass. in Aligern. pag. 37.

<sup>6</sup> Anon. Salern. part 2. num. 5. and there Pellegr. Chron. Monast. S. Bart. de Carpineto, lib. 1. V. Baron. ad A. 968. Marius Viper. in Chron. Episc. & Archiep. Ben. lib. 2.

Temporal Lordship of the City of *Varano*, with many other Towns and Castles, and exercis'd Jurisdiction in many Places; and as yet his Vicars are Judges Ordinary, in Matters of Appeal in Civil Causes, betwixt Laicks; and they retain to this Day, both the pure and mix'd Jurisdiction over the Villages of *St. Angelo* and *Metta*, as *Ughellus* relates<sup>1</sup>.

THE Extent of his Principality, likewise of course made the Number of suffragan Bishops to be greater than that of all the other Metropolitans in these Provinces. They once came to the Number of Thirty-two, till some of them were rais'd to be Metropolitans, such as that of *Siponto*; or were immediately subjected to the Apostolick See; and others, their Cities being destroy'd, were suppress'd. Hitherto he had for Suffragans, the Bishops of *St. Agatha de Goti*, *Avellino*, *Arriano*, *Ascoli*, *Bovino*, *Volturara*, *Larino*, *Telesse*, *Alife* and *Siponto*. The Popes afterwards having made more Bishops in the Kingdom, and rais'd many Churches to be Cathedrals, the Number of Suffragans increas'd: So that now, by a new Distribution, the Kingdom being divided into many Provinces, we see that this Metropolitan has suffragan Bishops, not only in the *Principato ultra*, but also in other Provinces. In the County of *Molise*, he has the Bishops of *Bojano*, and *Gardia Alfiera*. In the *Principato citra* he has Five, the Bishops of *Avellino*, *Arriano*, *Trivico*, *Volturara* and *Monte Marano*: In *Terra di Lavoro* he has Three, to wit, that of *St. Agatha de Goti*, *Alife* and *Telesse*: In the *Capitanata* Six, to wit, *Ascoli*, *Bovino*, *Larino*, *St. Severo*, *Termoli* and *Lucera*. The Bishopricks of *Draconaria*, *Cividade*, *Firenzuela*, *Frigento*, *Lefina*, *Montecorvino* and *Turtiboli*, which were Suffragans to the Archbishop of *Benevento*, by reason of the Desolation of their Cities are now extinct, and the Revenues united to other Cathedral Churches; and those of *Lefina* to the Magnificent Hospital of the *Annuntiation* in *Naples*.

HE had likewise in this Province, when *Siponto* and *Monte Gargano* were comprehended in the Principality of *Benevento*, the *Sipontine* and *Garganican* Churches, that had been assign'd to the Bishop of *Benevento*, from the Time of *St. Barbatius* by Duke *Romualdus*, with the Consent of Pope *Vitalianus*, who, in the Year 668, confirm'd the *Sipontine* Church to *Barbatius* and his Successors; and the *Beneventan* Bishops were likewise call'd Bishops of *Siponto* for near Four hundred Years; so that *Landulphus*, who was the first Archbishop of *Benevento*, had also the Title of Bishop of *Siponto*; but when this Province was afterwards taken from the *Greeks* by the *Longobards*, and fell under the Dominion of the *Normans*, they were disjoyn'd from *Benevento* and *Siponto*, and the antient Bishop's See was advanc'd to a Metropolis. The *Sipontine* Church from the earliest Times, had its own Bishops; and in the Acts of the Roman Council held in the Year 465, under Pope *Hilarius*, we read the Subscription of *Felix* Bishop of *Siponto*. We find another *Felix*, likewise Bishop of this City, in the Time of *Gregory the Great*, to whom we see many Letters of this Pope directed; and in the Decree of *Gratian*<sup>2</sup>, there's mention made of *Vitalianus* Bishop of *Siponto*, to whom *St. Gregory* likewise directs his Letters. Afterwards, on account of the cruel Wars betwixt the *Beneventan Longobards*, and the *Neapolitan Greeks*, being reduc'd to a lamentable Condition, it was, as we have said, united to that of *Benevento*; from which it was not disjoyn'd till the Time of *Benedict IX.* who, in the Year 1034, separated it from *Benevento*, and honour'd it with the Archiepiscopal Dignity, and from that Time we frequently find the Names of the *Sipontine* Archbishops in the Decretals<sup>3</sup>. *Paschal II.* gave it afterwards the Bishop of *Vesti* for Suffragan, which it keeps to this Day.

THESE Archbishops retain the Title of *Sipontine*, though *Siponto* be now destroy'd, and another City built upon its Ruins by *Manfred*, from his own Name, call'd *Manfredonia*. The Popes, both out of regard to Antiquity, and the Hatred they bear to the Name of *Manfred*, have made it retain its antient Name. The Prebends and *Garganican* Citizens likewise pretended, that the *Sipontine* Archbishops, either on account of the Pleasantness of the Place, or because of Wars, having frequently resided in *Gargano*, ought to be call'd not only *Sipontine*, but also *Garganican*, and that their Church, as well as that of *Siponto*, ought to enjoy the same Honours and Prerogatives; they also quote for it, a Bull of Pope *Eugene III.* and they commenc'd a Suit upon it in *Rome*, which lasted many Ages. But *Alexander III.*

<sup>1</sup> V. Ughel. Ital. Sacr. de Archiep. Ben.

<sup>2</sup> Decr. can. si justos 27. qu. 2.

<sup>3</sup> Decretal. c. te referente, de Celebrat. Mis. c. 2. de Adulter.



gave it againſt them; for having examin'd *Eugenius's* Bull, it was found to be raz'd and vitiated in that Part, on which they laid their Streſs. The Succeſſors of *Alexander*, to wit, *Lucius*, *Celeſtine*, *Innocent III.* and all the other Popes, have confirm'd his Sentence: So that the *Sipontine* Church alone retains the Honour of Metropolis, to which the *Garganican* are ſubject.

THERE are ſome who believe, that when *Benedict IX.* advanc'd *Siponto* to a Metropolis, he likewiſe gave it four Suffragans, to wit, the Biſhops of *Troja*, *Melpbis*, *Monopolis*, and *Rapolla*; but, as *Ughellus* well proves, theſe either never, or but for a ſhort time acknowledg'd the Archbiſhop of *Siponto* for their Metropolitan; for in the *Lateran* Council which was celebrated in the Year 1179, under *Alexander III.* the Biſhops of *Melpbis* and *Monopolis* ſubſcrib'd with the other Biſhops that were immediately ſubject to the Apoſtolick See; and thoſe of *Troja* and *Rapolla* were not preſent; and in the old *Roman Provincial*, written more than Five hundred Years ago, theſe two are ſaid to belong to the Province of *Rome*, and of late that of *Rapolla* became extinct, and was given to the Biſhop of *Melpbis*.

WE do not find at this Time that the Biſhop of *Benevento* had Suffragans in the two *Apruzzi*, which were formerly comprehended in the Principality of *Benevento*; for the Biſhopricks of this Province, as being near to *Rome*, were immediately under the Apoſtolick See. *Aquila* built by the Emperor *Frederick II.* upon the Ruins of *Amiterno*, of whoſe Biſhop there's frequent mention made in the Letters of *St. Gregory the Great*, was made an Episcopalian See by *Alexander IV.* who with the Conſent of *Bernard* Biſhop of *Forco*, about the Year 1257 tranſlated the See to *Aquila*, and having fix'd it in the Church of *SS. Maximus* and *George*, ordain'd that he ſhould be no more call'd Biſhop of *Forco*, but of *Aquila*, as appears by the Bull made for that purpoſe, recorded by *Bzovius* in the Eccleſiaſtick Annals, of which there is an authentick Copy on Parchment preſerv'd in the Archives of the Convent of *St. Dominicus* in *Naples*, which was extracted at the earneſt Deſire of the Vicar of *Paul* its Biſhop in the Year 1363. And this Church is Suffragan to no Metropolitan, but immediately under that of *Rome*. *Cbieti* likewiſe had its own Biſhop immediately ſubordinate to the Pope, and was not till of late made a Metropolis by *Clement VII.* in the Year 1527, to which the Biſhops of *Penna*, *Adria*, and *Lanciano* were made Suffragans; but theſe alſo withdrew afterwards, and ſubjected themſelves immediately to *Rome*; and *Lanciano* was thereafter rais'd to a Metropolis, but without getting any Suffragan, retain'd only the Pre-eminency and Title of Archbiſhop; and at preſent the Biſhop of *Ortona* remains the only Suffragan to the Metropolitan of *Cbieti*.

#### The Principality of *SALE RNO*.

THE Principality of *Salerno* likewiſe in this tenth Century deſerv'd to have its own Metropolitan, as well as thoſe of *Capua* and *Benevento*; therefore *John* Prince of *Salerno*, deſir'd Pope *Benedict VII.* to raiſe this City to a Metropolis, which he did in the Year 974, and appointed *Amatus* Archbiſhop of it<sup>1</sup>; this Prerogative was afterwards confirm'd to it by Pope *John XV.* So that the Index join'd to the Hiſtory of the Kingdom of *Italy* by *Sigonius*, which makes the Inſtitution of this Archbiſhoprick to have been by *Sergius IV.* in the Year 1009, contains a manifeſt Error. He had at firſt many Suffragan Biſhops, among which were thoſe of *Cofenza*, *Biſignano*, and *Acerenza*. But according to the Diſpoſition of the Sees ſubject to that of *Conſtantinople*, related in the ſixth Book of this Hiſtory, the Biſhops of *Cofenza* and *Biſignano* were by the Emperor *Leo* made Suffragans to the Metropolitan of *Reggio*; and the Biſhop of *Acerenza* to the Metropolitan of *St. Severina*; but they were afterwards reſtor'd to the See of *Rome*, and adjudg'd to the Metropolitan of *Salerno*. The Biſhop of *Conſa* was likewiſe his Suffragan, as alſo thoſe of *Peſto*, *Melpbis*, *Cava*, *Lavello*, and *Nola*; but that of *Peſto* was afterwards join'd to *Capaccio*; thoſe of *Melpbis*, *Lavello*, and *Biſignano* withdrew from him, and put themſelves immediately under the Apoſtolick See, and *Nola* was made Suffragan to the Archbiſhop of *Naples*. The Monastery of the Cave was erected at this Time, whoſe firſt Abbot was *Alferius*, and afterwards rais'd to the higheſt Dignities, was erected into a Cathedral by *Boniface IX.*<sup>2</sup>; and in the Year 1091. its Abbot *Peter* was honour'd with the Mitre by *Urban II.* But *Leo X.* gave this Monastery a particular

<sup>1</sup> V. Ughel. Ital. Sacr. de Archiep. Salern.

<sup>2</sup> Ab. de Noce in Oſtienſ. lib. 2. cap. 30.

Biſhop,

Bishop, who was immediately under the Apostolick See. The Bishops of *Consa*, *Acerenza*, and *Cosenza*, were afterwards advanc'd to Metropolitans.

BY whom, and at what Time the Bishop of *Consa* was exalted to a Metropolitan is very uncertain: *Ughellus* by a strong Conjecture<sup>1</sup>, believes that it was by *Alexander II.* or *Gregory VII.* his Successor; for we see, that in the Year 1051, under the Pontificate of *Leo IX.* the Bishop of *Consa* was still Suffragan to the Archbishop of *Salerno*; and the first we find nam'd Archbishop of *Consa*, was *Leo*, who liv'd under the Pontificate of *Gregory VII.*; and from this *Leo* afterwards, without Interruption, we see all the rest nam'd Archbishops. The Bishops that from time to time were made in the neighbouring Places were given them for Suffragans; viz. the Bishops of *St. Angelo de Longobardi*, *Bisaccia*, *Lacedogna*, *Montemurro*, *Muro*, and *Satriano*; but this last was put under the Metropolitan of *Salerno*. As for that of *Belfiense*, which is mention'd in the *Roman Provincial*, as subject to the Metropolitan of *Consa*, we have no Vestige of it at present.

THE Bishop of *Acerenza*, who formerly, according to the *Novella* of *Leo*, was Suffragan to the Metropolitan of *St. Severina*, when subject to the Patriarch of *Constantinople*, being restor'd to the Patriarch of *Rome*, acknowledg'd the Archbishop of *Salerno* for Metropolitan; and we read that from the Year 993. to 1051. he had been his Suffragan. He was afterwards exalted to be a Metropolitan by *Nicholas II.*; for what some have written, as if this Dignity had been conferr'd upon him by *Benedict V.* is without Foundation. *Alexander II.* who succeeded *Nicholas*, confirm'd the Prerogative of Metropolitan to Archbishop *Arnulphus*, in the Year 1067, and gave him the *Pallium*; and he had for Suffragans the Churches of *Venosa*, *Montemilone*, *Potenza*, *Tulba*, *Tricarico*, *Montepeloso*, *Gravina*, *Oblano*, *Turri*, *Turfi*, *Latiniano*, *St. Quirico*, and *Virolo*, with their Castles, Villages, Monasteries, and People: So that the Title of Archbishop of *Acerenza* began to be conspicuous; and there are many Occasions of making mention of it in our Decretals<sup>2</sup>. But in process of Time, *Acerenza* being ruin'd by the continual Wars of its Inhabitants, the Archbishop was forc'd to get the Church of *Matera* annex'd to his own, which having been erected into a Cathedral by *Innocent II.* was for ever annex'd to that of *Acerenza*, on this Condition, that the Archbishop of *Acerenza*, for the greater Dignity of the Church of *Matera*, should likewise call himself Archbishop of *Matera*; and that when he resided in *Acerenza*, the Title of *Acerenza* should be put before that of *Matera*; and when he resided in *Matera* the contrary was to be practis'd. This Union did not last long, for *Eugenius IV.* in order to remove the Discords betwixt the Chapters and Citizens of the two Cities, divided them, and assign'd *Matera* its own Bishop. They were afterwards united; but new Quarrels having arisen under the Pontificate of *Leo X.* at last in that of *Clement VIII.* it was decided in Favour of *Acerenza* by the *Rota* of *Rome*, preserving to it its ancient Rights and Pre-eminences. But this City falling into the utmost Decay, lost its ancient Splendor; and on the contrary, according to the Vicissitude of worldly Things, *Matera* having grown larger, and more numerous in Inhabitants, the See of the Archbishops of *Acerenza* behov'd to be translated to *Matera*, where they reside at present; and they have still five Suffragan Bishops, to wit, those of *Anglona*, translated in the Year 1546. by *Paul III.* on account of its Desolation, to *Turfi*, *Gravina*, *Tricarico*, and *Venosa*.

THE Bishop of *Cosenza* formerly Suffragan to the Metropolitan of *Reggio*, and subject to the See of *Constantinople*, when *Cosenza* was afterwards taken from the Greeks, and restor'd by the Normans to that of *Rome*, was Suffragan to the Archbishop of *Salerno*; but in what Year, and by what Pope it was disjoin'd, and exalted to be a Metropolis, is very uncertain<sup>3</sup>. 'Tis commonly believ'd that it was honour'd with this Dignity in the Beginning of the eleventh Century; for in the Year 1056, in the Chronicle of *Lupus Protospata* there's mention made of a certain *Peter* Archbishop of *Cosenza*; and others think that this Change was made under the Pontificate of *Gregory IX.* or a little before. Altho' he enjoys large Revenues, yet he has but one single Suffragan, which is the Bishop of *Martorano*, all the other Bishops in the Neighbourhood being exempted, and immediately subject to the See of *Rome*.

<sup>1</sup> Ughel. Ital. Sacr. de Archiep. Compf.

<sup>2</sup> Decretal. cap. cum Clem. de Testam. cap. si colluf. de reg. Eccles. lnn. III. in cap. cum

olim, de Cleric. conjug.

<sup>3</sup> Ughel. Ital. Sacr. de Archiep. Consent.

BUT

I

BUT none of all the Metropolitans of these our Provinces can boast of the Dignity of Primate, excepting the Archbishop of *Salerno*, who was declar'd Primate of all *Lucania* by *Urban II.*: So that tho' the Bishops of *Consa*, *Acerenza*, and *Cosenza*, who were his Suffragans, have been since rais'd to be Metropolitans, yet *Urban II.* by his Bull made in *Salerno*, in the Year 1099, appointed him Primate over them and all their Suffragans. *Ferdinandus Ughellus* transcribes the Bull, part of which is likewise recorded by *Baronius*, whereby the Pre-eminence of Primate over the Archbishops of *Acerenza* and *Consa*, and over all the Suffragans, who were oblig'd to promise to yield him all Obedience, was granted to *Alphanus* Archbishop of *Salerno*, and his Successors; the Bull likewise prescribes the Method of their Election; that they were to be elected in their Metropolis's, in Presence, and with the Advice and Consent of the Legate of the Apostolick See, and of the Archbishop Primate; and being elected, they were to be sent to *Rome* with their Patents, in order to be consecrated, and to receive the *Pallium*, and afterwards to swear Obedience to the Archbishop of *Salerno*, as their Primate. But in process of Time these Prerogatives have been disus'd, and now the Archbishop of *Salerno* exercises his Right of Metropolitan only over the Suffragan Bishops that have remain'd to him, which are the Bishops of *Acerno*, *Campania*, *Capaccio*, *Marfico*, *Norvo*, *Nocera de Pagani*, *Nusco*, *Policastro*, *Satriano*, and *Sarno*.

## S E C T. I.

*The Disposition of the Churches subject to the Greek Empire, which were restor'd afterwards by the Normans to the Roman See.*

## P U G L I A.

AT this Time we see the principal Seat of the Greek Magistrate fix'd in *Bari*, from whence he govern'd both *Puglia* and *Calabria*; wherefore it is by Writers call'd the Head of all the Cities of *Puglia*, and had the first Rank in this Province. Its Bishop therefore was exalted above all the other Bishops of *Puglia*; to this was added the Favour of the Patriarchs of *Constantinople*, who having appropriated him to themselves, and subjected him to the See of *Constantinople*, endow'd him with many Privileges and Prerogatives. But what he most valu'd himself for, was the Translation hither of the miraculous Bones of *St. Nicholas* Bishop of *Mira*; which sacred Relicks, some *Barefians* trading in the *Levant*, and returning from *Antioch* by Sea, and landing in the Washes of *Lycia*, wrapp'd up, and brought from thence to *Bari* in the Year 1087. Thus *Bari* now vies with *Benevento* and *Salerno*; for if they were proud of having the Bodies of two Holy Apostles, *Bari* brags of having that of *St. Nicholas*; and with so much the more Reason, as that those keep the Bones of their Apostles sapless and dry, but *Bari* has her Saint's Bones swimming in precious Liquor; of which we have an illustrious Testimony, to wit, that of the Emperor *Emanuel Comnenus*, who declares it in one of his *Novelle* '. The Church of *Bari* had her ancient Bishops: There's mention made of *Gervasius*, who in the Year 347 was present in the Council of *Sardica*; of *Concordius*, who subscrib'd in the Roman Council under Pope *Hilarius*, in the Year 465, and others who were only simple Bishops. *Antonius Beatillus* in his History of *Bari* will have it, that *Peter* Bishop of *Bari* was advanc'd to the Title and Authority of Archbishop and Metropolitan in the Year 530, by *Eugenius* Patriarch of *Constantinople*, in the Pontificate of *Felix IV.*; it being manifest from the Greek Bulls, which are as yet preserv'd in the Cathedral of *Bari*, that the Patriarchs of *Constantinople* confirm'd the Elected, and dispatch'd the Bulls; but tho' it be true, that *Bari* when it was under the Greek Empire likewise belong'd to the *Constantinopolitan* See, as we read in *Balsamo* in the Account which he gives of the Bishopricks subject to that Patriarchate, among others, he reckons *Bari XXXI*, *Trani XLIV*, *Otranto LXVI*, and the rest of *Calabria XXXVIII*. Nevertheless this ought not to be carried so far back as the Year 530, when these Provinces were govern'd by the *Goths*, and when the *Greeks* had no Concern either in their Political and Temporal, or Ecclesiastick and Spiritual

' Novel. 2. de Feriis, §. 4. In honorem miraculis celebris, unguentoque Scaturientis Nicolai.

Matters; all our Churches being then govern'd by the Roman Pontiff; neither had the Ambition of the Patriarchs of *Constantinople* extended itself so far in those Times, as to have encroach'd upon these our Provinces, as it did afterwards in the Time of *Leo Isauricus*, and more under the Emperors *Leo Armenus*, and *Leo Philosophus*, who are said to be the Authors of the Disposition of the Churches subject to the See of *Constantinople*: So that 'tis to be believ'd, that the Bishops of *Bari* being first honour'd, according to the *Greek* Vanity, with the Title of Archbishops, were afterwards made Metropolitans by the Patriarchs of *Constantinople*, who assign'd them twelve Suffragan Bishops, long after that *Reggio*, *St. Severina*, and *Otranto* were under the *Constantinopolitan* See, when *Bari* being retaken from the *Longobards* and *Saracens*, at last came under the Dominion of the *Greeks*.

THE City of *Canosa*, when it was in its flourishing State, vied with *Bari* with regard to its Bishops; for it likewise had its ancient Bishops, of whom *Beatillus* made a long List, beginning from the Year 347, down to the Year 800, in which he says, that *Peter*, a *Longobard*, and Kinsman of *Grimoaldus* Prince of *Benevento*, was elected Bishop of *Canosa*, whom he takes to have been the last; for he adds, that his See was afterwards in the Year 818 advanc'd to be a Metropolis, so that he was the last Bishop, and the first Archbishop of *Canosa*; and it could not be said that he had been rais'd to this Rank by the Pope, which would make it to be an elder Archbishoprick than *Capua*, which all our most exact Writers allow to be the most ancient; whence we must believe, that the Bishop of *Canosa* was at that Time made Archbishop by the Patriarch of *Constantinople*, and not by the Pope. However that may be, *Canosa* being afterwards ruin'd by the *Saracens*, these two Archbishopricks were united into one, and the Church of *Canosa* was annex'd to that of *Bari*; and *Angelarius*, who succeeded *Peter*, was the first, that in the Year 845 call'd himself Archbishop of *Bari* and *Canosa*, which all his Successors have done since. These Churches being afterwards taken from the *Constantinopolitan* See, and by the *Normans* restor'd to the *Roman*, the Popes allowing them the same Dignity, began to dispose of them as their own, by giving the Archbishops of *Bari* the Use of the *Pallium*, which they had not formerly; and *Gregory VII.*, at the Desire of Duke *Robert*, in the Year 1078, created *Ursus* a Creature of that Prince Archbishop of *Bari*, and afterwards in the Year 1089, *Urban II.* having gone from *Melphis*, where he held a Council, to *Bari*, at the Desire of Duke *Roger* and *Boemondus* his Brother, granted and confirm'd to *Elias* then Archbishop of *Bari*, his good Friend, having been Monks together in the Monastery of the Trinity of *Cava*, and to his Successors, the Diocesses of *Trani*, *Bitetto*, *Bitonto*, *Giovenazzo*, *Molfetta*, *Ruvo*, *Andria*, *Canne*, *Minervino*, *Lavello*, *Rapolla*, *Melphis*, *Salpi*, *Conversano*, *Polignano*, and beyond Sea, *Cattaro*, *Mondugno*, *Aquatetta*, *Montemiloro*, *Bisepi*, *Cisterna*, with all the other Churches of the Cities and Towns belonging to these Diocesses for his Suffragans, for which he made a Bull, which we read in *Ugbellus*, and it is also recorded by *Beatillus*.

BUT many of these Suffragans assign'd to *Bari*, in process of Time were taken from it, some being put immediately under the *Roman* See, others suppress'd, and others given to *Trani*, which was afterwards rais'd to be a Metropolis. The Archbishop of *Trani* is the most ancient of the Modern, for we read many Letters of *Innocent IV.* directed to him; but his Institution must not be carried so far back as the Pontificate of *Urban II.* in which he was but a simple Bishop. So that *Beatillus* is mistaken, when he infers from this Bull of *Urban*, that because *Trani* was reckon'd amongst the other Churches assign'd as Suffragans to the Archbishop of *Bari*, therefore he had likewise created him Primate of *Puglia*, just so as the same *Urban* created the Archbishop of *Salerno* Primate of *Lucania*, and as he had rais'd the Archbishops of *Toledo* and *Tarragona* in *Spain*, to the Rank and Dignity of Primates; for in the Pontificate of *Urban II.* it had not as yet been made a Metropolis, which Honour it had about the Time of *Innocent III.* or a little before, and afterwards the City of *Barletta*, which is subject to the Archbishoprick of *Trani*, and not to that of *Nazareno*; *Corato* and *Castello della Trinita* were assign'd to it. The Church of *Salpi* was afterwards united to this Metropolis, which for a long Time had its own Bishops, but in the Year 1547. it was re-united to that of *Trani*, as it continues to this Day. It has now the Bishops of *Andria* and *Bisceglia* for Suffragans; as for the Bishop of *Monopolis*, he is immediately under the See of *Rome*.

<sup>1</sup> *Beatil. Istoria di Bari, lib. 2.*

THERE were taken also from the Metropolitan of *Bari*, the Bishop of *Melphis*, who was subjected to the Pope immediately, and the Bishop of *Canne*, who being taken from this See, was assign'd to the Archbishop of *Nazareth*. He has still remaining the Bishops of *Bitetto*, *Bitonto*, *Conversano*, *Giovanezzo*, *Lavello*, *Minervino*, *Polignano*, and *Ruvo* for Suffragans; and, which is strange, he has likewise for Suffragan the Bishop of *Cattaro*, a City of *Dalmatia*, subject to the *Venetians*, and formerly Suffragan to the Archbishoprick of *Ragusa*, afterwards to that of *Antivari*, and lastly to that of *Bari*. But however, tho' the Bishop be his Suffragan, yet a great Part of the Diocess is now possess'd by the *Turks*, and the remaining Part retains as yet the *Greek* Schismatical Rites, and with them a great many Errors; they deny the Primacy of the Pope, Purgatory, the Procession of the Holy Ghost from the Father and the Son; and they buy Holy Orders from the Bishop of *Rascia*. The Archbishop of *Bari* retains likewise the Jurisdiction of judging Appeals from the Courts of *Molfetta*, *Canosa*, *Terlizzo*, and *Rutigliano*.

*PUGLIA* is also remarkable for another Archbishop, who, tho' he resides in the City of *Barletta*, yet he preserves the ancient Name of his first See, which is that of *Nazareth*, a City in *Galilee*, so famous in the World for the Birth of our Redeemer, who call'd himself of *Nazareth*. After that *Jerusalem* had been set at Liberty by the illustrious *Godfrey*, fortunate likewise in having his noble Actions recorded in so lofty a Strain, after so many Ages, by *Torquatus Tasso*; the *Latins* made *Nazareth* a Metropolis; but *Palestine* being retaken from them in the 1190, and again subjected to the Dominion of the *Turks*, this famous City came under their Thralldom, and her Bishop being left to shift for himself, and a Fugitive, found no Shelter till he came to *Puglia*; where being kindly receiv'd by the Pope, who, in order to preserve the Memory and Title of so worthy a Prelate, was pleas'd to appoint him an honorary See in *Italy*, and ordain'd his Residence to be in *Barletta*, a City in the Diocess of *Trani*. There was a Church assign'd him not far from the Walls of this City, with all its Rights, and the Dignity of Metropolitan; and not long after many Parish Churches were subjected to him. Two Cathedral Churches were very soon assign'd to his See, to wit, that of *Monterverde* in the Year 1434 by *Clement VII.* and that of *Canne* in the Year 1455 by *Callistus III.* The first Church assign'd him being ruin'd by the Wars in the Year 1566, by the Authority of *Pius V.* the See was translated within the City to the Church of the Abbey of *St. Bartholomew*. The Archbishop *Bernard* rebuilt it from the Foundation, and magnificently enlarg'd and adorn'd it. This Archbishop has his Diocess divided into different Places; he has Churches subject to him in *Bari*, in *Acerenza*, in *Potenza*, in the Town of *Vadula* of the Diocess of *Capaccio*, in *Saponara* of the Diocess of *Marsico*, and in other Places, and enjoys many Benefices call'd *Simple*. He is titled Archbishop of *Nazareth*, and Bishop of *Canne* and *Monterverde* by a special Grant given him by *Clement IV.* and confirm'd to him afterwards by *Innocent VIII.* *Clement VII.* and *Pius V.* Roman Pontiffs. He has a singular Prerogative of carrying the Cross, the *Pallium*, and the Rocher, not only in *Barletta* and the other Churches of his Diocess, but over all the Catholick World; neither can the other Archbishops dispute it with him under any pretence of Apostolical Concession. He is subject to none but the Pope, and exercises in his Church and Diocess, all Jurisdiction that other Archbishops do in their Churches.

#### C A L A B R I A.

THE most conspicuous Metropolis of *Calabria* under the *Greeks* was the Church of *Reggio*. The Patriarchs of *Constantinople* had subjected it to their See, and as we have seen in the sixth Book of this History, had assign'd it thirteen Suffragan Bishops, to wit, the Bishops of *Bova*, *Tauriana*, *Locri*, *Rossano*, *Squillace*, *Tropeja*, *Amantea*, *Crotone*, *Cosenza*, *Nicotera*, *Bisignano*, *Nicastro*, and *Cassano*. This Metropolis being afterwards restor'd to the See of *Rome* by the *Normans*, retain'd the same Dignity: So that in the old Charters made in the Time of these *Normans*, and especially by Duke *Roger* about the Year 1086, they were always call'd Archbishops; and *Gregory VII.* about the Year 1081, consecrated Archbishop *Arnulphus*, to whom Duke *Robert* made profuse Donations, by enriching his Church with many Possessions. In process of Time he lost some of these his Suffragan Bishops.

<sup>1</sup> Bulla Urbani II. apud Ughel. Simul & Catara, quæ intransmarini littoris ora sita esse cognoscitur.

THE Bishop of *Rossano* after these Churches were restor'd to the See of *Rome* was made a Metropolitan; and in the Time of *Roger I.* King of *Sicily*, or a little before, *Rossano* was made an Archiepiscopal See: So that amongst the Records which we have left us of Pope *Innocent III.* and of the Emperor *Frederick II.* there's frequent mention made of the Archbishops of *Rossano*. This Church was the most wedded to the *Greek* Rites; and tho' she had been restor'd to the *Roman* See, yet she never would forsake them, insomuch that the Citizens would not surrender to Duke *Roger*, until he had condescended that they should have a Bishop of the *Greek* Church; for this Prince had nam'd another of the *Latin* Church, to have succeeded a *Greek* Bishop that had died, whereupon he allow'd them to have a *Greek* one<sup>1</sup>. There were seven Monasteries of the Order of *St. Basil* in *Rossano*, so that the *Greek* Language and Rites were the more easily preserv'd in it. The Archbishop got likewise some Churches for Suffragans; but they were afterwards all withdrawn, for some of them became immediately subject to the See of *Rome*, and the Bishop of *Cariati*, which was the only one remaining, was afterwards subjected to the Metropolitan of *St. Severina*, so that now neither *Rossano* nor *Lanciano* have any Suffragans.

THE Bishoprick of *Cosenza* was likewise disjoin'd from the Metropolitan of *Reggio*, and subjected to the Metropolitan of *Salerno*; but *Cosenza*, as we have said, was also rais'd to be a Metropolitan. The rest were partly suppress'd, such as that of *Tauriana*, now destroy'd, in whose Place *Seminara* has succeeded, the rest were subjected to other Metropolitans; and now there remain to him the Bishops of *Bova*, *Cassano*, *Catanzaro*, *Crotone*, *Gerace*, *Nicastro*, *Nicotera*, *Oppido*, *Squillace*, and *Tropeja*.

THE Metropolitan of *St. Severina* subject to the See of *Constantinople*, being restor'd to that of *Rome*, retain'd also the same Prerogative, and in the Charters dated in the Time of *Roger Duke of Calabria*, there's mention made of the Archbishops of this City. He had five Suffragan Bishops given him by the Patriarch of *Constantinople*; but the Bishop of *Acerenza* was afterwards made a Metropolitan, and the other of *Gallipoli* was subjected to the Metropolitan of *Otranto*, and some were suppress'd; but others being erected in their Room, the Metropolitan of *St. Severina* has now for Suffragans, the Bishops of *Cariati*, *Umbriatico*, *Strongoli*, *Isole*, and *Belcastro*. He likewise had the Bishop of *St. Leo*, but he was afterwards suppress'd, and his Revenues were annex'd to the Metropolis; he had also the Bishops of *Melito* and *St. Mark*, but these were disjoin'd and put immediately under *Rome*.

## O T R A N T O.

BY the Disposition of the Sees, subject to the Patriarch of *Constantinople*, made by the Emperor *Leo*, there's no Suffragan assign'd to the Metropolitan of *Otranto*; but afterwards *Nicephorus Phocas*, as *Luitprandus*<sup>2</sup> Bishop of *Cremona* testifies, about the Year 968, when *Polieutus* was Patriarch of *Constantinople*, enlarg'd the Province of this Metropolitan, and gave him for Suffragans, the Churches of *Turcico*, *Acerentilla*, *Gravina*, *Matera* and *Tricarico*, ordering the Patriarch *Polieutus* to consecrate their Bishops. But this Order had little Effect; and the Metropolitan of *Otranto* being restor'd to the See of *Rome* by the *Normans*, had other Bishops assign'd him for Suffragans, and the same Prerogative was continu'd with this Church, for we read, that in the Assembly held in the Year 1068, by *Alexander II.* in *Salerno*, *Hugh*, Archbishop of *Otranto* was present. The Popes afterwards assign'd him other Suffragans, which he retains to this Day, to wit, the Bishops of *Lecce*, *Alessano*, *Castro*, *Gallipoli* and *Ugento*.

*BRINDISI* and *Taranto* being restor'd to the *Greek* Empire by *Lupus Protospata* the *Catapanus*, about the Year 980, according to the *Arichmandrite Nilo*, a *Constantinopolitano Sacerdotes accipiebat*. But *Robert Guiscard Duke of the Normans*, having taken *Brindisi* from the *Greeks*, restor'd its Church to the See of *Rome*. It was acknowledg'd as an Archiepiscopal See by *Urban II.* who consecrated it in the Year 1088, and the Bishop of *Ostuni* was made *Suffragan* to it: It was once annex'd

<sup>1</sup> V Ughel. Ital. Sacra, de Archiep. Rossan.

<sup>2</sup> Luitprand. Nicephorus, cum in omnibus Eccl. homo sit impius, livore quo in nos abundat, Constantinopolitano Patriarchæ præcepit, ut Hydruntinam Ecclesiam in Archiepiscopatus honorem dilater; nec permittat in omni Apulia seu Calabria, Latine amplius, sed Græce divina

mysteria celebrari. Scripsit itaque Polyestus Constantinopolitanus Patriarcha Hydruntino Episcopo, quatenus sua auctoritate habeat licentiam Episcopos consecrandi in Acerentilla, Turcico, Gravina, Matera, Tricarico, qui ad consecrationem Domini Apostolici pertinere videntur.

to the Church of *Oria*, so that the Archbishops had the Title both of *Brindisi* and *Oria*; but these Churches were afterwards divided, and that of *Oria* was made Suffragan to the Metropolitan of *Taranto*, and *Brindisi* kept only that of *Ostuni*.

*TARANTO* being restor'd by the *Normans* to the See of *Rome*, was made a Metropolis by the Popes, about the Year 1100, and the Bishops of *Mottula* and *Castellaneta* were given it as Suffragans, to which the Bishop of *Oria* was afterwards added.

#### The Dukedoms of *NAPLES* and *GAETA*.

THE Church of *Naples*, as we have seen in the sixth Book of this History, was not advanc'd to be a Metropolis by the *Greeks*, but the Patriarchs of *Constantinople* honour'd her Bishop with the Title of Archbishop only; so that he had the chief Honours and Pre-eminency over all the Bishops of this Dukedom. She was rais'd to the Rank of Metropolis by the Popes, towards the End of this Tenth Century, at the same Time that *Capua*, *Benevento*, *Salerno*, *Amalphis*, and many other Churches were exalted to this Dignity by the Popes. And though *Naples* was still under the *Greek Empire*, yet neither the Emperors of the East, nor the Patriarchs of *Constantinople* could hinder the Popes from raising her to this Dignity. The Popes were always tenacious of their Authority over this Church, and they very much blam'd her Bishops for taking the Honour of Archbishops from the Patriarch of the East. But the Power of the Popes became much greater, when the Dukedom of *Naples*, reduc'd into the Form of a Commonwealth, was govern'd by Dukes, the Eastern Emperors having nothing but the Shadow of Authority there.

BUT by what Pope, *Naples* was made a Metropolis, and in what Year, Opinions are very different. *P. Caracciolus*<sup>1</sup>, from the Authority of *John the Monk*, maintains, that it was made a Metropolis by *John IX.* about the Year 904. But from the List of Bishops, compos'd by *Chioccarelli*, which he brings down to *Nicetas*, who govern'd this Church from the Year 962 to 1000; and from what we have hitherto seen, this Advancement ought not to be attributed to *John IX.* in this Year, but to *John XIII.* at the same time that *Capua*, *Benevento* and *Amalphis* were made Metropolis's, which *Chioccarelli*<sup>2</sup> well demonstrates, by shewing us, that from *Nicetas*, all his Successors began to be call'd Archbishops. The Church of *Naples* had once for Suffragans, the Bishops of *Cuma* and *Miseno*; but these Cities being ruin'd in the Year 1207, their Churches and Revenues were annex'd to the Church of *Naples*. The Bishop of *Aversa*, built by the *Normans*, was Suffragan to the Church of *Naples*, but afterwards, he was subjected to the Pope immediately. She retains now only the Bishops of *Acerra*, *Pozzuolo* and *Ischia*, to whom afterwards the Bishop of *Nola* was added, who being taken from the Archbishop of *Salerno*, whose Suffragan he formerly was, a little before the Pontificate of *Alexander III.* was subjected to *Naples*. These few Bishops were assign'd to *Naples*; and it will appear very strange, to any that considers the present State of Affairs, how *Benevento*, *Salerno*, *Capua* and many other inferior Cities, have so many Suffragan Bishops, and *Naples*, the Head of a most flourishing Kingdom, has so few; but whoever will call to mind the by-past Ages, and consider how much the Confines of the Dukedom of *Naples* were restricted, when this City was made a Metropolis, and on the contrary how much more the Principalities of *Benevento*, *Salerno*, and *Capua*, and the other Dukedoms and Provinces, subject to the *Greek Empire*, were extended, will cease to wonder. And if this City, when it was made a Metropolis, had so confin'd a Dukedom, and consequently so few Suffragans, yet in process of Time, by good Conduct, it was rais'd to so exalted a State, that it alone could vie with the most ample and most populous Provinces of the Kingdom.

*GAETA* likewise subject to the *Greek Empire*, because of its being claim'd by the Popes, and too near to *Rome*, when it was taken from the *Greeks* by the *Normans*, was neither given as Suffragan to any neighbouring Metropolitan, nor made a Metropolis, because its small and narrow Dukedom would not bear it; so that its Bishop was subjected to the Apostolick See immediately, as it continues to this Day.

<sup>1</sup> P. Carac. de Sacr. Eccl. Neap. Monum. c. 1. | <sup>2</sup> Chioc. de Episc. Neap. A. 962. See. 10.



The Dukedoms of *AMALPHIS* and *SORRENTO*.

*AMALPHIS* in these Times, deserv'd no less than *Naples* to be exalted to a Metropolis ; it had made itself famous in the East, on account of its Navigation, and become the most rich and populous of all the other Cities ; not only the *Greeks*, *Arabs* and *Africans*, but even the *Indians* flock'd to it, because of its Commerce ; and *Gulielmus Pugliensis* <sup>1</sup> in his Verses, extols it on that Head, above all the Cities of these our Provinces. This City had its Bishops from its Foundation, and in the Time of *Gregory the Great*, *Primerius* was Bishop of it, neither is he reckon'd the First. The Church of *Rome* was much beholden to it, as well for the many Churches which the *Amalphytans* erected in the East, where they maintain'd the *Latin* Rites, as for having been the first who founded the renown'd and military Order of *St. John of Jerusalem* in *Palestine*. Therefore the Popes were in Duty bound, when they were exalting so many Churches to be Metropolis's, to confer that Honour on *Amalphis*, which tho' by antient Subjection, it depended on the *Greek* Empire, nevertheless, being rais'd to this sublime State, and govern'd by its own Dukes in the Form of a Republick, the *Greeks* had only the Image and Shadow of Sovereignty left them in it. Whilst then this Dukedom was govern'd by Duke *Manfo*, the same who for some Time possess'd the Principality of *Salerno*, at the Request of this Duke, the Clergy, and People of *Amalphis*, its Bishop was advanc'd to a Metropolitan by *Gregory XV.* in the Year 987, and the Bishops of the Dukedom were assign'd him for Suffragans ; for what *Freccia* writes, that *Amalphis* was made a Metropolis in the Year 904, by Pope *Sergius III.* has no Foundation, and is commonly rejected by every Body. His Suffragans are the Bishops of *Scala*, *Minori*, *Lettere* and of the Island of *Caprea*, which he retains to this Day.

*SORRENTO* had likewise its antient Bishops, and being in these Times Head of a small Dukedom, was likewise exalted to a Metropolis. *Marinus Freccia* makes *Sergius III.* also Author of this Institution, in the same Year with *Amalphis* ; but 'tis generally believ'd, that this Church was made a Metropolis by *John XIII.* in the Year 968. after *Capua* ; and that *Leopardus* the last Bishop, had this Honour. Her Suffragans are the Bishops of *Stabia*, which we now call *Castellamare*, and *Massa Lubrense*, to which afterwards the Bishop of *Vico Equense* was added.

SUCH was the Disposition of the Churches of these our Provinces, begun about the End of the Tenth Century, and afterwards compleated in the beginning of the Dominion of the *Normans* ; which as it altogether resembles the present, so it is no ways conformable to the Disposition and temporal Polity of our Provinces, because when the new Disposition of the Provinces of this Kingdom was made, which were afterwards augmented to Twelve, as we now see them, the Metropolis's had been already fix'd, which keeping Pace with the Polity of the Empire, took that Form and Disposition which the States were found to be in, when, and where they were establish'd ; and tho' many Cities chang'd their Condition, and from great became small, or from small great, yet the Popes would never alter the Disposition of the Metropolis's already establish'd, as well out of regard to Antiquity, as for avoiding Novelty, which often occasions Disorders. However, if they fill'd the Kingdom with more Bishops, by erecting many Churches into Cathedrals, which formerly were not such, for Reasons that we shall relate elsewhere, yet they did not alter the Disposition of the Metropolitans. Besides, as we shall shew in its Place, the new Distribution of the Provinces into Twelve, was chiefly design'd for the better Distribution of the Royal Revenues, and the Number was multiplied by the Officers appointed for collecting them, call'd *Treasurers*. So that at the same Time the Number of Governors, or Justices, was much less than that of *Treasurers*, and in later Times they were made equal ; and the Places appointed for their Residence were always changeable, according as the Occasions of the Royal Exchequer, or the publick Good requir'd : Whence this new Disposition made no manner of Alteration in the Polity of the Ecclesiastical State.

IN this State of Affairs did the *Normans* find these our Provinces, when they came to us. They were put into another Form, when they came under their Dominion ; and when all those States, which had been divided into so many Parts, came to be united in one single Person, a very large Kingdom, and a noble Monarchy was establish'd.

<sup>1</sup> Gul. Appul. lib. 3. Rer. Norman.



THE  
CIVIL HISTORY  
Of the KINGDOM of  
N A P L E S.  

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B O O K IX.

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THE *Normans*, which Word in our Language signifies Northern People <sup>1</sup>, came likewise from *Scandinavia*, as the *Goths* and *Longobards* had done; they were not known in the West, till about the End of the Eighth Century, when they landed on the Sea Coast of *France*, in the Time of *Charles the Great*; and about Forty Years after, they began to infest those Places, now call'd *Utrecht*, *Holland* and *Walkeren*. The Kings of *France*, in order to put a Stop to them, were oblig'd, by Agreement, in the Year 882, to give them *Frizland* for a Habitation <sup>2</sup>.

But they, not satisfied with this Province, began to plunder, burn and destroy all the Neighbourhood round them, under *Rollo* their Head, a famous and bold Pirate, at the same time that the *Saracens*, with no less Cruelty, over-ran our Part of *Italy* on this Side of the *Tiber*. They besieg'd *Paris*, invaded *Aquitaine*, and other Parts of that Kingdom in the Reign of *Charles the Simple*; so that this Prince not being able to withstand them, resolv'd to make them Friends,

<sup>1</sup> *Gaufredus Malaterra* lib. 1. c. 3. in tom. 3. *Hisp. illust.* *Guilielmus Pugliesis* lib. 2. de *gest.* *Norm. in Ital.* in princ. *Guilielmus Gemmeticensis* lib. 2. *hist. Norim.* cap. 4. *Norimanni* di-

cuntur, quia lingua eorum *Boreas*, *North* vocatur: homo vero, *Man*, id est homines *Bereales* per denominationem nuncupantur.

<sup>2</sup> *Grot.* in *Prolegom.* ad *hist. Got.*

and

and Confederates ; whereupon it was agreed, that *Charles* should assign them *Neufstria*, one of the Provinces of *France*, for their Place of Residence, and give *Gisla* his Daughter, as *Dudo* of Saint *Quintine* writes <sup>1</sup>, or his Kinswoman, as *Pellegrinus* <sup>2</sup> hath it, to *Rollo* in Marriage, and that *Rollo*, forsaking Idolatry and Gentilism, should embrace the Christian Religion. This Agreement was executed about the Year 900 <sup>3</sup>: *Neufstria*, with the Title of Duke, was given to *Rollo* for ever, who married *Gisla*, and at the same time receiv'd Baptism, *Robert* Count of *Poitiers* standing Godfather, from whom he took the Name of *Robert* ; and the other *Normans*, following the Example of their Commander in Chief, became more humane and civiliz'd. The *Normans*, from their own Name, call'd *Neufstria*, *Normandy*, which Name it retains to this Day.

THIS *Robert*, first Duke of *Normandy*, had a Son nam'd *William*, whom he made Count of *Hauteville*, a City of the same Province. *William*, begot *Richard*, who was Father of another *Richard*, and this second *Richard* begot *Robert II.* and another *Richard*, whom we shall call III. And *Robert II.* was Father of *William II.* who 'tis commonly said, was the Father of *Tancred* Count of *Hauteville*, from whose Loins came those Heroes, who for a long Time govern'd these our Provinces <sup>4</sup>.

TANCR ED, by two Wives, had Twelve Sons, and several Daughters, one of which was nam'd *Fredefinna*, who was the Wife of *Richard* Count of *Aversa*, and Prince of *Capua* ; another was given to *Gaufred* Count of *Montescaglioso*, and another to *Volmandus* <sup>5</sup>. The Sons he had by his first Wife, nam'd *Moriella*, were *William* surnam'd *Fierabras*, *Drago*, *Umfred*, (who, as we shall shew, were the Three first Counts of *Puglia*) *Godfrey* and *Serlo*. The other Seven were by *Fredefinna* his second Wife, the Eldest of whom was *Robert*, surnam'd *Guiscard*, which in the antient *Norman* Language, is the same as crafty and subtle ; he came to be Duke of *Puglia* and *Calabria* ; the second was *Malgerius* ; the third, *William* ; the fourth, *Alvered* ; the fifth, *Umbert* ; the sixth, *Tancred*, and the seventh and last, was *Roger*, who conquer'd *Sicily*, and established the Monarchy <sup>6</sup>.

HOWEVER, these were not the first that came to *Italy* ; for, as we shall see, some *Normans* had a little before settled in *Aversa*, so that we must carefully distinguish them from one another, that we may not confound the Reader, as other Writers have done. The first of them came about the Year 1016. The Sons of *Tancred* landed in *Italy* about the Year 1035 ; but not all of them, for Two stay'd in *Normandy* ; neither did all the rest come together, but as fit Opportunities offered ; sometimes Two, sometimes Three, set out for these our Provinces ; neither did the first come in greater Numbers, as we shall see <sup>7</sup>.

EVERY Body reading the Adventures of these People, must be surpriz'd, how a few Men come from *France*, through a Thousand Disasters, were able to make themselves Masters of one of the most delightful Countries in the World ; how one single Family of *Norman* Gentlemen, assisted only with a handful of their Countrymen, could establish a Monarchy on the Confines of the Empires of the East and West, gain so many and so wonderful Victories over Two powerful Enemies ; free *Italy* and *Sicily* from the Incursions and Yoke of the Infidel *Saracens*, which greater Powers were never able to achieve ; and after having overthrown the *Greeks* and the *Longobard* Princes, lay the Foundation of the fine Kingdoms of *Naples* and *Sicily*. Certainly no other Nation, excepting the *Romans*, were ever so successful as from so mean Beginnings, to arrive at so great Power. The other Nations, such as the *Goths* and *Longobards*, as we have seen, came not to *Italy* like Strangers and Travellers, but with very numerous Armies, which over-run our Country, and settled a Kingdom.

ON the other hand, if we will but consider the unhappy State to which these our Provinces were reduc'd, being divided, and subject to so many Princes ; and the extraordinary Valour and Courage of this Nation, we shall cease to wonder at their fortunate Success. Add to this, that the Manner of waging War us'd in those

<sup>1</sup> Lib. 2. hist. Norim.

<sup>2</sup> In hist. Long. in Stemmate.

<sup>3</sup> Grot. in Prolegom. loc. cit.

<sup>4</sup> V. Invenges in the beginning of the Annali di Palermo, in which he has the Tree of the Dukes of Normandy.

<sup>5</sup> Pelegr. in Stemmate.

<sup>6</sup> Malater. lib. 1. cap. 4. V. Du Fresne in Stem. Ducum Apuliæ ad hist. Comnen.

<sup>7</sup> Malat. lib. 1. cap. 9, 11, 19, 38. Ost. lib. 2. cap. 67.

Times, was not the same as is practis'd now adays : There was at that Time scarce any regular Method of attacking and defending. A whole Army was sometimes routed, without knowing how, or by what Means ; and the whole of the Matter consisted, either in the Strength of Body, which was incomparably greater than that of Men now adays, because they practis'd those Exercises more frequently that conduce to the acquiring of it ; or in an exceeding great Courage, which imbolden'd the Combatants to do Wonders ; or lastly in some presumptuous Undertakings, which nothing but the Event could justify.

TO these three Causes were owing those glorious Actions of the Normans, no ways inferior to those of the Romans, we so much admire. They turn'd France up-side down, and conquer'd many Provinces of it. William the Norman, descended of the same Dukes of *Neustria*, conquer'd the most flourishing Kingdom of *England*, and transmitted it to his Posterity. Our *Puglia*, *Calabria* and *Sicily*, the famous *Jerusalem*, the renown'd *Antioch*, were all under their Dominion<sup>1</sup>.

WE are now to shew what Motives the People of this Nation had, for coming into these our Provinces so remote from them, and how, after various Fortune, they made themselves Masters of them ; for we cannot otherwise clearly conceive, how so many, and so divided States, could at last be united in a noble Kingdom, under the Dominion of one single Person, which the Normans govern'd by so good Laws and Institutes, as to transmit it to their Posterity, till after a Series of many Years, for want of Male-Issue, it fell to the *Suevi*, by a Princess of the Norman Blood. The Rise of our Papal Investiture, and how afterwards this Kingdom came to be reputed a Fief of the Church of *Rome*, could not well be understood, if these Events should not be related with Exactness ; in doing of which we shall make a Discovery of many Truths, which Writers, some out of Sloth, many of set Purpose, have kept in the Dark.

IN relating the Adventures, and all the other Successes of this Nation ; I have laid stress only on Cotemporary Historians, and those who have most exactly given us an Account of their Actions, whose Testimonies cannot be suspected. The most Grave and Antient among the *Latins*, shall be *Gulielmus Pugliensis*, *Malaterra*, *Leo Ostiensis*, *Amatus*, a Monk of *Cassino*, *Ordericus Vitalis*, *Lupus Protospata*, the anonymous *Cassinensis*, *Petrus Diaconus*, and *Gulielmus Gemmeticensis*. And among the *Greeks*, the Princess *Anna Comnena*, *Joannes Cinnamus*, *Cedrenus*, *Zonaras*, and other Collectors of the *Bizantine* History, which *Charles du Fresne* hath illustrated with Notes.

*GULIELMUS Pugliensis* relates in *Latin* Verse, though not very Elegant, but very good for the Style of the Age in which he liv'd, the Actions and warlike Feats of the Normans in *Calabria*. He writes not in a poetical Strain, but like an Historian, who resolv'd to give a faithful and distinct Relation in Numbers and Metre. His Account reaches to the Death of the famous *Robert Guiscard*, which happen'd about the Year 1085 ; he publish'd it at the Desire of Pope *Urban II.* who was advanc'd to the Pontificate in the Year 1088, and dedicated it to *Roger*, the Son and Successor of *Robert Guiscard*. This small historical Poem in Manuscript, was found by *Joannes Tirenceus Hauteneus*, Advocate Fiscal of the Province of *Rouen*, in the Library of the Monastery of *Becobelvine* near to *Strasburg*.

*MALATERRA* is an Author that deserves more Credit : He wrote a very long History in Prose, of the Conquests made by the Normans in *Italy*, by Order of *Roger* Count of *Sicily* and *Calabria*, who was Brother to *Robert Guiscard*. This Work having been a long Time buried in Oblivion, the Manuscript of it was found in *Saragosa*, among the Histories of the Kings of *Aragon* in the Year 1579 by *Geronimus Zurita*, who publish'd it ; and *Baronius* mentions the finding of this as a real Treasure ; so that they who have wrote the History of *Sicily*, for not having read this Author, have committed a Thousand Blunders.

*LEO* Bishop of *Ostia*, is an Author well known, and is in every Body's Hands ; being a Monk of *Monte Cassino*, he wrote the Chronicle of that Monastery, a little after the Time we are about to discourse of ; and tho' his Business was to shew to the World, the Sanctity and Grandeur of that Monastery, nevertheless he affords

<sup>1</sup> Roger. Hovenden. apud Grot. in Prolegom. Divis Apulia resloruit. Hierosolymia famosa, & Audax Francia Norimannorum militiam experta delituit. Ferox Anglia captiva succubuit. insignis Antiochia se utraque supposuit.

great Light for understanding the Affairs of the *Normans*, in whose Kingdom he wrote.

*AMATUS*, a Monk of *Cassino*, flourish'd about the same Time; he was also made a Bishop afterwards, though 'tis not known what Bishoprick he got. *Petrus Diaconus*<sup>1</sup> numbers this *Amatus* amongst the famous Men of *Cassino*, and says he was most knowing in the Holy Scriptures, and an admirable Poet. Among his other Works, which he compos'd, that *de Gestis Apostolorum Petri & Pauli*, was dedicated to Pope Gregory VII. and the History of the *Normans*<sup>2</sup>, divided into Eight Books, was dedicated to *Desiderius*, that famous Abbot of *Monte Cassino*, who was afterwards Pope by the Name of *Victor III.* This History of the *Normans*, written by *Amatus*, for what we know, was never publish'd in Print. *Joannes Baptista Marus*, in his Annotations on *Petrus Diaconus*, relates, that in his Time this History was preserv'd in Manuscript in the Library of *Cassino*, wherein many Things worth knowing, concerning the Actions and Customs of the *Normans*, were most accurately describ'd. But the Abbot of *Noce* laments this Loss, and in his Notes on the Chronicle of *Cassino*<sup>3</sup> relates, that it had been taken out of that Library, with many other Things worthy of eternal Memory. This Author liv'd about the Year 1070, when, according to the Taste of that Age, Learning was, for the most part, confin'd to the Monasteries. There flourish'd many others, such as *Albericus*, *Constantinus*, *Guaiferius*, *Alphanus*, who was afterwards Archbishop of *Salerno*, and others that may be seen in *Petrus Diaconus*.

*LUPUS Protaspata*, the anonymous *Cassinensis*, and *Petrus Diaconus* himself, wrote likewise something concerning the *Normans*; but *Ordoricus Vitalis*, and *Gulielmus Gemmeticensis* much more diffusely, besides a great many modern Writers, who are well known to every Body.

PRINCESS *Anna Comnena*, made herself famous in the World, as well for her Judgment and Erudition, as her Quality and Birth: She was Daughter of *Alexius Comnenus*, Emperor of *Constantinople* and of *Irene*. *Zonaras* and *Nicetas* assure us, that this Princess was a great Lover of Learning, and that she spent most of her Time in reading. She not only apply'd herself to History and polite Learning, but likewise to Philosophy. She wrote the History of *Alexius Comnenus* her Father, against whom our *Robert Guiscard* made a most cruel War, which was partly the Subject of her History; and tho' some times, according to the Custom of her Nation, she fail'd in relating the Truth exactly, nevertheless she ought to be credited, when she speaks in Commendation of *Robert Guiscard*, whom she very much hated, as being a bitter Enemy to her Father. In the Preface to her History, she promises to say nothing that might make her be accus'd of Complaisance or Flattery, or that was not consonant with Truth; yet we see, that what she writes of her Father is a continu'd Panegyrick. The *Latin* Authors are not of the same Opinion, for they represent *Alexius* as a deceitful, dissembling Prince, whose Reign was more remarkable for his unworthy, than his good Actions; and truly his ill-grounded Jealousy was a great Prejudice to the *French*, who having taken the Cross upon them, were fighting under *Godfrey of Bulogne* for the Conquest of the Holy Land; but perhaps the *Latin* Authors have been as sparing, as *Anna Comnena* was prodigal in her Commendations. *Hoeschelius* publish'd the first Eight Books of her History, which he had got from the *Augustan* Library. *Joannes Gronovius* bestow'd some Pains upon it afterwards, and in the Year 1651, *Peter Poussin* a Jesuite, publish'd it with his *Latin* Translation of the *Louvre* Impression. Afterwards the President *Cousin* translated it into *French*, and lastly, *Charles du Fresne* explain'd it with Notes.

*JOANNES CINNAMUS* liv'd under the Emperor *Emanuel Comnenus*, whose Exploits he gives us at large in his History; he is an elegant Writer, and studies to imitate *Procopius*. He makes frequent mention of our *Normans*, and his History is now illustrated with Notes by *Charles du Fresne*. *Cedrenus*, *Zonaras*, and the other Writers collected in the *Byzantine* History, sometimes make mention of our *Normans* also.

THE Motives that induc'd the *Normans* to come from *Neustria* into these our Provinces, ought to be attributed to nothing else but the Zeal these People had for

<sup>1</sup> Petr. Diaconus de Viris Illustrib. Sacri | Chronic. Cassin.  
Cassin. Archisterii.

<sup>2</sup> Petr. Diaconus lib. 3. cap. 35. in Augustuar.

<sup>3</sup> Lib. 3. cap. 35.

the Christian Religion, after they had forsaken Idolatry, and worshipp'd the true Deity. There was a Custom which prevail'd in the World at that Time of going on Pilgrimage, not so much as now a-days, in order to see Cities, new Fashions, and different Customs, as out of Devotion to visit the most famous Holy Places. Now, in this and the preceding Century, two Places in these our Provinces became famous all over the West, to wit, that of *Monte Gargano*, by reason of the Angelical Apparition, and the other of *Monte Cassino*, for the Sanctity and Miracles of *S. Benedict* and his Monks; but among all the Holy Places, as in Justice it ought, *Jerusalem* was the most illustrious, a Holy City, where our glorious Redeemer water'd the Earth with his Blood, and where he was buried.

AMONG all the Christians of the North, 'tis incredible how much the *Normans* of *Neustria* were inclin'd to this Exercise of Piety; neither the Length of the Journey, nor the Difficulty of the Passage, nor the Rigor of the Weather and Season, nor the Necessity of travelling through the Midst of Robbers and Infidels, nor Hunger, nor Thirst, nor any other greater Danger or Inconveniency whatsoever, frightened them. In order to overcome so many Difficulties, they join'd in Bands, and pass'd through those unfrequented Places, and being of great robust Bodies, murr'd to War, and courageous, were able to cope with whole Armies, and often had bloody Engagements with the *Greeks* and Infidels, and broke through all Obstacles. On such Occasions, either in the going or returning, they were wont to visit our Sanctuaries of *Gargano* and *Cassino*.

IN the Beginning then of the eleventh Century<sup>1</sup>, forty, as *Leo Ostiensis* writes<sup>2</sup>, or, according to the Opinion of others, a hundred of these *Normans* having left *Neustria*, travell'd towards the East, and on their Way to *Jerusalem*, made great Havock amongst those Barbarians. In their Return they took another Rout; for imbarcking, they sail'd up the *Mediterranean*, and arriv'd on the Coast of *Salerno*<sup>3</sup>, where they landed, and in that City, were honourably receiv'd by the *Salernitans*, who were amaz'd at the Sight of Men of such robust Bodies. *Salerno* was govern'd at that Time, as we have said, after the Death of Prince *John*, by *Guaimarus* III. his Son, by *Ostiensis*<sup>4</sup> nam'd the Elder, in order to distinguish him from the other *Guaimarus* his Son, who succeeded him. This *Guaimarus* from the Year 994, in which *John* his Father died, govern'd the Principality, sometimes alone, sometimes with his Son, to the Year 1031, in which his Son died. They were invited by this Prince to stay some time in *Salerno*, to refresh themselves after the Fatigue of their Voyage, and to partake of the Sweets of the Country. But behold an Accident happen'd, which afforded an Opportunity to these few *Normans* to shew their Courage, and at the same Time to recompense *Guaimarus* for the kind Entertainment he had bestow'd upon them. In the Course of this History we have often related, that the *Saracens* never fail'd to infest the Principality of *Salerno*, coming sometimes from *Africa*, and frequently from the neighbouring *Sicily*, in Ships upon the Coast of this City, and to ruin the adjacent Country, the Fields and Castles, which occasion'd great Calamities: *Guaimarus* not having Forces sufficient to repulse them, had been oblig'd to buy his Peace with large Sums of Money. While the *Normans* were in *Salerno*, the *Saracens* with a great Fleet arriv'd on the Coast, and threaten'd Ruin and Destruction, unless they got a vast Sum of Money; *Guaimarus* having no means wherewithal to defend himself, was ready to grant their Demand; and while he and his Officers were busy in raising Contribution amongst his Vassals, the *Saracens* having landed from their Ships, cover'd the Space betwixt the Sea and the City, where, expecting the Ransom, they gave way to Gormandizing and Excess. The *Normans*, who were not accusom'd to such ignominious Usage, reproach'd the *Salernitans* for suffering their Enemies to triumph so insolently over them, by chusing rather to be at the Charges of the Triumph, than to defend themselves, and resolv'd, with unheard-of Bravery to revenge the Affront; and whilst the *Saracens*, little dreading the Danger, were drinking and revelling, they attack'd them with so much Fury and Bravery, that after a terrible Slaughter, they forc'd the rest to fly, and betake themselves to their Ships with greater speed than they had come ashore. So glorious an Exploit occasion'd no less Joy than Admiration in the *Salernitans*, and Prince

<sup>1</sup> Pelleg. in Serie Abb. Cass. in Atemalpo, Vergente A. Christi millesimo.

<sup>2</sup> Ostiens. lib. 2. cap. 37. Quadraginta numero Normani in habitu peregrino.

<sup>3</sup> Ibidem.

<sup>4</sup> Ibid. A Guaimaro majore, qui tunc Salerni principibatur.



*Guaïmarus* was at a loss how to reward them as they deserv'd; he intreated them to remain in the Country, offering them Habitations, and the most honourable Employments; but they protested that they had had no private Interest in this Action, and that they would have no other Recompence, but the Pleasure of having acquitted themselves of the Duty they ow'd to Religion, by defeating the Infidels. But lest they should seem insensible of his Civilities, and not to comply with his Desire of having such Men as they about him, they promis'd either to return themselves, or send some of their Countrymen of equal Courage with themselves. Therefore they prepar'd to return to their native Country, which they long'd to see. The Prince, not able to detain them longer, us'd all Means imaginable to persuade them upon their Arrival, at least to send him some of their Countrymen; and whilst they were imbarcking for *Normandy*, he order'd many of his Officers to be ready to accompany them, with Vessels loaded with the most exquisite Fruits, as far as their own Country; he likewise presented them with precious Garments of Gold and Silk, and rich Furniture for Horses. *Guaïmarus* was not disappointed, for his generous and noble Behaviour, was not only an Invitation, but likewise a very strong Allurement to the *Normans* to come to these our Provinces. For on their Arrival in *Normandy*, having represented the Desire our Princes had for their Nation, they prevail'd upon a great Number of People, and some of them of noble Birth, to undertake the Journey. To which, an Opportunity which we are going to relate, gave a Handle.

IN the Court of *Robert Duke of Normandy*, amongst other Lords who frequented his Palace, there were *William Repostel* and *Osmond Drengot*; this last bearing a Grudge at *William*, who had publickly bragg'd he had receiv'd the last Favours from his Daughter, challeng'd him to fight a Duel; and notwithstanding they were in Company with *Duke Robert*, who with his Court was taking the Diversion of Hunting, they engag'd, and *Drengot* run his Enemy through with his Lance, and kill'd him. *Duke Robert* taking this as an Affront, endeavour'd to have him seiz'd, in order to make a publick Example of him; whereupon *Osmond*, to shun the Wrath of his Sovereign, fled first into *England*; and at last, seeing the Way to *Italy* so well pav'd to his Hand, resolv'd to go thither with his Kindred, and likewise induc'd others to undertake the Journey with him. This gallant *Norman* carried many of his Brothers along with him, who according to *Ostiensis*, were *Rainulphus*, *Asclittinus*, *Osmondus*, and *Rodulphus*, together with their Sons, Nephews, and many other Friends. This *Rainulphus* was the first Count of *Aversa*, and was succeeded by *Asclittinus*, by *Ordoricus Vitalis*<sup>1</sup>, call'd *Anschetillus de Quadrellis*, from whom are descended the first *Normans* who possess'd the Principality of *Capua*, as we shall see.

THESE Heroes, of most noble Blood, having come from *France* accompanied with many of their *Normans*, were receiv'd with much Joy and Marks of Esteem by our Princes, who well remember'd what their Countrymen had done in *Salerno* a few Years before. Some say that they went first to *Benevento*, others that they took Service under the Prince of *Salerno*, and others that they came to *Capua*<sup>2</sup>; all which may be true, for these new *Normans*, being less disinterested than those who had fought at *Salerno*, were ready to serve him who rewarded them best; and our *Longobard* Princes, who had both the *Greeks* and *Saracens* to deal with, coveted to have so gallant Men in their Service, by whose Means they expected to reap great Advantage. However that may be, 'tis certain, that tho' it does not appear precisely in what Year they went to *Capua*, yet they must have been there before the Year 1017, when *Melo*, who had fled from *Bari*, found Sanctuary there, and was kindly receiv'd by *Pandulphus IV.* who became Prince of *Capua* in the Year 1016, together with *Pandulphus II.* the Son of *Landulphus* of *St. Agatha*, which gave Opportunities to these new *Normans*, in his Service, to signalize themselves in many noble Expeditions.

THE *Greeks* by their new Magistrates call'd *Catapani*, had made their Government in *Puglia* insupportable, and gave Occasion to new Disorders and Tumults in *Bari* the Seat of that Magistrate; for the *Baresians* not able to bear the severe Government of *Curcua* the new *Catapanus*, push'd on by *Melo* a valiant Captain of the Blood of the *Longobards*, who liv'd in *Bari*, whither he had transported his Family

<sup>1</sup> Ostiens. lib. 2. cap. 37.

<sup>2</sup> Ordoric. Vital. lib. 3.

<sup>3</sup> Ostiens. loc. cit.

<sup>4</sup> Pellegr. in Stem.



a long time before, revolted from the *Greek* Empire, and hoping to set their native Country at Liberty, put themselves under the Conduct of *Melo*, whom, with *Datus* his Kinsman, they chose for their Head. But the Emperors of the East being appriz'd of this Revolution, they immediately sent into *Italy* *Basilus Bajanus* to be *Catapanus*; who, upon his Arrival in *Puglia* with a goodly Company of Lords and Soldiers of *Macedonia*, laid Siege to the City of *Bari*. The *Baresians* thus beset, instead of defending themselves, minded nothing but to make their Peace with the *Greeks* at *Melo's* Cost, offering to deliver him up; which *Melo* perceiving, he fled immediately to *Ascoli* with *Datus*, and not thinking himself safe enough there, retir'd much further off; and in the mean time his treacherous Fellow-Citizens, in order to curry Favour with the *Greeks*, sent *Maralda* his Wife, and *Argirus* his Son to *Constantinople*. *Melo*, who had retir'd from *Ascoli* to *Benevento*, and from thence to *Salerno*, at last stopp'd at *Capua*, where he crav'd Assistance against the *Greeks* from *Pandulphus*, as he had done from the Princes of *Benevento* and *Salerno* his Countrymen. On his Arrival in *Capua* he found the *Normans*, who had come there a little before; he had already heard of their Valour, and finding them fit for his Purpose, by great Promises engag'd them in his Service; and having likewise list'd other Troops belonging to the *Longobard* Princes, from whom he had begg'd Assistance, he made up an Army, with which he presently march'd against the *Greeks*, whom he attack'd and defeated in three successive Battles, and made himself Master of some Cities of *Puglia*; but afterwards he lost all the Fruits of his Victories in the fourth Battle, which happen'd in the Year 1019, near the City of *Canne*, a Place formerly famous on account of the ancient Defeat of the *Romans*<sup>1</sup>, where *Melo* was overcome rather by the Treachery of his own Men, than the Power of the *Greeks*, tho' the *Normans* continu'd faithful, and fought gallantly. *Melo*, seeing his Army reduc'd to a very low Pass, was resolv'd to seek Assistance elsewhere, and having recommended all the *Normans* that were left, to *Pandulphus* Prince of *Capua*, and *Guaimarus* Prince of *Salerno*, he went immediately to the Emperor *Henry*, to whom he represented the lamentable Condition of these our Provinces, which were in Danger of being dismember'd from the Empire of the West, by the prevailing Power of the *Greeks*, and begg'd of him to send a strong Army against the *Greeks*, and even to go and command it himself: *Henry* being engag'd in other Enterprizes, and not performing his Promises, oblig'd *Melo* twice to undertake the same Journey, in order to solicit the promis'd Succours; but in the Midst of these Negotiations *Melo* ended his Days while he was with the Emperor *Henry*, and the *Normans* having lost their valiant Captain, resolv'd to ingage in some other Service.

*ADINOLPHUS* the Brother of *Pandulphus* Prince of *Capua*, and Abbot of *Monte Cassino*, was so often oppress'd by the Counts of *Aquino*, who frequently made Incursions upon the Lands of that Abbey, that in order to repulse them, he resolv'd to employ the Courage of the *Normans*<sup>2</sup>, who very faithfully perform'd what they were intrusted with, and always protected the Lands of that Monastery from a Village call'd *Piniatario*, not far from the City of *St. Germano*, where they had fortified themselves. Others of the *Normans* following *Datus*, had put themselves under the Protection of Pope *Benedict VIII.* who had given them the keeping of the Tower of *Garigliano*, which belong'd to the Estate of the Church; thus *Datus* reckon'd himself secure, for the City of *Capua* cover'd him from being attack'd by the *Greeks*.

BUT the Treachery of *Pandulphus* Prince of *Capua* occasion'd new Disturbances in these Provinces, all which conduc'd to the Rise of the *Normans*. This Prince, tho' in appearance he seem'd to favour the Party of *Henry* Emperor of the West, whose Subject he was; nevertheless he kept secretly a strict Correspondence and Friendship with *Basilus* Emperor of the East, and went so far, that at last he was induc'd to send the Golden Keys to *Constantinople*, and subject himself, his City, and the whole Principality to the Empire of the East, just as it had been formerly subject to that of the West<sup>3</sup>. The Emperor *Basilus*, to whom this Acquisition was of great Importance, immediately advis'd *Bajanus* of it, and charg'd him by means of *Pandulphus* to endeavour to get *Datus* and his *Normans* into his Clutches. He effectually and punctually executed his Prince's Commands, and that *Pandul-*

<sup>1</sup> Oñtens. lib. 2. cap. 37.

<sup>2</sup> Idem cap. 38.

<sup>3</sup> Ibidem.

*phus* might not be dissuaded from it by the Abbot *Adinolphus* his Brother, he resolv'd to bring him over likewise to his Interest, for which purpose he made use of very effectual Means, by making a Donation to his Monastery of the whole Inheritance of a certain *Maraldus* of *Trani*, that had been escheated<sup>1</sup>; and having sent a great Sum of Money to *Pandulphus*, he intreated him, that if he was truly faithful to the Emperor *Basilus*, he would give him a free Passage through his Dominions, in order to seize *Datus*. The Request was immediately granted, and *Bajanus* with a considerable Army came and attack'd *Datus* in *Garigliano*; the Besieg'd, tho' catch'd napping, defended themselves for two Days with great Courage, but at last Courage was oblig'd to yield to Force. *Bajanus* took the Place, and treated with the utmost Rigour, all those whom he found in it, excepting the *Normans*, whom he spar'd at the earnest Intreaty of the Abbot *Adinolphus*. But he had no Pity on *Datus*, for this unfortunate Captain was conducted to *Bari*, and punish'd as a Paracide, by being put into a Sack and thrown into the Sea.

THE Emperor *Henry* having heard of the Invasion of the *Greeks*, the Treachery of *Pandulphus*, and the cruel Death of *Datus*, bethought himself, that after the Loss of *Puglia*, and the Principality of *Capua*, not only *Rome*, but all *Italy* was in Danger, if he did not speedily succour them; for he had been too long in perceiving what *Melo* had so often fore-told, but was at last rous'd up, and having drawn together a great Army, he invited the *Normans* (who had been left at liberty at the Desire of *Adinolphus*) to fight under his Banner, and forthwith, this Year 1022, directed his March towards *Italy*<sup>2</sup>. He divided his Army into three Bodies; of one compos'd of Eleven thousand Soldiers, he made *Poppo* Patriarch of *Aquileja* Captain, who march'd towards *Abruzzo* in order to enter the Dominions of the *Greeks* on that Side; another Body of Twenty thousand commanded by *Belgrimus* Archbishop of *Cologne* (for in those Times it was no strange Thing, for the greater Prelates of the Church to be seen at the Head of Armies, which we shall see anon practis'd by the very Popes themselves) was sent towards *Rome*, to seize the Abbot of *Cassino*, with the Prince of *Capua* his Brother, who had been accus'd to the Emperor as the Author of *Datus's* Death; *Henry* kept the other with himself, designing to march through *Lombardy*, and by the Way of *Marca* to attack the *Greeks*.

THE Abbot *Adinolphus* no sooner heard that a whole Army was marching against him, than he left the Monastery, and resolving to save himself in *Constantinople*, in great haste he fled to *Otranto*, where having embark'd on the *Adriatick* Sea, he was Shipwreck'd, and himself with all his People drown'd.

THE Prince his Brother, when he saw that he was besieg'd in *Capua* by the Archbishop of *Cologne*, lest he should be betray'd by his own Vassals, who hated him mortally, surrender'd himself to the Prelate, on Condition to be carried to *Henry*, before whom he promis'd to prove his Innocence<sup>3</sup>. *Belgrimus* took him under his Protection, and carried him to *Henry*, who at that Time had laid close Siege to *Troja* in *Puglia*, a City built by the *Greeks* that very Year, which a few Days after surrender'd to him. The Emperor was overjoy'd, and conven'd all his Barons, as well *Italians*, as those beyond the Mountains, for judging his Cause; who unanimously sentenc'd him to die; but the Archbishop, under whose Protection he had put himself, by Intreaties and Tears prevail'd so far upon the Emperor, that he chang'd the Sentence of Death into perpetual Banishment, caus'd him to be put in Chains, and carried him with him to *Germany*.

HENRY gave the Principality of *Capua* to *Pandulphus* Count of *Tiano*, and at the same Time he invest'd *Stephen*, *Melo*, and *Peter*, Nephews of the famous *Melo*, in that County, who had undertaken to maintain it against the *Greeks*, as their Uncle had done before. Thus did the Emperors of the West dispose of the Principality of *Capua*, and the Counties of which it was made up. But *Henry* being oblig'd to recall his Army on account of the excessive Heats of *Puglia*, which his *Germans* could no longer bear; he intrusted the Designs he had upon *Italy* to the Bravery of the *Normans*, leaving it upon them to drive the *Greeks* out of it. He recommended to them particularly, that upon any emergent Occasion they should assist the Nephews of the renown'd *Melo*, to whom he likewise gave some other

<sup>1</sup> Ofsiens. loc. cit.

<sup>2</sup> Ibid. lib. 2. cap. 39.

<sup>3</sup> Ibid. de lib. c. 41.

famous *Normans* for Assistants; who, according to *Ostiensis*, were *Giselbertus* and *Gosmanus*, *Stigandus*, *Turstinus*, *Balbus*, *Walterus de Canosa*, and *Hugo Fallucca*, with eighteen other gallant Companions.

THE Emperor *Henry* likewise recommended these *Normans* to the Princes of *Benevento* and *Salerno*, and to *Pandulphus* of *Tiano*, the new Prince of *Capua*, bidding them to employ them on all Occasions. But these Princes soon forgetting the great Obligations the *Longobards* were under to the *Normans*, who had done them great Service against the *Greeks*, began to despise them; whether they thought they stood no more in need of them, or whether they took it in ill Part that they were employ'd in the Emperor's Service; they suffer'd them to wander in the Woods, without so much as allowing them a Place for Shelter, and deny'd them their wonted Pay.

THE *Normans*, who were not us'd to bear such Injustice, took Arms against the Inhabitants of the Country, and immediately brought them to be at their Discretion; and in order to obtain more securely what they wanted, they chose themselves a Leader of their own Nation. The first was *Turstinus*, one of those brave Men mention'd by *Ostiensis*, of Strength equal to his Courage, and every way qualified for the Post. But not long after this gallant Captain, by the Deceit of the *Puglians*, was attack'd by a Dragon, and tho' he kill'd him, yet died by the venomous Breath of that Serpent, as *Gulielmus Gemmeticensis* has it<sup>1</sup>: However there were not wanting worthy Successors to revenge his Death, for the *Normans* unanimously chose *Rainulphus*, a valiant and skilful Warrior<sup>2</sup>, who was the first of the *Normans* that took upon him the Quality of Prince in *Italy*, and who establish'd a certain and fix'd Seat in these our Provinces, as we shall see anon.

IN the mean time *Henry*, after having reign'd Twenty-two Years, in the Year 1025, ended his Days in *Germany*, without leaving any Issue; and on account of his Piety, and more for his singular Chastity, which, even tho' married, he would preserve, we now pay him the Honour due to Saints. He built many Churches in *Ramberg*, which he subjected to the Pope. A most prudent Prince, who, considering, that for want of Children, Confusion and Disorders might happen about the Election of his Successor, upon his Death-bed, he call'd for the Princes of the Empire, and nam'd *Conrad* Duke of *Franconia*, surnam'd the *Salick*, a wise and gallant Prince of the illustrious House of *Saxony*, to be his Successor<sup>3</sup>. The Princes of the Empire consenting, elected him King of *Germany* and Emperor: So that *Conrad* was advanc'd to the Throne, not by Hereditary Right, but by Election, as was the Custom, tho' he was nam'd by his Predecessor, as if the Electors with common Consent had intrusted *Henry* with the Election. Neither was that which *Otbo* III. had prescrib'd, observ'd in his Election, for he was not elected by the seven Electors only, but by all the Princes; and *Otbo's* Regulation was not put in Practice till long after.

*BASILIVS* Emperor of the East likewise died this Year 1025, and shortly after in 1028 *Constantine*, and *Romanus*, surnam'd *Argirus*, was elected their Successor.

<sup>1</sup> *Guilielmus Gemmet. lib. 7. cap. 30.*

<sup>2</sup> *Gemmet. loc. cit. Gul. App. lib. 1.*

<sup>3</sup> *Antoninus 2 par. hist. tit. 16. cap. 4. §. 1.*  
Virtute militari Strenuus, Sapientia, & Scientia  
juris maxime florens.





## C H A P. I.

*The City of Averſa founded, and Rainulphus the Norman made  
firſt Count thereof.*



THE Death of *Henry*, and the Election of *Conrad*, chang'd the Face of Affairs in theſe our Provinces. The new Prince of *Capua*, *Pandulphus* of *Tiano*, on account of his abominable Practices, and eſpecially his Avarice, was abhorr'd by all. He had diſguſted the *Normans*, who ſeeing themſelves treated ſo unworthily, oppreſs'd the Country People, and held them in Subjection; therefore his own Vaſſals deteſted him. He had likewiſe diſoblig'd *Guaimarus* III. Prince of *Salerno*, and by his Behaviour had brought Things to that paſs, that he became his inveterate Enemy.

ALL theſe Things wrought his Ruin, for after *Henry's* Death, *Guaimarus* us'd all Means to gain the Favour of the new Emperor *Conrad*, and manag'd Matters ſo well, that he enter'd into a ſtriſt Correſpondence and Friendſhip with him. *Guaimarus* had married *Gaidelgrima* Siſter of *Pandulphus* IV. who was ſtill in cloſe Priſon in *Germany*: The firſt Favour he deſir'd of *Conrad*, was to ſet his Brother-in-Law at liberty, and to reſtore him to the Principality of *Capua* <sup>1</sup>. *Conrad* granted his Requeſt, and order'd him to be reſtor'd to that Principality.

*RAINULPHUS*, who with his *Normans* had been ſo ill us'd by *Pandulphus* of *Tiano*, ſeeing ſo fair an Opportunity to be reveng'd, preſently join'd with *Guaimarus*, and with their united Forces, reſolv'd to reſtore *Pandulphus* IV. to the Principality of *Capua*. This Prince being aſſiſted by *Guaimarus* and the *Normans*, as alſo by his old Friends he had in *Puglia*, and by *Bajanus* the *Catapanus* himſelf, and the Counts of *Marſi*, laid Siege immediately to *Capua*, in order to drive out his Competitor, who defended the Place for the Space of eighteen Months; but not being able to hold out longer, was oblig'd to ſurrender it to *Bajanus*, who took him under his Cuſtody and Protection, and ſent him, with his Son *John*, and all that belong'd to him, to *Naples*, where he was courteouſly receiv'd by *Sergius* who was then Duke of it.

*PANDULPHUS* IV. like all ambitious Men, not ſatiſfied with having recover'd his former Principality, was grievouſly offended that *Pandulphus* of *Tiano* ſhould be protected by *Sergius*, ſo that he began under this Pretence to reſolve upon new Enterprizes againſt the Dukedom of *Naples*.

HE had not ſhewn himſelf ſo grateful to the *Normans* as the important Service they had done him at this Juncture deſerv'd, wherefore they reſolv'd to eſtabliſh themſelves in ſome Place in that Neighbourhood: They firſt pitch'd upon a Place, which is thought to be that which we now call *Ponte a Selice*, three Miles above *Averſa*, which appear'd to be the moſt Fertile <sup>2</sup>; but when they began to build, the Foundation prov'd Marſhy, therefore they quitted it, and built their City at ſome Diſtance from it, which afterwards, from their Name was call'd *Averſa la Normanna*, and was poſſeſs'd by *Rainulphus* with the Title of Count, for Reaſons which we ſhall relate.

<sup>1</sup> Offienſ. lib. 2. cap. 58.

<sup>2</sup> Gul. App. lib. 1.

*PANDULPHUS* IV. delay'd putting his Designs against *Sergius* Duke of *Naples* in Execution only one Year. The Dukedom of *Naples* was at this Time, after *Marinus*, whom the Anonymous *Salernitan* mentions, govern'd by this *Sergius*, and tho' by ancient Tenure it was subject to the Emperor of the *Greeks*, nevertheless it was govern'd by the Dukes with absolute Authority, in the Form and Disposition of a Republick. When *Pandulphus* march'd his Army against *Naples*, *Sergius* being unprovided, and at a great Distance from the *Greeks*, who could give him no Assistance, was forc'd to leave the City, which, after a short Resistance, surrender'd to Prince *Pandulphus*; this was the first Time that *Naples* had been subdued by the *Longobard* Princes, and made subject to their Dominion, after the Efforts of so many others, who never could conquer it; *Pandulphus* of *Tiano* having made his Escape, fled to *Rome*, where he soon ended his Days in a miserable Exile.

*SERGIUS* being driven out of the Dukedom of *Naples*, and not able to find Assistance for turning out the Invader any where else, very wisely had recourse to the *Normans*, assuring them of a more generous Treatment than they had hitherto had from the *Longobard* Princes. *Rainulphus*, who had been ill us'd by that Prince, embrac'd all Opportunities by which he might the better establish himself, and procure his own Advantage, and upon these Promises, accepted the Invitation, and with his *Normans* join'd *Sergius*, and did him such signal Service, that they forc'd *Pandulphus* to quit *Naples*, after he had been three Years in Possession of it, and restor'd *Sergius* to his Dukedom, to the great Glory and Reputation of *Rainulphus*.

*SERGIUS*, not following the Example of the *Longobard* Princes, was mindful of his Promises to *Rainulphus*, kept his Word, and enter'd into a strict Alliance with the *Normans*, and in order to a more close Union betwixt them, he married a Kinswoman of *Rainulphus*; and besides, to secure himself against the Insults of the Prince of *Capua*, he built a strong Fort betwixt that City and *Naples*, made *Rainulphus* a Count<sup>1</sup>, and gave the Title of County to all the Territories about that City which they were building, and had then begun to inhabit, which cover'd the Dukedom of *Naples*; and seeing he was resolv'd to keep up an Aversion betwixt the *Normans* and the Prince of *Capua*, 'tis thought that on that account this City was call'd *Aversa*.

'TIS not improbable, what *Summontes*, from the Authority of *Joannes Villani*, says, that the Reason that induc'd Duke *Sergius* to give the Title of Count to *Rainulphus*, must have been, because that Territory was within the Demesnes of *Naples*, being only eight Miles distant from it; and the rather, because *Villani*<sup>2</sup> in his Chronicle of *Naples* says, that the *Normans* built *Aversa*, which formerly was a Castle belonging to *Naples*. But this Title, as we shall shortly see, was confirm'd afterwards to *Rainulphus* by the Emperor *Conrad*. Thus did the *Normans* begin to have a fix'd Residence in these our Provinces; but much greater Acquisitions follow'd afterwards, on the Occasions which we shall soon relate.

<sup>1</sup> Pellegr. in Stemmat. A. 1030. Ostiens. lib. 2. cap. 58. | <sup>2</sup> Chronic. Neap. Jo. Villani, lib. 1. cap. 60.

## SECT. I.

*The coming of the Sons of Tancred Count of Hauteville, and the Death of Conrad the Salick; and his Laws.*

*RAINULPHUS* being thus establish'd in *Aversa*, set about fortifying himself there, and began to act as a Prince; he sent Ambassadors to the Duke of *Normandy*, inviting his Countrymen to come and partake with him of the charming Country, where he was already Master of a County; and to induce them the more, he gave them hopes of their having the same good Fortune: Upon this Invitation there came a much greater Number of *Normans* into *Italy* than at first; with these came the eldest Sons of *Tancred* of *Hauteville*, the Head of the Family, of whose numerous Off-spring, from which were descended the Heroes, who not only conquer'd these our Provinces, but likewise *Sicily*, we shall shortly give an Account.

The Expedition of the Sons of *Tancred* into these our Provinces ought to be plac'd in the Year 1035, they came not all the same Time, but the first were *William*, *Drogo*, and *Umbert*. The rest came afterwards, and only two remain'd in their native Country<sup>1</sup>.

THESE valiant Champions having first push'd their Fortunes in diverse Places, at last arriv'd in *Italy* with other *Normans*, and fix'd themselves in *Salerno*, under the Protection and Pay of that Prince. The Principality of *Salerno* was govern'd at this Time by *Guaïmarus* IV. Son of *Guaïmarus the Elder*, who had been dead since the Year 1031. This Prince, after the Example of his Pather, had a great Esteem for these last *Normans*, whom he valu'd above all the rest of their Nation; whether it was out of Inclination or Policy, 'tis certain that he employ'd them in all his Affairs, and had such Regard for them, that he still heap'd Favours upon them; and therefore as a most prudent Prince, govern'd his State with Vigour and Magnificence.

ON the contrary, *Pandulphus* Prince of *Capua*, who had been ungrateful to them, by his Cruelty and Avarice, had gain'd the Hatred of every Body; his frequent Incurfions, and the Robberies which he committed on the Monastery of *Cassino*, oblig'd these Monks, in order to protect themselves from his Tyranny, to have recourse to the Emperor *Conrad* then in *Germany*, to whom with Tears in their Eyes they complain'd of the Destruction of their Monastery, and intreated him to come into *Italy* to relieve them from the Oppression of this Tyrant, putting him in mind that it was a Duty incumbent on him, because their Monastery was under his Protection, as it had been under the immediate Care of his Predecessors<sup>2</sup>.

TO this were likewise added, for hastening *Conrad's* coming into *Italy*, the Revolutions that had happen'd at the same in *Lombardy*, of which the Archbishop of *Milan* was reputed the principal Author<sup>3</sup>. Therefore *Conrad* resolv'd at last to undertake a Journey towards these our Provinces; and in the Year 1038, having pass'd the *Alps*, with a powerful Army enter'd *Italy*, and stopp'd at *Milan*, where he quell'd the Insurrection, by imprisoning the Rebels, and likewise the Archbishop the Promoter of it. He soon after went to *Rome*, where he heard the Complaints of a Multitude of People against the Prince of *Capua*; he took Cognizance of his Crimes, and having gone to the Monastery of *Cassino*, sent Ambassadors to *Pandulphus* to induce him by fair Means to restore what he had unjustly taken from that Monastery; but he persisting in his Disloyalty, *Conrad* came to *Capua* himself, and *Pandulphus*, to avoid his Indignation, retir'd to the Castle of *S. Agatha*. The Emperor being receiv'd in *Capua* with great Pomp and Rejoicings, was, with great Solemnity, and the usual Ceremonies, crown'd there on the Feast of *Pentecost*. It was then the Custom of the Emperors to repeat these Solemnities frequently on the most solemn Days of the Year; for this see how the most incomparable *Pellegrinus* corrects the Anonymous *Cassinensis*; for *Conrad* was not first crown'd King or Emperor in *Capua*, it was in the Year 1026 that he was proclaim'd King, and the Year following Emperor, the first time he came to *Rome*. In the mean time *Pandulphus* us'd all Means possible to pacify *Conrad*, by begging his Pardon; at last he offer'd him Three hundred Pounds of Gold, the half of which he paid immediately, and the other half was to be paid at a certain Time, and in the mean while, until the whole was paid, promis'd, to give his Daughter and a Nephew as Hostages; the Emperor accepted the Offer, to whom he presently sent the Money and Hostages. But this Prince soon after repenting of what he had done, and reckoning that he might easily get in again to *Capua*, as soon as *Conrad* was gone, after many Delays, he at last refus'd to pay the Remainder of the Gold. *Conrad* having now discover'd the Intention of this Prince, and that he would no sooner begone, than, according to his mischievous Inclinations, he would quickly return to Rapine and Cruelty, resolv'd to deprive him intirely of the Principality of *Capua*, and give the Investiture of it to another.

FOR which end he call'd an Assembly of the Grandees, and many of his Barons, at which he would likewise have the Noblemen of *Capua* present, that nothing might be done without their Advice and Consent, and in case *Pandulphus* was to be depos'd, he might more maturely advance another, that should be more deserving of the Principality. *Pandulphus* was depos'd, and the Principality given to *Guaïmarus*

<sup>1</sup> *Malat. lib. 1. cap. 9, 11, 19, & 38. Otiens. lib. 2. cap. 67.*

<sup>2</sup> *Otiens. lib. 2. c. 65.*

<sup>3</sup> *Antonin. 2 par. tit. 16. cap. 2. §. 1.*

of *Salerno*, a most prudent Man, and in great Favour with the Emperor *Conrad*; and now these two Principalities were united in the same Person.

*PANDULPHUS* having left his Son in the Castle of *S. Agatha*, went to *Constantinople* to seek Assistance from the Emperor. But being prevented by *Guaimarus*, instead of giving him Assistance, the Emperor banish'd him; and he continu'd an Exile as long as the Emperor liv'd, which was above two Years; after whose Death, he was restor'd to his Liberty by his Successor; but, not able to procure any Assistance, he return'd without Success<sup>1</sup>.

AT this time *Guaimarus*, being mindful of the signal Services the *Normans* had done him, took hold of the Opportunity to advance them; and to shew the Desire he had for their Promotion, he procur'd from the Emperor, the Investiture of the County of *Aversa* in favour of *Rainulphus*<sup>2</sup>; for tho', as we have said, *Rainulphus* had been made Count over the *Normans* by *Sergius* Duke of *Naples*; yet that was no more than a Dignity bestow'd on him by way of Office, that is to say, appointing him Captain over his fellow Soldiers, as *Pellegrinus* has learnedly explain'd it. The Emperors of the West at this Time, claim'd the sole Right and Prerogative to give the Investiture of Fiefs over all *Italy*: The Popes, in Imitation of them, pretended afterwards, that the Investiture of Benefices belong'd to them only, of which we shall have occasion to treat elsewhere. Therefore *Guaimarus*, in order to give the *Normans* a more sure Footing in the County of *Aversa*, got the Emperor to invest him in it, by Virtue of which Investiture, he enjoy'd not only the Office, but likewise the Fief of the City and County, and all those Royalties, that are usually comprehended in such Concessions.

THE *Normans* made suitable Returns for these Favours, for not long after, by their Assistance, *Guaimarus* took *Sorrento*, and reserving the Title of Duke of *Sorrento* to himself, gave that City to *Guido* his Brother. With their Assistance he likewise conquer'd *Amalphis*, which he kept to himself, and subjected it to his own Principality<sup>3</sup>. Soon after he assum'd the Title of Duke of *Puglia* and *Calabria*, and so many Titles and Seignories were united in his Person, that no Prince in those Times, equal'd him in Power and Grandeur in these our Provinces. Wherefore in some Charters recorded by *Ughellus* in his *Italia Sacra*, granted by *Guaimarus IV.* we observe so many Titles ascrib'd to this Prince, as in one dated in *Melphis*, *Vigesimo Sexto anno Principatus Salerni Domini Nostri Guaimarii gloriosi Principis*; & *Sexto anno Principatus ejus Capuae*; & *quinto anno Ducatus illius Amalphis*, & *Sorrenti* & *secundo anno supra scriptorum Principatum*, & *Ducatum Domini Gisulfi eximii Principis*, & *Ducis filii ejus*; & *secundo anno Ducatus eorum Apuliae*, & *Calabriae*, *mensē Junii Duodecima Indictione*<sup>4</sup>.

IN the mean time *Conrad*, having left *Capua*, went to *Benevento*, from thence by *la Marca*, he cross'd the Mountains, carrying with him the Hostages he had got from *Pandulphus*; and in the following Year 1039, ended his Days in *Germany*, leaving *Henry* his Son, surnam'd the *Black*, his Successor in the Empire.

AMONG the many Excellencies wherewith *Conrad* was adorn'd, was his Skill in the Laws, and the great Care he had in establishing them: Upon his Arrival in *Italy* at *Romagnolia*, as was the Custom of his Predecessors, he establish'd many prudent and wise Laws; some of which we read in the third Book of the *Lombard Laws*, others in the Books of the Feudal Law, and *Godastus* collected many more of them in his Volumes<sup>5</sup>.

HE was the first, who, to the Feudal Customs, added written Laws for regulating Successions; and to this Day the Succession to Fiefs is regulated according to the Custom which the *Lombards* introduc'd into *Italy*. Fiefs, as we have said, according to antient Custom, were wont to be granted for a Time only<sup>6</sup>, the Granter reserving to himself the Power to resume the Fief at his Pleasure. Afterwards the Grant was made for one Year only; at length Fiefs were granted during the Vassal's Life; but did not go to the Sons: In fine, one of the Sons was included, which was when the Lord confirm'd the Fief to him, that had been granted to the Father;

<sup>1</sup> Otfens. lib. 2. cap. 65.

<sup>2</sup> Otfens. lib. 2. cap. 65. Rainulphum quoque, ipsius Guaimarii Suggestione, de Comitatu Averfano investivit.

<sup>3</sup> Otfens. lib. 2. c. 65. Eodem tempore Guaimarius Normanis faventibus, surrentum capit,

& fratri suo Guidoni consulit. Amalphim nihilominus suo dominatui subdidit.

<sup>4</sup> Ughil. de Archiep. Amalf. pag. 255. tom. 7.

<sup>5</sup> Goldast. tom. 3. pag. 812.

<sup>6</sup> Lib. 1. Feud. tit. 2. §. 1.



last of all, the Grant was extended to all the Sons, and by the Feudal Customs the Succession went no further.

CONRAD the Salick, before he came to Rome to take the Imperial Crown, in the Year 1026, according to the Custom of his Predecessors, in the Assembly of the Princes and People in *Roncaglia*, being requested by his Vassals, that he would be pleased to admit to the Succession of Fiefs, not only the Sons, but likewise their Sons; which failing, that the Brothers of the Deceas'd might also succeed, consented, and therefore a Law was publish'd, That if the Vassal should have no Sons alive, the Grandson, by a Son, should succeed in the Fief; and that if he had no Grandsons, but Brothers lawfully begotten of the same Father, they should likewise possess the Fief<sup>1</sup>.

THIS Law, which is fully recorded by *Sigonius*<sup>2</sup>, though the Compilers of the Feudal Books have not inserted it all, is to be read in the Third Book of the *Longobard* Laws, in which were collected all the other Laws of the Emperors of the West, as Kings of *Italy*, which were in Force, not only in *Lombardy*, and in all the other Parts of *Italy*, but likewise in these our Provinces, except what was subject to the *Greek* Empire, for the Reasons formerly mention'd in the Course of this History, and especially in the Time of *Conrad*, when the Authority of the Emperors of the West was at the Height of its Greatness in the Principalities of *Capua*, *Salerno*, and *Benevento*; when they depos'd the very Princes, and dispos'd of their Principalities at their Pleasure; the *Longobard* Laws were in greater Force and of more Authority in our Kingdom, than the Feudal, as we shall see hereafter when we come to treat of the Compilation of these and the Feudal Laws.

GERARDUS de Nigris, a Senator of *Milan*, in his first Book of Fiefs<sup>3</sup>, has given us the Substance of this Law; and the Compilers of the other Feudal Books have neglected to insert it among the other Feudal Constitutions of those Emperors that succeeded *Conrad*, because it had been already inserted in the Books of the *Longobard* Laws, the Use of which was more frequent amongst our Forefathers, than that of the Feudal Books; though from one Place of *Andrea d'Isernia*<sup>4</sup>, we gather, that it had likewise been transcrib'd in some Codes of the Feudal Laws, that were then in every Body's Hands, though in many Places mangled and torn.

WE have other *Capitula* of this Prince in the second Book of Fiefs, under the Title *da Capitulis Conradi*, likewise enacted in *Roncaglia*, in which also Fiefs are treated of. Neither, by the bye, is the Error of *Carolus Molineus*<sup>5</sup> pardonable, when at the same time that he blames our Interpreters, who, through their Ignorance in History, fell into many Blunders, he himself stumbles upon what he had found Fault with in them, by attributing these *Capitula* not to *Conrad* the Salick, but to *Conrad* II.; for this *Conrad*, of whom he is speaking, was never in *Italy*, so that he could not enact them in *Roncaglia*.

WHENCE we are likewise convinced of the other Mistake of *Molineus*<sup>6</sup>, into which we cannot but admire, that besides *Craig* and *Hornius*, our most careful *Pellegrinus*<sup>7</sup> should also have fallen, who, on very slender Grounds, have reckon'd *Lothaire* I. Grandchild of *Charles the Great*, Author of that Constitution, which we read in the first Book of Fiefs<sup>8</sup>, by which the Succession to Fiefs was extended to the Father's Brother; for if that Emperor had been Author of it, *Conrad* the Salick could not have been the first, who added the written Laws to the Feudal Customs; but *Lothaire* I. who held the Empire of the West more than 200 Years before *Conrad*.

BUT we are convinc'd, that this Law was *Lothaire's* III. (whom others with more Truth call II.; as for the other *Lothaire*, who for a few Days usurp'd the Empire after *Berengarius*, amidst so many Revolutions, we are not to mind him) and not *Lothaire's* I. because it was publish'd in *Rome* in the Year 1133 or 1137, under the Pontificate of *Innocent*, and not of *Eugen*, as we read incorrectly in the vulgar Code, in an Assembly (as was usual) of the knowing Men and Barons of many

<sup>1</sup> Lib. 3. L. L. Longobard. tit. 8. de beneficiis | prohib. Feud. alien. per Lothar.

1. 4.

<sup>2</sup> Sigon. A. 1026.

<sup>3</sup> Lib. 1. tit. 1. §. 2.

<sup>4</sup> Andr. in Comm. in l. omnibus post. tit. de

<sup>5</sup> Molin. de Feud. num. 51.

<sup>6</sup> Molin. de Feud. num. 33.

<sup>7</sup> Pellegr. in dissert. pag. 62.

<sup>8</sup> Lib. 1. Feud. tit. 19.

Cities of *Italy*; and *Conrad's* Law concerning Succession in Fiefs was confirm'd by *Lothaire*; and besides, the Succession was extended in favour of the Father's Brother, which *Conrad* had not done, as the incomparable *Cujacius* learnedly observ'd, tho' unjustly censur'd by *Pellegrinus*. This will be yet more evident when we consider, that if from the Time of *Lothaire* I. Uncles on the Father's Side, were allow'd to succeed to Fiefs, it would have been ridiculous to have intreated *Conrad* with so much Earnestness, as the Vassals then did, to extend the Succession to Brothers, when 200 Years before, it had been allow'd even to Uncles. We are convinc'd by other Arguments, that this Law ought to be attributed to *Lothaire* III. which may be seen in *Schilterus* and *Struvius*. But we must pardon this Mistake in the most careful *Pellegrinus*, who would meddle for once in Matters that did not concern him, but not in *Molineus*, who was most knowing in our Feudal Laws.



## CHAP. II.

### *The Conquest of Puglia by the Normans.*



**W**HILST *Conrad* was employ'd in setting the Affairs of *Italy* in order, there fell out in these our Provinces, such favourable Opportunities for the *Normans* to aggrandize themselves, as rais'd their Minds to more daring Undertakings. These noble and valiant Champions who fought under the Banner of *Guaimarus* Prince of *Salerno*, by various Conjunctions, became so powerful, that *Guaimarus* himself began to be jealous of them, especially the Interest which the Sons of *Tancred* acquir'd, gave him Umbrage, though he durst not shew it; whereupon, in order to get rid of these Suspensions, he bethought himself of Means for removing them to some distant Place on honourable Pretexts, being afraid to deal roughly with them in his own Territories; when behold an Opportunity offer'd, which was equally advantageous to both.

THE Empire of the East, which, as we have said, after the Death of *Basilus* and *Constantine*, was govern'd by the Emperor *Romanus Argirus*, by frequent Disorders and intestine Commotions, was miserably declining in its Grandeur and Splendor, and a great Part of it had been subdued by the *Saracens*, whose Fury these Emperors were not able to restrain. The *Greeks*, who imputed their Declension to the Cowardice of their Sovereigns, frequently mutiny'd, murder'd their Princes, and set up others in their Room, whom they thought capable to restore the Empire to its antient Grandeur; but being often disappointed in their Expectations, and yet most imprudently persisting in the same Course of Tumult and Slaughter, at last, were the Cause of the total Ruin of so great and vast an Empire. For this end, having advanc'd *Michael Paphlagon* to the Throne, they allow'd him barbarously to murder the Emperor *Romanus*. This cunning Prince, in order to get his Election approv'd of by the People, and to convince them that they had not been mistaken, as at other Times, in raising him to the Throne, resolv'd to gain their Esteem by a notable Conquest, by driving the *Saracens* out of *Sicily*, and reuniting it as formerly to the *Greek* Empire, from which it had been torn by these Barbarians; for which Purpose, in the Year 1037, he sent an Army into *Italy*, under the Command of the *Catapanus Georgius Maniaces*, who, upon his Arrival, did all that

was possible for putting the Designs of his Sovereign in Execution'. The Fame of the Norman Valour had reach'd the furthest Parts of the East, so that *Maniaces* thought it absolutely necessary to have some of these gallant Champions to assist him in the Expedition; therefore in the Name of the Emperor, he begg'd of Prince *Guaimarus*, that he would let him have some of these brave Soldiers, that had lately acquir'd so great Reputation in his Country, assuring him that he would be very thankful for such a Favour. But there was no need of much intreaty to procure *Guaimarus*'s Consent to what he desired. He was as willing to give the Normans, as *Maniaces* was to have them, whereupon he acquainted them with the Emperor's Designs, and demonstrated, that their Compliance would be of great Advantage to them; he likewise promis'd them great Things, besides what the Emperor was to bestow on them.

THE Normans, considering that this Opportunity might not only put them in a way of acquiring Honour, but likewise be a Means of getting a more sure Footing, immediately accepted the Offer, and march'd from *Salerno*, in number Three hundred, having at their Head, *William*, *Drago* and *Umfred*, the Sons of *Tancred*, who not long before had come thither from *Normandy*<sup>2</sup>. *Maniaces* received them with much Pleasure, and having presently sent for some Troops out of *Puglia* and *Calabria*, Provinces subject to the Greeks, caus'd the Fleet to be made ready, and sail'd immediately for *Sicily*, and arriving at *Messina*, laid close Siege to it. Such was the Valour of the Normans in this Expedition, that the Place soon surrendred, and *Maniaces* declar'd that this Conquest was owing to the Normans alone, which so heighten'd the Esteem he had for them, that he made them Presents, with fresh Promises, in order to encourage them to fight still more boldly<sup>3</sup>. He advanc'd further into the Country, and made himself Master of considerable Posts, and marching to *Syracuse*, laid Siege to it. This Place was commanded for the *Saracens*, by a certain *Arcadius*, who, vigorously attacking the Greek Army, put it in Disorder; but while he was boasting of this Action, *William* gave him such a furious Blow with his Lance, that he laid him dead at his Feet. At which both the Greeks and *Saracens* were equally astonish'd, and 'tis said, that it was on this Occasion he got the Surname of *Bracciodiferro*, or Iron-arm.

THE *Saracens* immediately rally'd their Troops; but *William* with his Men being posted at the Head of the Greeks, dispers'd them in such a Manner, that the Greeks remain'd Masters of the Field; but the Greeks taking Advantage of the Victory, which was solely owing to the Normans, for they had no other Share in it, but that of bare Spectators, took all the Spoil of the Enemies, and divided it amongst themselves, without leaving any Part of it to the Normans, who had acquir'd it by their Valour. For the Greeks, according to their wonted Vanity and Haughtiness, began to slight this gallant People, and to give the Command of Towns to Greeks only, without minding the Normans, contrary to what *Maniaces* had promis'd. But they being highly provok'd at so great Ingratitude, resolv'd to complain to *Maniaces* of these Wrongs the Greeks did them, that they might discover how he took it, and whether he approv'd of what had pass'd. There had accompanied the Normans in this Expedition, a gallant Lombard, of the Family of the Archbishop of *Milan*, according to *Ostiensis*<sup>4</sup>, nam'd *Arduinus*; but *Curopolata* and *Cedrenus* will have it, that this *Arduinus* had been a Captain of the Norman Troops, who being well skill'd in the Greek Language, serv'd them as Interpreter; him they sent to *Maniaces*, to represent their Grievances, which he did in a very handsome Manner; but *Maniaces* taking these Complaints amiss, look'd upon them as an Incroachment upon his Authority, and upbraided the Messenger. Besides, *Arduinus* having taken a fine Horse from a *Saracen*, whom he had knock'd down, was commanded to restore him, as belonging to *Maniaces*, but refusing to comply, had not only the Horse taken from him, but was himself ignominiously whipt round the Camp<sup>5</sup>. *Gulielmus Pugliensis*<sup>6</sup> and *Cedrenus*<sup>7</sup> report, that this Affront was put upon *Arduinus* not by *Maniaces*, but *Doceanus*, who succeeded him in the Command. However that may be, the Normans taking the ignominious Usage as no less done to them, than to *Arduinus*

<sup>1</sup> *Curopolata* hist. fol. 109. *Cedrenus* hist. fol. 109. *Lupus Protospatha* in Chron. Longob. p. 1. Chron. Barenf. apud Pellegr. A. 1038.

<sup>2</sup> *Ostiensis* lib. 2. cap. 67.

<sup>3</sup> *Malater.* lib. 1. hist. cap. 6.

<sup>4</sup> *Ostiensis* lib. 4. c. 63. *Pellegr.* in Castig. ad *Lup. Protosp.*

<sup>5</sup> *Ostiensis* lib. 2. cap. 67. *Malater.* lib. 1. c. 8.

<sup>6</sup> *Guil. Appul.* lib. 1.

<sup>7</sup> *Cedren.* pag. 623.

who

who receiv'd it, highly incens'd, resolv'd to take Arms immediately upon the very Spot against the *Greeks*, in order to wash away with their Blood, the Injuries they had hitherto receiv'd; but *Arduinus*, who was meditating how to revenge himself to better Purpose, hinder'd them, and shewing himself more cunning than the *Normans*, persuad'd them to take no notice of what had pass'd, any more than he himself would do, until he had accomplish'd a certain Design, which would pave the way to greater Conquests.

HE bethought himself, considering the Condition of the *Greek* Forces in *Puglia* and *Calabria*, that there was good Ground to hope, if they were invaded by the *Normans*, they would subject themselves to their Dominion; and indeed they could expect no better Opportunity than this; for these Provinces, by reason of the Expedition of *Sicily*, which the *Greeks* had upon their Hands, were quite drain'd of Troops, *Maniaces* having transported them, as we have said, to *Sicily* for this Expedition; neither was there any Thing to be fear'd from the Inhabitants, who on account of the harsh Government, and the Vanity and Haughtiness of the *Catapani*, had frequently rebell'd, and were only kept under by Force: So far were they from being willing to oppose those who endeavour'd to withdraw them from the *Greek* Empire, which they abhor'd and detested to that Degree, that in order to shake it off, they had attempted to subject themselves to *Melo* their Countryman, and a Citizen of *Bari*. Besides they were much weaken'd by the Wars which our *Longobard* Princes had often made against them; but especially by the frequent IncurSIONS of the *Saracens*, who being fortified in *Monte Gargano*, kept *Puglia* in continual Fear and Confusion.

ON the other hand the *Normans* were still increasing in Number, some coming daily, either from *Normandy*, or the Holy Land, whither they went on Pilgrimage. The Settlement of *Rainulphus* in the County of *Aversa*, contributed much to the Support of the *Normans*; for, besides that *Sergius* Duke of *Naples* was his Ally and Kinsman, he kept his warlike *Normans* in so good Discipline, that they were always ready for any Undertaking, how great soever.

BUT besides all these Things, 'tis incredible how much the Confusion and Disorders that happen'd in *Constantinople*, which turn'd that Empire and all its Provinces topsy-turvy, conduc'd to this Undertaking. These were the most favourable Conjunctions which at last brought their Designs to bear in such a manner, as we shall by-and-by relate.

*ARDUINUS*, in order to cloke his Designs, seem'd no ways concern'd at the Affront, and the *Normans* likewise dissembled it, and, as if no such Thing had happen'd he behav'd himself civilly to all the *Greeks* of his Acquaintance. In short, he knew so well how to dissemble, that, as *Malaterra* relates<sup>1</sup>, having brib'd *Maniaces's* Secretary, he prevail'd so far upon him, that he obtain'd a Passport for himself, with some of his Men to go to *Calabria*. *Leo Ostiensis*<sup>2</sup> relates, that in order to obtain this, he pretended he was going to *Rome* out of Devotion to visit the Holy Places; however that may be, the *Normans* having one Night embark'd with him, cross'd the *Phare* by means of the Passport without any Obstacle. They no sooner landed in *Calabria* than they began to destroy all the Country, and march'd towards *Puglia*, resolving to make themselves Masters of it, not without well-grounded Hopes of succeeding. For this end *Arduinus* went to *Aversa* to solicit Assistance from *Rainulphus*; to whom he laid open his Designs, that *Puglia*, a large and opulent, but defenceless Province, because the *Greeks* were become effeminate, would be an easy Conquest; and that it would be a Reproach, if now, when the Number of the *Normans*, so famous Warriors, and renown'd for so many Victories, was increas'd, they should be any longer coop'd up, betwixt Penury and Misery, within the narrow Bounds of a small County<sup>3</sup>. *Rainulphus* was pleas'd with the Advice, approv'd of all that *Arduinus* had set forth, and without longer Delay assembled some Troops, committing them to the Charge of twelve gallant Captains; and that there might arise no Disputes, it was unanimously agreed, that the Conquests should be equally divided amongst them; and a half given to *Arduinus*, as the chief Author of the Undertaking, every one solemnly swearing exactly to observe what had been agreed to amongst them. *Arduinus* return'd with Three

<sup>1</sup> Malater. lib. 1.

<sup>2</sup> Ostiens. lib. 2. cap. 67.

<sup>3</sup> Ostiens. loc. cit.

hundred Soldiers, and being join'd with some other *Normans* in *Puglia*, immediately besieg'd *Melpbis*, one of the most considerable Cities at that Time in *Puglia*. The Inhabitants being surpriz'd, presently surrender'd the Place. They quickly after made themselves Masters of *Venosa*, *Ascoli* and *Lavello*. They so fortified *Melpbis*, strong by its natural Situation, that it became impregnable, the Seat of their Dominion, and Head of all the other neighbouring Cities which they conquer'd. Thus the *Normans* this Year 1041, having made themselves Masters of a considerable Part of *Puglia*, soon after began to extend the Bounds of their Dominion over all the Province.

THE *Greeks* being surpriz'd at this Loss, and impatient to recover it, were prevented by the Disorders which luckily fell out in the East, as if they had been of purpose to favour the *Normans*, and which put all the Court of *Constantinople* in Confusion. The Emperor *Michael*, surnam'd *Papblagon*, whom the Empress *Zoe* lov'd so much, that for a Reward of the Familiarity they had had together, she rais'd him to the Imperial Throne, fell into a kind of an *Epilepsy*, and being wearied of Government, turn'd Monk. He left the Empire to his Nephew, likewise call'd *Michael*, surnam'd *Calaphates*, under the Tuition of his Uncle *John*; but this new Emperor, on account of his Cruelty, and for having turn'd out his Uncle *John*, to whom he ow'd so much, and much more for having treated the Empress *Zoe* so ungratefully, who had adopted him her Son, and rais'd him to the Imperial Dignity, had made himself so odious and abhorr'd of his Subjects, that by openly rebelling they restor'd *Zoe* to the Throne. She was no sooner restor'd, than she turn'd out *Calaphates*, caus'd his Eyes to be put out, and married *Constantinus Monomachus*, who also became her Collegue in the Empire<sup>1</sup>. By reason of these preceding and subsequent Troubles, the Affairs of *Puglia*, *Calabria* and *Sicily*, went very cross for the *Greeks*. *Maniaces* began to think of taking Advantage of them, and was suspected of having a Design to take Possession of *Sicily* for himself, of which being accus'd at Court, he was quickly recall'd, and condemn'd to close Prison. These different Catastrophes hinder'd the Court of *Constantinople* from being able to put a Stop to the Designs of the *Normans*, who in the mean time had successfully executed in *Puglia*, what *Maniaces* had unfortunately attempted to do in *Sicily*.

BUT at last the *Greeks* lost all Patience, and the Emperor having assembled a powerful Army, sent it to *Puglia* under the Command of a new General nam'd *Ducio*, in order to recover the Cities that had been taken from them, with Orders to give no Quarter to the *Normans*, but to extirpate them altogether. They had a fierce Engagement at the River *Olievento*, but such was the Courage and Bravery of the *Normans*, that tho' the *Greeks* were much superior both in Number and Force, yet they broke them, and made a prodigious Slaughter among them, and *Ducio* escap'd with Difficulty, to send to *Constantinople* to acquaint the Emperor with the unfortunate Event<sup>2</sup>. This Prince being terribly griev'd, caus'd other Troops to be assembled, and immediately sent them to *Ducio*: They fought a second Time at *Canne*, where the *Greeks* were likewise defeated. They engag'd anew at the River *Ofanto*, but the brave *Normans* gave them so terrible an Overthrow this third Time<sup>3</sup>, that they quite dispers'd them, and made themselves Masters of many other Castles in that Neighbourhood; and thus, enrich'd with the Spoils of the *Greeks*, they came to have a powerful Footing in that Province.

THESE gallant and skilful Warriors, lest their Power should create Jealousy in the neighbouring *Longobard* Princes, in order to gain the Affections of the People of the Country, resolv'd to chuse a Commander in Chief, of their Nation, whom they were to obey as their Fellow-Soldier. Prince *Pandulphus* III. who govern'd at this Time in *Benevento*, had a Brother nam'd *Adinolphus*, whom they unanimously elected for their Leader<sup>4</sup>.

IN the mean time the Court of *Constantinople*, which had been extremely surpriz'd at these unlucky Disasters, blaming *Ducio* for all, presently recall'd him, and caus'd a stronger Army to be assembled, and sent to *Calabria* under the Command of another General. This was *Exaugustus*, by *Malaterra* surnam'd *Annon*, Son of that

<sup>1</sup> Gulielm. Appul. Cedrenus, pag. 619. & seqq.

<sup>2</sup> Ostiens. lib. 2. cap. 67. Gaufr. Malat. lib. 1. cap. 9. Gulielm. App. lib. 1.

<sup>3</sup> Gul. App. Ter Gallis illo Victoria contigit anno.

<sup>4</sup> Ostiens. lib. 2. cap. 67.

*Bugianus*, who in the Empire of *Basilus*, had behaved himself so excellently well against the famous *Melo*<sup>1</sup>; but he, who had no better luck than his Predecessor, having ingag'd with the *Normans* under *Monte Pilofo*, or as *Cedrenus* reports<sup>2</sup> at *Monopolis*, was so terribly routed (in which Action *Bracciodiferro* signaliz'd himself above all the rest) that the greatest Part of his Army being cut to pieces and dispers'd, he himself was taken and made Prisoner. The *Normans* being overjoy'd, and triumphing on so glorious an Action, held a Council amongst themselves how to dispose of *Exaugustus*, and resolv'd to make a Present of him to Duke *Adinulphus*; but this Prince left the *Normans*, and carried him to *Benevento*, in order to dispose of his Prisoner for his own Advantage, and, contrary to the Expectation of the *Normans*, sold him to the *Greeks* for a great Sum of Money.

THIS so highly incens'd the *Normans*, who had not observ'd great Tokens of his Courage in the many Engagements he had been with them, that they resolv'd to chuse another Leader, and unanimously elected *Argirus* the Son of the famous *Melo*, who not long before having been Prisoner in *Constantinople*, had cunningly made his Escape on the Death of *Michael Papblagon*, and being arriv'd in *Puglia*, was kindly receiv'd by the *Normans*, who, for the Motives above related, not taking upon them as yet to elect one of their own Nation, thought it better to bestow that Honour on *Argirus*, by raising him up upon a Shield, according to the Custom at that Time us'd in *France*.

THE Court of *Constantinople* being to seek what Captain they should now send, resolv'd anew to make use of *Maniaces*, whereupon, they set him at Liberty, and sent him immediately to *Calabria* against the *Normans*<sup>3</sup>. *Maniaces* would signalize his coming above all the rest with unheard-of Cruelty, and struck so much Terror into the Country, that the *Normans* having ingag'd him near *Monopolis* and *Matera*, and finding they were unequally match'd, thought it best to retire to some fortified Places, there to wait some lucky Turn, and till he had spent his Fury.

THEY were not disappointed, for soon after the Emperor *Calaphates*, as we have said, having been depos'd, and *Constantinus Monomachus* rais'd to the Throne by the Empress *Zoe*, whom she married: *Maniaces* hearing that the Advancement of *Constantine* gave Offence, resolv'd to make Advantage of the so many Disorders of the Court, and openly rebell'd against *Zoe* and *Monomachus*, with a Design to get himself proclaim'd Emperor by his Adherents; and having laid aside all Thoughts of Assistance from *Constantine*, he intangled himself in many difficult Undertakings, which created him Trouble, and gave him Diversion in many Places. For having thrown off all Respect and Obedience to his Prince, he barbarously laid waste all the Country about *Monopolis* and *Matera*, at the same Time that *Argirus* on the other hand had taken *Giovenazzo*, and besieg'd *Trani*; whereupon the Emperor *Constantine* sent *Pardus* into *Puglia* as new *Catapanus*, with a great Sum of Gold and Silver, in order to suppress the Rebellion of *Maniaces*; who being advis'd of it, surrounded him with his Soldiers, cruelly murder'd him, and stripp'd him of all his Treasure, which he shar'd betwixt himself and his Army, by which means he got himself to be proclaim'd Emperor, and put on all the Marks of Empire<sup>4</sup>; afterwards having in vain attack'd *Bari*, he retir'd to *Taranto*, where he had fix'd his Residence. There *Argirus* and the *Normans* besieg'd him; seeing himself not secure there, he went to *Otranto*, from thence, crossing the *Adriatick*, he arriv'd in *Bulgaria*; where engaging with *Stephanus Sebastophorus*, he was defeated and taken, and had his Head struck off and sent to the Emperor in *Constantinople*<sup>5</sup>.

THE *Normans* amidst so many Revolutions, neglected not to make their Advantage, so that with little Trouble they regain'd what they had abandon'd upon the coming of *Maniaces*. And by the new Conquests which they Daily made, having establish'd their Fortunes on a better Footing, for the greater Security, they resolv'd to have no Captain but one of their own Nation; and tho' they had a great Esteem for *Argirus*, yet they had observ'd, that under his Command they had not been able to maintain themselves against the Power of *Maniaces*, and that the greatest and most glorious Actions had been owing to *William Bracciodiferro*; they therefore thought it better to put themselves under his Command; whereupon they assembled

<sup>1</sup> Apul. lib. 1. Cedren. pag. 623.

<sup>2</sup> Cedren. pag. 624.

<sup>3</sup> Gul. App. lib. 1.

<sup>4</sup> Ibidem.

<sup>5</sup> Cedren. pag. 624. & 25. Zonaras.

this Year 1043, in the City of *Matera*, where *Maniaces* a few Months before had exercis'd the greatest Cruelties, and elected him their Commander in Chief, and honour'd him with the Title of Count: He was therefore the first that was call'd Count of *Puglia*.

## S E C T. I.

Of William Bracciodiferro, the first Count of *Puglia*, created in the Year 1043.

THIS was the first Title, and the Source of all the other Titles, which the Royal House of the *Normans* had in *Puglia*, and afterwards in *Sicily*; which it got, neither by the Authority of Pope *Benedict XI.* nor from the Greek Emperor *Constantine XI.* who at this Time reign'd in the East, but, as *Lupus Protospata*, and *Leo Ostiensis* relate, by the Election of the Captains, Soldiers and People, that is to say, the *Italian*, *Longobard* and *Norman* Lords, Heads and Prime Men of the Army, who being assembled in Council, ordain'd that the Title of Count should be conferr'd on *William Bracciodiferro*; which Decree being approv'd of by the inferior Captains, and all the *Italian* and *Norman* Army, he was by the Soldiery proclaim'd Count, which was a better and more legal Right, than if he had got it either from the Emperors of the East or West, or the Pope. 'Tis probable, as *Invèges*<sup>1</sup> conjectures, that the *Normans* at this Election made use of particular Ceremonies in creating him Count; that besides the Sound of Kettle-Drums and Trumpets, which was the Custom at the Promotion of Counts (as may be seen in *Hugo Falcandus*, when *Riccardo di Mandra* was made Count of *Molise*) they made use of the old *Italian* Ceremony of putting the Standard in his Hands, as if he had been appointed chief Standard-Bearer of the *Italian* and *Norman* Confederacy, against the Emperor of the *Greeks*; and from that Time, in place of a Crown, the Counts wore above their Arms a plain Circle, without Jewels, in order to distinguish them from Marquisses and Dukes, and without Rays, to distinguish them from Princes.

THE *Normans* then having thus elected *William* Count of *Puglia*, in order peaceably to enjoy their Conquests, and to prevent Contention amongst themselves, resolv'd amicably to divide the conquer'd Places, as also those they had a mind to conquer. In the Beginning of their Dominion, they introduc'd a Polity and Form of Government, not unlike that which the *Longobards* had observ'd for the Space of ten Years, when upon the Death of *Clephis*, being unwilling to chuse a new King, they divided the Kingdom, and those to whom Counties were given in Charge, govern'd them with the same Laws and Institutions; but upon grave and weighty Emergencies they all conven'd in *Parva*, where they discuss'd the most important Affairs of the Commonwealth.

THE *Normans*, tho' they fought under a Captain, whom they chose in order to avoid Confusion and Disorders, which usually fall out when Undertakings are not manag'd by one Person; nevertheless every one did his best, rather as a Fellow-Soldier than Officer, and many had equal Share in the Conquests, and gave the same Assistance. *Rainulphus* Count of *Aversa* had sent thither a good Body of Men under twelve Captains; *William Bracciodiferro* had very much signaliz'd himself in this Expedition; *Drago* and *Umfred* his Brothers had also distinguish'd themselves above all the rest; *Arduinus* the first Promoter of the Undertaking, and many other gallant Champions, did not fail to expose their Persons to all Danger, on all Occasions. Therefore from the Beginning, when they undertook so noble a Design, it was unanimously agreed, that what should be conquer'd was not to be given to one, but equally divided amongst them. And tho' *William* had been elected Count, yet that was only a Title of Honour, not that *Puglia* should be yielded to the Dominion of one single Person, as it was afterwards.

AT first they introduc'd a Form of Government rather *Aristocratical*, than Monarchical, for by the Advice of *Guaimarus* Prince of *Salerno*, their ancient Ally,

<sup>1</sup> Ostiens. lib. 2. c. 67.



they call'd a Dyet in *Melpis*, where they were all to be present, to which they likewise invited *Guaimarus* and *Rainulphus*. They divided the Cities thus; to *Rainulphus* Count of *Aversa*, was given the City of *Siponto*, and *Monte Gargano*, with all the Villages and Places belonging to them; to *William Bracciodiferra*, was given the City of *Ascoli*, and with common Consent the Title of Count was annex'd to it; to *Draco*, *Venosa*; to *Arnolfinus*, *Lavello*; to *Hugo*, *Monopolis*; to *Peter*, *Trani*; to *Walter*, *Civita*; to *Rodulphus*, *Canne*; to *Frisianus*, *Montepiloso*; to *Erveus*, *Frigento*; to *Asclittinus*, *Acerenza*; to *Rodulphus*, *St. Angelo*; to *Raimfridus*, *Minervino*; and to *Anduinus*, according to their Oath, his Share was likewise assign'd. Thus what they had hitherto conquer'd in *Puglia* was divided. The City of *Melpis* only, which was the first and strongest Place they had as yet conquer'd, was common to all. They reserv'd this City as a Place of meeting for consulting about the most important Affairs of their Nation; whereupon *Melpis* began to raise its Head above all the other Cities of *Puglia*, so that the Popes thought it a fit Place to hold a Council in; and *Amalphis* being likewise famous for its Navigation, occasion'd, that the *Ultramontane* Writers, not being well acquainted with our Cities, often confounding the one City with the other, have taken the one for the other, being deceiv'd by the Resemblance of the Names.

THUS did the *Normans* make themselves Masters of the greatest Part of our *Puglia*; neither were their Conquests confin'd to this Province, but were carried on in the other Provinces, as we shall shortly relate. They took *Puglia* from the *Greeks*, who were in Possession of it, tho' the Emperor of the West pretended a Right to it as King of *Italy*, to whom, as a Part of the Kingdom of the *Longobards*, it was subject, and govern'd by *Castaldi* sent by the Dukes of *Benevento*; and therefore, when it again fell under the Dominion of the *Greeks*, the *Othos* often attempted to subject it to the Empire of the West, tho' in vain.

MEAN while *Argirus*, seeing no Share had been allow'd him in the Distribution of the Cities, separated from the *Normans*, and did not mind his being neglected by them, because he had resolv'd to make himself Prince of *Bari*, as his Father *Melo* had been; he had deserv'd well of the Emperor *Constantinus Monomachus*, by having suppress'd the Rebellion of *Maniaces*, and oblig'd him to fly to *Bulgaria*, where he was put to Death; for which he not only obtain'd the Favour of this Prince, but he likewise gave him *Bari*, with the Title of Prince, and Duke of *Puglia*, and he was also made a Patrician, that, as his Vassal, he might support his Interest in these Provinces. Thus *Argirus* being fix'd in this other Part of *Puglia*, under the Protection of the Emperor of the East, gave Rise to the Principality of *Bari*; which at last came likewise under the Dominion of the *Normans*, as we shall relate.

IN the mean time the *Normans* as they acquir'd greater Power, so they became more bold, and in a manner insolent in attacking their Neighbours. Those who serv'd under *Rainulphus* Count of *Aversa*, frequently molested the Monastery of *Monte Cassino*, and at last came to open Invasion; but the Abbot opposing them, it would have broke out into a bloody War, if *Guaimarus* their Ally, and at the same time a Friend of the Abbot, had not interpos'd, and made Peace betwixt them.

BUT this Year 1046, the *Normans* were grievously afflicted for the Death of two of their famous Captains. Those of *Puglia* lost the renown'd *William*, the Director of all their Affairs, who was indu'd with wonderful Resolution and Courage against his Enemies, and Meekness and Affability towards his own Men. He, as *Gulielmus Appulienfis*, his Cotemporary, relates<sup>1</sup>, was a Lion in Battle, and a Lamb in Conversation and Council. He reign'd only three Years in *Puglia*, and had been in *Italy* from the Year 1035 to his Death, twelve Years; he was buried in *Venosa* in the Church of the Trinity, a City, that in the abovemention'd Division had been assign'd to *Draco* his Brother. Those of *Aversa* shortly after lost Count *Rainulphus*, who, having left no Sons, was succeeded by *Asclittinus*, according to *Ostiensis*<sup>2</sup>, surnam'd Count *John*, or as *Ordericus Vitalis* has it<sup>3</sup>, *de Quadrellis*. *Asclittinus* govern'd the County of *Aversa* but a short Time, for dying in the Year 1047, tho' he left Sons, the County was soon invaded by *Rodulphus*, by *Ostiensis* surnam'd *Capellus*, and by *Gulielmus Appulienfis Drincanottus*; but he was quickly turn'd out

<sup>1</sup> Gul. Ap. lib. 2. cap. 12.

<sup>2</sup> Ostiens. lib. 2. cap. 67.

<sup>3</sup> Orderic. Vital. lib. 3.

by the *Aversans*, who chose another *Rodulphus* for Count, nam'd *Trinclinottes*, who dying soon after, the *Aversans* put *Richard* the Son of *Asclittinus* in his Place, who at that Time serving in the Wars in *Puglia* under *Drago*, whose Sister he had married, was recall'd by them, and got the Government of the County of *Aversa*. This was he, who in the Year 1058, having driven Prince *Pandulphus* V. out of *Capua*, made himself Master of that Principality, which he transmitted to his Posterity, as we shall relate: So that the first *Norman* Princes of *Capua*, were all descended from this *Asclittinus*; there's no occasion for confounding them with the other *Normans* of *Puglia* and *Calabria*, who were of the Race of *Tancred* Count of *Hauteville* <sup>1</sup>.

THESE likewise, on the Death of *William*, resolv'd immediately to appoint another in his Place; whereupon they chose *Drago* his Brother to be Count of *Puglia* <sup>2</sup>, a worthy and gallant Captain. *Pirri*, believing that *William* had left Sons, wrote, that the *Normans* having excluded these Sons, chose *Drago* his Brother in his Place, because it was their Custom to prefer the Elder Brothers to the Sons of the Deceas'd; but as *Inveges* well observes <sup>3</sup>, that Reason is trifling, because amongst the *Normans* themselves, the Dukedom of *Normandy* went from Father to Son, as the *Norman* Chronicle and *Gordon* observe, and when Sons were wanting the Brothers succeeded; as *Robert* II. the sixth Duke, succeeded his Brother *Richard* III. who died without Issue, as *Gordon* observes, in the Year 1028. Hence 'tis more likely, that the Brother, and not the Son of *William* I. succeeded to the Title of Count, because *William* either had no Wife in *Italy* and *France*, or if he had, she was barren, according to *Inveges*; or that at first, the Counts of *Puglia* were not made by Succession, but Election.

<sup>1</sup> Pellegr. in Stem.

<sup>2</sup> Malater. lib 2. cap. 12. Exequiis celebratis, } suscepit.  
secundus frater Drago totius Apuliæ dominatum }

<sup>3</sup> Inveg. par. 3. A. 1046.

## S E C T. II.

### D R A G O II. Count of Puglia.

WHILST *Drago* govern'd *Puglia*, his younger Brothers who had continu'd in *Normandy*, were passionately bent on coming to see him; their Father *Tancred* was at great Pains to keep two of them at least with himself, to keep up his Family in *Normandy*. *Robert* and some of his Brothers came hither, bringing with them many other Gentlemen of their Nation, who came not arm'd, or with a Body of Horse and Foot, but disguis'd in the Habits of Pilgrims, with Staves in their Hands, and Budgets on their Shoulders, as if they had been going to visit the Sanctuaries of *Monte Cassino* and *Gargano*, in order to shun being made Prisoners by the *Romans*, who seeing this foreign Nation to be so flourishing in *Puglia*, were already jealous of it, as an Enemy both of the *Italians* and *Greeks*. Thus the *Normans* fix'd themselves, and increas'd daily more and more in *Puglia*; which was owing to the good Conduct of *Drago*, who in order to their better footing, caus'd *Umfred* his third Brother, and the Eldest of those that had come along with him, to be created Count; and to *Robert*, who was afterwards nam'd *Guiscard*, the eldest Son of *Tancred* by his second Wife, knowing him to be a Man of greater Parts, and more daring than the rest, he committed the greatest and boldest Undertakings; for having taken the Castle of *St. Mark* situated on the Frontiers of *Calabria*, he gave the Charge of it to him, with Orders, as Occasion should offer, by incroaching upon *Calabria*, to enlarge their Borders.

BUT whilst *Drago* was thus employ'd in raising his own Nation, there fell out other lucky Events at the same Time, which gave him more sure Footing in *Puglia* that he had newly conquer'd. The Emperor *Henry* II. as we have said, had succeeded his Father *Conrad* in the Empire, and being diverted by the *Hungarian* War, could not mind the Affairs of *Italy*; but having disingag'd himself the best way he could from that Expedition, he was for diverse Reasons necessarily forc'd to come into *Italy*. The News of so many Revolutions which happen'd in these our

Provinces

†

Provinces drew him hither, over which, as King of *Italy*, he was not willing to lose that Sovereignty and Title his Predecessors had possess'd ; and tho' he did not much mind the Growth of the *Normans* in *Puglia* and *Calabria*, thinking it would be for his Advantage if these two Provinces were wholly taken from the *Greeks* ; nevertheless he was willing that the *Normans* should hold them of him ; and as the *Lombard* Princes had acknowledg'd him for their Sovereign, so he would have the *Normans* do the same. But the Disorders and Confusions, and the abominable Enormities which arose in *Rome* on account of the Elections of the Popes, were the chief Causes of his coming to *Italy* ; for the Imperial Authority being sunk in *Rome*, and the People having reassum'd the Power of electing the Pope, this Church fell again into Confusion and Disorder. This City had never been so grievously afflicted by the Avarice and abominable Behaviour of the Ecclesiastical Order as at this Time. The greatest Prelates did not stick to purchase with Money the greatest Offices, not excepting the High Priesthood, and that in Face of the Sun, and as publickly to expose the most sacred Functions to Sale. They did not stand in awe with open Force and Arms to invade the Cathedral of *St. Peter* ; and when Faction and Arms fail'd, they had recourse to Ambition, Simony, Poison, Treachery, and Murder ; for *Benedict* made no scruple to sell one Share of the Pontificate to *Sylvester* III. and another to *Gregory* VI. all three sitting in *Rome* at the same Time, which occasion'd horrible Confusion, especially when *Gregory*, both with Horse and Foot Soldiers possess'd himself of *St. Peter's* Church, and much strengthen'd his Party by a great Slaughter of his Opposers. Learning and the Doctrine of the Fathers were laid aside, and no Vestige of the Gospel remain'd. The Deacons, Priests, and even Bishops, were not asham'd to keep Concubines publickly in their Houses, even in *Rome* ; neither did they blush to make their spurious Children their Heirs by their last Wills. In short *Rome* was become another *Babylon*, there being no Wickedness which they did not commit ; infomuch, that few had Virtue enough to resist the Contagion ; and those who have written of the Calamities of these Times, confess they want Words sufficient to express such heinous Enormities and Wickedness ; and the famous Abbot *Desiderius*, who liv'd in these Times, being afterwards rais'd to the Pontificate by the Name of *Victor* III. giving a short Relation of these Debaucheries, declares that he had not the Courage to name them, because of the Horror such Looseness of Manners rais'd in him <sup>1</sup>.

THEREFORE *Henry* came to *Rome* this Year 1047, and tho' he did what he could to redress so great Wickedness, by expelling *Benedict*, turning out *Sylvester*, and banishing *Gregory* to *Germany* ; yet the Manners of the Ecclesiasticks were so detestable, and their Ignorance so great, that when a new Pope was to be chosen, *Ostiensis* laments sadly <sup>2</sup>, that there was not one to be found in *Italy* worthy of that Office ; so that to make the best of a bad Market, they were forc'd to elect a *Saxon*, Bishop of *Bamberg*, who took the Name of *Clement* II.

THE *Romans* being highly pleas'd with *Henry* for his good Conduct, elected him for their Patrician, and besides the Imperial, they adorn'd him with the golden Patrician Crown. *Henry* now disingag'd from the Affairs of *Rome*, set out for these Provinces, together with Pope *Clement*, to settle the Affairs thereof, visited *Monte Cassino*, and stopp'd in *Capua* <sup>3</sup>. Prince *Guaimarus* had held the Principality of *Capua* nine Years, and had been invested in it by *Conrad*, who had taken it from *Pandulphus* ; but this Prince, on account of his many Acquisitions, gave great Jealousy to the rest ; for after having added the Principality of *Capua* to that of *Salerno*, he had likewise subjected the Dukedom of *Sorrento*, and the more considerable one of *Amalphis* ; he had for Vassal the Duke of *Gaeta* ; and moreover, with the Assistance of the same *Normans* whom *Argirus*, while he was besieging *Bari*, had sent him, he aspir'd to the Conquest of *Puglia* and *Calabria* ; neither did he stick, as we have said, out of Vain-glory, to assume likewise amongst his Titles, that of Duke of *Puglia* and *Calabria*.

ON the other hand *Pandulphus*, who had been expell'd by *Conrad*, and after the Death of *Calesatus*, had been freed from his Exile by his Successor, was return'd to *Italy*, and with the Help of the Counts of *Aquino* and *Sesto*, began to think of getting himself restor'd to his Principality ; whereupon after the Death of *Conrad*,

<sup>1</sup> Desider. lib. 3. in prin. Ab. de Noce in Excurs. hist. ad Ostiens. lib. 2. cap. 79.

<sup>2</sup> Ostiens. lib. 2. cap. 79.

<sup>3</sup> Ibid. cap. 80.

who never could bear him because of his Cruelty, when *Henry* succeeded, he entertain'd better Hopes. For *Henry*, partly spur'd on by the Jealousy which the overgrown Power of *Guaimarus* had rais'd in him, and partly by the pressing Sollicitations and rich Presents of *Pandulphus*, came to *Capua*, and manag'd Matters so dextrously with *Guaimarus*, that he made him resign the Principality into his Hands, which he bestow'd on *Pandulphus* and *Landulphus* his Son <sup>1</sup>.

<sup>1</sup> Ostitens. lib. 2. cap. 80.

### S E C T. III.

*The first Investitures given by the Emperor Henry to the Normans.*

THE Affairs of *Capua* being thus settled, *Henry* resolv'd to gain the *Normans* over to his Interest, and was very solicitous to have them to hold of him. Mean while *Drago* Count of *Puglia*, and *Rainulphus* Count of *Aversa*, had not neglected, as soon as *Henry* came to *Capua*, to tender him their Respects; they visited him, and made him a Present of many Horses, and a great Sum of Money. At this Time *Henry* gave the Investiture to these *Norman* Princes of the County of *Aversa* (as *Conrad* had formerly done to the other *Rainulphus*) and to *Drago* of all he possess'd in *Puglia* <sup>1</sup>. Thus did these new Princes get themselves more firmly establish'd in those Dominions, which they had possess'd hitherto by Virtue of no other Right but what the Law of Arms had given them. Altho' the *Normans* had taken *Puglia* and *Calabria* from the *Greeks*, and not from *Henry*, nevertheless the Emperors of the West pretended they belong'd to them as Kings of *Italy*, to whom these Provinces were subject during the Dominion of the *Longobards*; for regaining of which, the Emperors had had many Wars with the *Greeks*, therefore it ought not to seem strange, if on all Occasions that offer'd, they were willing to invest those who had taken them from the *Greeks*, which was now the Case of the *Normans*.

BUT *Henry* not only gave them the Investiture of these States, but likewise yielded them all the Territory of *Benevento*, on the Occasion which we shall relate. At this Time *Pandulphus* III. with his Son *Landulphus* govern'd the Principality of *Benevento* <sup>2</sup>: *Henry* after he had invested the *Normans* in *Capua*, left that City in order to go to *Benevento*; the *Beneventans* remembring that they had always been ill us'd by the Emperors of the West, particularly by the two last *Otbo's*, the Emperors Visits were no ways acceptable to them. Now that they heard of *Henry's* coming, and that he was bringing Pope *Clement* II. along with him, they refus'd him Entrance, shut their Gates, and fortified themselves. *Henry*, highly offended at the Affront, and not in a Condition to revenge himself at that Time, got the Pope to excommunicate the whole City; whence, as we have observ'd in another Place, 'tis evident, that long before *Gregory* VII. general Interdictions of whole Cities were in use in the Church; and not content with this, he took all the Territory from the *Beneventans*, and those open Places of the Principality that were easily conquer'd, and of his own Authority gave them to the *Normans* <sup>3</sup>.

THUS *Henry* having better establish'd the *Normans* in the Counties of *Aversa* and *Puglia*, and part of the Principality of *Benevento*, return'd to *Germany*, carrying with him Pope *Clement*, and *Gregory* the former Pope, on whom he had pass'd Sentence of Banishment.

THIS Year then 1047, the Royal *Norman* House began to subject itself to take Investiture and Infeoffment, not from the *Roman* Pontiffs, who at this Time did not pretend to it, but from the Emperors of the West, who as Kings of *Italy*, for the Reasons already mention'd, believ'd that these Provinces belong'd to their Empire.

<sup>1</sup> Ost. loc. cit. Dragoni Apuliæ, & Rainulpho Aversæ Comitibus ad se convenientibus, & equos illi plurimos, & pecuniam Maximam Offerentibus, universam, quam tunc tenebant terram Imperiali investitura firmavit.

<sup>2</sup> Pellegr. in Stem.

<sup>3</sup> Ost. loc. cit. Totam Civitatem a Romano Pontifice qui cum illo tunc erat excommunicari fecit, cunctamque Beneventanam terram Normannis auctoritate sua confirmans, ultra montes exinde est reverfus, Gregorium Expontificem secum asportans.

BUT

BUT whilst the Emperor of the West was thus disposing of these our Provinces, the Emperor of the East, who had been appriz'd, that *Henry* had granted the Investiture of *Puglia* to the *Normans*, and that he had dispos'd of this Province as if it belong'd to his Empire, and not to that of the East, as it did; and that therefore the *Normans* were establish'd in such a manner, that there were no Hopes left of expelling them out of it, full of Rage and Indignation, resolv'd immediately to send a new Officer nam'd *Argirus*, loaded with Gold, Silver, and rich Stuffs, that if he should not be able to drive them out by Force, he might endeavour to do it by Bribery, and inviting them in the Name of the Emperor to go over with their Troops into *Greece*, where they should have suitable Commands in a War he had resolv'd to make upon the *Persians*, by which they would reap great Advantage<sup>1</sup>. The *Normans*, who immediately perceiv'd the Snare, answer'd him frankly, that they were resolv'd never to leave *Italy*, unless expell'd by Force. *Argirus* was so vex'd to see that all his Artifice was discover'd, that he resolv'd to make use of other more villainous Means. With the Treasure he had brought from *Constantinople* he brib'd many of the *Puglians*, and some that were most intimate with *Drago*, and among the rest, one nam'd *Riso*, who was likewise his Creature<sup>2</sup>. This Traytor, whilst *Drago* in one of his Castles, nam'd *Montoglio*, was going to Church in the Morning, hid himself behind the Door, and flew upon him and kill'd him with a Dagger; the other Conspirators, who had also hid themselves with *Riso*, kill'd a great many of the Count's Guard, and made themselves Masters of the Fort. The same was done in diverse Parts of *Paglia*, where they had been acquainted with the Conspiracy; so that there was greater Slaughter made among the *Normans* by this Conspiracy, than had been in the Wars which had lasted many Years.

BUT *Umfred*, who had been made Count in *Drago's* Life-time, with extreme Grief being appriz'd of the Death of his Brother, and the barbarous and treacherous Murder of those of his Nation by the *Puglians*, presently join'd all his Forces, and having vigorously attack'd the Castle of *Montoglio*, after a long Siege made himself Master of it, and having got the Assassine, with his Accomplices into his Hands, put them to Death by different sorts of exquisite Torments. *Argirus* resolv'd to defend himself, by heading some few Troops which he assembled; but *Umfred* attack'd him, defeated him, and forc'd him to retire in Confusion, which brought him in Disgrace with the Emperor, so that soon after he died of Grief. From this Incident, the *Normans*, in order to be reveng'd of the *Greeks*, were resolutely bent on driving them out of *Calabria*, and began to keep a watchful Eye over the *Puglians*, and to treat them more roughly, who therefore being wearied of their Government, began to fill the World with Complaints, and to invent the most odious Calumnies against the *Normans*. They charg'd them as guilty of a Thousand Crimes; call'd their Government Tyrannical and Cruel, laid their Grievances before *Henry*, and shortly after before Pope *Leo*, whence proceeded the many Innovations and Disorders which we are now going to relate.

<sup>1</sup> Gul. Appul. lib. 2.<sup>2</sup> Malater. cap. 13.



## C H A P. III.

*The Origine of our Papal Investitures ; and the unfortunate Expedition of Leo IX. against the Normans. His Imprisonment and Death.*



THE Subject we are now about to treat of, by reason of its Novelty and Oddness, needs no Recommendation : It contains an Attempt of the Popes upon this Kingdom, and in what Manner, and from what slender Beginnings they have at last obtain'd, that now it is reputed a Fief of the Church of Rome. Neither is the Oddness of it more surprizing, than how, without an Army, without a Fleet, but only by their exquisite Cunning, and continual Application, they have been able to establish this Right, acquir'd by them not as Heads of the universal Church, or Patriarchs of the West, but as secular Princes, and to accomplish what neither the Emperors of the West, nor those of the East, by long Wars, and great Armies, could ever obtain. But the Quarrels of Princes, the Stupidity and Superstition of the People, the Ignorance and Barbarity of the Age, and the exquisite Cunning of the Popes, all put together, were sufficient to remove all Obstacles and Impediments.

FROM this Time forth, having occasion frequently to mention the Roman Pontiffs, that I may not be charg'd with Temerity, my Purpose is not to speak of them as High Priests, and Vicars of *Christ* ; but as secular Princes, who, in order to make themselves Masters of many States and Principalities in *Italy*, minded their own Interest, like all the other Princes, who had Dominion there. I shall make a just Distinction betwixt these two Personages ; when I have occasion to discourse of the Ecclesiastical Polity, then I speak of them as Heads of the Church, and Patriarchs of the West, who have the Government of our Churches. When they meddle with secular Affairs, they shall be represented only as Men, like other Princes. Therefore it will not seem strange to see them in these Times at the Head of Armies, making Leagues, and inlisting Soldiers: Which made the Schism betwixt the *Greeks* and *Latins* the more irreconcilable, and gave occasion to the *Greeks* to call the Roman Pontiffs, no more Bishops, but Emperors ; and *Petrus Diaconus*<sup>1</sup> in the Acts, of the Dispute which he had before the Emperor *Lothaire*, and which the Abbot of *Noce*<sup>2</sup> avouches for true, contrary to the Opinion of *Baronius*, relates, that a Philosopher having come out of *Greece* into *Italy*, made an Oration in presence of the Emperor *Lothaire*, and among other things told him ; *Romanum Pontificem, Imperatorem, non Episcopum esse* ; and the same Writer reports<sup>3</sup>, that having had a Dispute with the same Person about the Holy Ghost's proceeding from the Father and the Son, among other Things, the *Greek* upbraided him, and speaking of *Innocent II.* said, *In occidentali climate nunc impletum videmus quod Dominus per prophetam dicit, Erit, ut populus, sic sacerdos, cum pontifices ad bella ruunt ; sic papa vester Innocentius facit, pecunias distribuunt, milites congregant, purpurea vestimenta amiciuntur.*

<sup>1</sup> T IS likewise true, that when their Dominions were not in a Condition to furnish them with Money sufficient to maintain numerous Armies, they frequently joyn'd

<sup>1</sup> Auſuar. Chron. Caff. lib. 4. cap. 115.

<sup>2</sup> Ab. de Nuce in Excurſ. hiſt. ad dict. l. 4. c. 8.

<sup>3</sup> Pet. Diac. loc. cit. cap. 116.

the Spiritual to the Temporal Arms, by which they became superior to the Princes, and terrible to the People. They had usurp'd the Power of deposing Princes from their Kingdoms and Dominions, of raising and pulling them down at their Pleasure, of creating Dukes and Counts, and even believ'd that they had likewise Power of making Kings and Monarchs; and in the latter Ages, they carried Matters to such an Excess, that there was not a Prince in *Europe*, that did not do Homage to the Apostolical See as a Vassal. In fine, by these means they came to pretend, that this Kingdom was a Fief of their Church, and to treat the Possessors as their Subjects and Vassals.

HENCE proceeded so many Revolutions, when the Popes invited foreign Princes to come and take Possession of this Kingdom; hence arose so many Wars and Disorders; and that in process of Time, the Kings of *Naples* considering that their Kingdom, for a long Tract of Land, bordering upon the Estate of the Church, was liable to be disturb'd by the Power of the Popes; some of them, unwilling to bear the Yoke, were in continual Enmity and War with them, and often made themselves Masters of *Rome*; others more peaceable, did not think fit to quarrel with them, remembering the Calamities that had happen'd on that account, in the Reign of the *Suavi*, and the latter Debates which King *Alphonfus* I. and *Ferdinand* his Son had often with them; and seeing the Jurisdiction of the Borders, Tribute, Collation of Benefices, Tenures of the Barons, and many other Differences would still be Bones of Contention, they resolv'd to cultivate Friendship with them, judging themselves abundantly secure if they had all, or at least a Part of the most powerful Barons of the *Roman* Jurisdiction depending on them<sup>1</sup>.

WE shall now speak of the *Roman* Pontiffs, as Princes; and I look upon it as a better way to handle their Case as such, on this Subject of *Investitures*, than to bring them on the Stage in the other Quality. If secular Princes will but look narrowly into the first Rise of their Kingdoms and Monarchies, few will be able to make good their Titles; for the best of them will be found grounded either on War, Usurpation or Rapine; but long and peaceable Possession for many Ages, gives them sufficient Right to the lawful Possession of them now, and it would be unjust to invade them. Thus if we consider the Popes as secular Princes, possessing many States in *Italy*, though they cannot shew a lawful Title to their Claim of *Investitures*, as we shall see anon, yet it cannot be reckon'd null and void, because of their long Possession. But what is thought sufficient to a temporal Prince, perhaps will not support the Claim of the Vicars of *Jesus Christ*: They ought to make a nice Inquiry, not so much into the Time and long Possession, as into the Rise, the Occasions, the Rights and first Grounds of their Acquisitions.

BUT before we come to lay open these Sources, and how in those Times the *Roman* Pontiffs, by means of these *Investitures* began to incroach upon the temporal State of these Provinces, and at last made them Feudatory, it will be necessary that we give a succinct Account of the State they were in in those Times, and by what Princes they were govern'd.

THE three Principalities of *Benevento*, *Salerno* and *Capua* were subject to the *Longobard* Princes: *Pandolphus* III. with his Son *Landolphus*, reign'd in *Benevento*; *Guaimarus* IV. in *Salerno*, and *Pandolphus* in *Capua*. The Dukedom of *Amalphis*, with that of *Sorrento*, which formerly belong'd to that of *Naples*, were subject to *Guaimarus*. The Dukedom of *Gaeta* was govern'd by *John*; and that of *Naples* by *Sergius*. The greatest Part of *Puglia* was under the Dominion of the *Normans*, and *Calabria* was in danger, but as yet belong'd to the Empire of the East. The Emperors both of the West and East, pretended equally to the Sovereignty and supreme Dominion of all these States. The Emperor of the West, as King of *Italy*, claim'd it over all that Tract of Country, which formerly was comprehended in the ancient Dukedom of *Benevento*, and included almost all the present Kingdom; so that he exercised all Sovereignty over the *Longobard* Princes, and took upon him to depose them and expel them their States, and to bestow them on others. He claim'd the same over *Puglia* and *Calabria*, which formerly, for the most Part, were annex'd to the Dukedom of *Benevento*; and there being no End of Ambition, there was no Corner of these our Provinces, which he did not claim as subject to him; whereby

<sup>1</sup> V. Guicciard. hist. Ital. lib. 1.



he assum'd the Power of investing *Rainulphus* in the County of *Aversa*, tho' this City had been built within the Jurisdiction of the Dukedom of *Naples*, which by antient Right, belong'd to the Emperors of the East, and not to those of the West.

ON the other hand, the Emperor of the *Greeks*, perhaps on better Grounds, pretended that all these Provinces belong'd to his Empire of the East, from which they had been wrested, and unjustly possess'd by the *Longobards*. That the Provinces of *Puglia* and *Calabria* indisputably were subject to it, and that the Dukedoms of *Naples*, *Amalphis*, *Gaeta* and *Sorrento* held of it.

THE Sovereignty of these our Provinces was disputed and struggled for, betwixt these two Princes, which was the Occasion of the many Wars we have related in the Course of this History. Hitherto the *Roman* Pontiffs had not dream'd of claiming a third Share, nor pretended to any Sovereignty over them. Altho', by the Bounty of *Charles the Great*, and his Successors, they had got a Share of the Spoils of the *Longobards*, which these had taken from the *Greeks*, whereby they became Lords and Masters of the Dukedom of *Rome*, the Exarchate of *Ravenna*, *Pentapolis*, and some other Cities of *Italy*, as we have seen in the preceding Books of this History; yet they had never intermeddled with these Provinces which now compose our Kingdom; and though we read in *Ostiensis*, that they pretended to have a Right over *Gaeta*, and had possess'd it for some time, nevertheless it was soon recover'd by the *Greeks*, and afterwards govern'd by its own Dukes; and these very Pretensions, which we read were confin'd to *Gaeta* alone, convince us the more, that all the Countries of the other Provinces were intirely out of the Question. Neither in these Times could such Pretensions be grounded on the counterfited Donation of *Constantine*, or on that of *Charles the Great*, or *Lewis the Good*; for it is the constant Opinion of the most grave Authors, that all those Instruments and *Diploma's*, in the Manner they are now conceiv'd, were forg'd in the Time of *Hildebrand*; and much less could their Pretensions be founded on what we read of *Lewis the Good*, and the other Emperors his Successors, their having confirm'd the Patrimonies of *Benevento*, *Salerno*, *Capua*, *Naples* and those of *Puglia* and *Calabria*; for these Patrimonies, as we have seen elsewhere, were nothing but the Possessions, which the Church of *Rome*, by the Piety and Bounty of the Faithful, had in these Provinces, and were call'd *St. Peter's* Patrimony; so that *Chioccarelli*<sup>1</sup> was in the wrong, in order to give a Foundation to these Investitures, to rely on *Constantine's* Donation, and the Grants of *Lewis* and *Otho*. Neither was it ever heard, that the Princes of *Benevento*, *Salerno* or *Capua*, and much less the *Greeks*, had ever acknowledg'd the *Roman* Pontiffs for their Sovereigns, or had ever sought Investiture of their Dominions, by becoming their Liege-men, or swearing Fealty and Homage to them.

'TIS very evident then, that the *Roman* Pontiffs had no manner of Superiority or any Right whatsoever, over these our Provinces, sufficient to justify their Claim; but by the Opportunities that were laid open to them in these Times, and which they greedily embrac'd, and cunningly made use of, at last they acquir'd it in the Manner we are going to relate.

AFTER the Death of *Clement II.* which fell out in *Germany*, whither, Nine Months before, he had gone in Company with the Emperor; *Benedict*, who had been expell'd by *Henry*, and had retir'd to, and fortify'd himself in his own Castles, immediately invaded the Papacy a-new, but could not hold it above Eight Months, for the Emperor *Henry* quickly sent *Popo* Bishop of *Brixen*, from *Germany* to *Rome*, in order to succeed *Clement*, who took the Name of *Damasus*. He died of Poyson 23 Days after his Exaltation, and the *Romans* intreated *Henry* to send them for Successor, *Bruno* Bishop of *Toul*, a *German* by Nation, and of Royal Descent, but much more famous for his Learning and Sanctity: in the Year 1049, they elected him Pope, and he was nam'd *Leo IX.*

IT was then thought, as his Co-temporary Writers<sup>2</sup> report, that by the Election of so eminent a Person, in such wretched Times, very rare to be found, the Affairs of *Rome*, and these our Provinces, would be restor'd to a State of Tranquillity, the Disorders of the Clergy be at an end, and *Italy* enjoy a settled Peace; but tho' the Piety of *Leo* and his unspotted Life were such, that at last he was Canoniz'd; nevertheless tho' not so much by his own Inclination, as by the Instigation of others, he

<sup>1</sup> Chioc. tom. 1. dell. Invest.

<sup>2</sup> Desiderius Abb. Ostiens. lib. 2. cap. 81.

was reputed the Author of many Innovations, which produc'd sad Disorders, and very pernicious Consequences. It was he, who, travelling through *France* in his Pontifical Habits, met *Hildebrand* a Monk of *Cassino*, at *Clugny*, a Man of singular Cunning, and was perswaded by him, to strip himself of his Pontifical Garments, and enter *Rome* like a Pilgrim, and get himself elected Pope by the People and Clergy, in order to abrogate the Abuse of receiving the High Priesthood from Laick Hands. This was the Seed of the many Disorders and cruel Wars, about Investitures, betwixt the Popes and the Emperors of the West, who seeing this Privilege, which for many Years they had maintain'd, contraverted, march'd Armies in order to preserve it, burning and destroying where-ever they went; and on the other Hand, the Successors of *Leo*, and especially this same *Hildebrand*, who was afterwards Pope, with Excommunications, Depositions and Conspiracies, stirr'd up Children against their Parents, and put all *Europe* in Confusion; so that being more influenced by *Leo's* Example, than the Strength of Reason, the Popes became more bold and obstinate in their Enterprizes.

BUT much more pernicious, and of much worse Consequence was the other Example of *Leo's* putting himself at the Head of Armies. We have formerly seen the Popes *John VIII.* and *X.* at the Head of Armies; however they had at least the Pretence of fighting against the perfidious and infidel *Saracens*, and their Adherents; but *Leo* took up Arms against the purest Christians, such as the *Normans* were, who, for Piety and Catholicism, were inferior to no Nation whatsoever; he fought without a reasonable Cause, or Pretence of Religion; but purely for enlarging the temporal Power of the Church, and increasing her worldly Riches; he made a most unjust War, so unpleasant to God, that his Wrath and Indignation were visible in the unhappy Success. If his Predecessors, who, for their abominable Lives, were look'd upon as the Plagues of Mankind, had undertaken such a War, the Example wou'd not have had such mischievous Effects on his Successors; but being done by *Leo*, a Holy Pope, it made them the more bold, and afterwards to be guilty of greater Extravagances and Novelties; not adverting to what *Peter Damian*, a Co-temporary Writer, speaking of this Conduct of *Leo*, says, That the Apostle *Peter* was a Saint, not because he denied Christ, but on account of his other excellent and incomparable Virtues; so *Leo*, not for this Deed, but because of his Innocence and unspotted Life, deserv'd this Title.

*LEO IX.* out of Piety and Devotion, had frequent Occasions of visiting many Parts of these Provinces. This same Year 1049, in which he was advanc'd to the Pontificate, and in which *Pandolphus* Prince of *Capua* died, he came to visit the Sanctuary of *Monte Gargano*, and in his returning, that of *Monte Cassino*, where he convers'd very familiarly with these Monks, and adorn'd that Monastery with many Prerogatives, and from thence went to *Rome*. But soon after in the following Year 1050, he return'd hither anew; there are some who write, that this same Year he held a Council in *Siponto*, where he depos'd two Archbishops; but *Wibertus* alone makes mention of this *Sipontine* Council, for *Ostiensis*, nor any other Writers do not so much as speak of it. After having visited these Sanctuaries, he resolv'd to see the most conspicuous Cities of the Country; he went first to *Benevento*, where he had an Opportunity to gain the Affections of these Citizens, and make them to be at his Devotion; for this City being still under the Interdiction of his Predecessor *Clement*, he took that off.

THE next Year he went to *Capua*, from thence he return'd a second Time to *Benevento*, and the same Year 1051, he likewise visited *Salerno*. This City the following Year 1052, was in the greatest Confusion, on account of the horrible Assassination of *Guaimarus* by a Conspiracy, contriv'd against him by the *Amalphytans*, whom he had us'd ill, and by their Adherents and some *Salernitans*, who having cruelly murder'd him on the Sea-shore, surpriz'd the City. But *Guido*, the Brother of *Guaimarus*, being assisted by the *Normans*, the fifth Day after retook it, and restor'd it to *Gisulphus* the Son of *Guaimarus*, who succeeded his Father in the Principality.

BUT during the Stay which the Pope made in these Cities, he was glad to hear the Complaints of the *Puglian* and *Longobard* Princes against the *Normans*, who

<sup>1</sup> Ostiens. lib. 2. cap. 85.

growing stronger every Day by their new Acquisitions in *Calabria*, and the Principality of *Benevento*, began to create Jealousy in their neighbouring Princes, and especially in Pope *Leo*, who, as his Predecessors had been jealous of the *Longobards*, could not endure the Prosperity of the *Normans*, and finding they would not easily part with what they had once acquir'd, and that they frequently incroach'd upon the Possessions of the Churches, he thought it inconsistent with his own Interest, that of the Emperor his Cousin, and of *Italy*, to suffer this Nation to proceed in their Conquests; therefore he resolv'd to go to *Germany*, as he did this same Year 1051, and laid before the Emperor *Henry*, that the *Normans* were now become very grievous to the Inhabitants of the Country, by extending their Limits beyond the Places with which he had invest'd them, and that they attempted to subject all these Provinces, and withdraw them from their Allegiance to the Empire of the West; that they were so insolent as even to rob the Goods of the Churches; that they were no longer to be born with, because they would occasion greater Mischief, but ought to be expell'd *Italy*; that he himself had Courage enough to do it, and if the Emperor would send a good Army into *Italy*, he would put himself at the Head of it, and drive these Tyrants quite out of the Country. *Leo* prevail'd so far with *Henry*, that he consented to his Request, and having caus'd a powerful Army to be assembled, gave him the Command of it, with which he march'd towards *Italy*. But *Geberardus* Bishop of *Eichstat*, a Creature and Counsellor of the Emperor, disapprov'd of it, as scandalous in the Popes to put themselves at the Head of Armies against Christians; and could not forbear chiding the Emperor, and wrought so much upon him, that all the Army, except a few Troops left with *Leo*, was countermanded. Neither ought it to be pass'd over in Silence, that this same Bishop, when he was afterwards Pope, by the Name of *Victor II.* presently was of another Mind, and was sorry for what he had done, in depriving *Leo* of such powerful Assistance, perhaps thinking, that he would have been able to have advanc'd the Interest of his See thereby, more than he had done, seeing by his Imprisonment he had made it worse.

NEITHER did *Leo* neglect at this Juncture to take Care of the Interest of the Church of *Rome*, by a Commutation, in which both himself and the Emperor found their Advantage. *Henry I.* by the  *Germans* nam'd *II.* out of his own Patrimony, had caus'd to be built a magnificent Church in *Bamberg* in Honour of *St. Gregory*; and being desirous to have it erected into a Cathedral, got Pope *Benedict* to consecrate and erect it into an Episcopal See; but the Emperor was oblig'd, by way of yearly Tribute, to present to the Church of *Rome*, a fine white Horse, with all his Trappings and Furniture, besides a hundred Marks of Silver likewise every Year. *Henry the Black* now resolv'd to get this Church freed from that Tribute and Subjection to the Church of *Rome*, as too great a Burthen upon it; *Leo* did not refuse to do it, but it could not be executed without something else was given to the Church of *Rome* in lieu of it, therefore he thought on some Expedient, which was quickly found out to both their Advantages.

HENRY, by reason of the Indignity the *Beneventans* had put upon him, in shutting him out of their City, mortally hated *Benevento*; and considering that it would be a difficult Matter for him to bring it under his Obedience, in order to be reveng'd, he resolv'd to exchange it with the Pope for the Claim he had on *Bamberg*. The State of the Principality of *Benevento* at this Time, as we have said, was this: The City was govern'd by Prince *Pandulphus* and *Landulphus* his Son, but a great Part of it was already under the Dominion of the *Normans*, to whom this same *Henry*, on the Occasion we have told, had given all the Lands of *Benevento*; neither had the *Normans*, who, without such a Gift, were ready enough to incroach upon their Neighbours, neglected to possess themselves of the rest of the Principality. Thus *Henry*, who parted with little of his own, except the Right of Sovereignty, which he pretended to over that City, then possess'd by *Pandulphus*, gave the City of *Benevento* to *Leo* in exchange, which he had not granted to the *Normans*, it not being included in the *Beneventan* Territories with which he had some Time before invest'd them. And 'tis not to be thought, that this Exchange could have been made for the whole Principality of *Benevento*, tho' at this Time it had been much lessen'd by the Principalities of *Salerno* and *Capua* being wrested from it; nevertheless it comprehended many Cities and Towns of the large Province of *Sannio*, in which were contain'd the two *Apruzzi*, the County of *Molise*, and also many other Parts of other Provinces;

Provinces ; and it would be Folly to think that the Principality of *Benevento* would have been given in Exchange for a hundred Marks of Silver, for the white Horse was not remitted ; neither truly can it be conceiv'd, how certain modern Writers, some inconsiderately, others maliciously, could take upon them to write such Extravagances without the Support of any cotemporary Writer, and instead of the City of *Benevento*, to write the Principality of *Benevento* ; for we have no Writer more ancient, that mentions this Exchange, than *Leo Ostiensis* <sup>1</sup>, who plainly relates, as the Thing itself demonstrates, that there was such an Exchange of the Bishoprick of *Bamberg*, for the City of *Benevento*, and not for the Principality ; and *Petrus Diaconus* <sup>2</sup>, who wrote soon after *Leo*, mentions only the City, and not the Principality ; and the Event evinces the Truth of it, for the Church of *Rome* has retain'd the City only, and not the Principality, over which it never pretended the least Right, but it has undergone the same Fate with all the other Provinces, as will be seen in the Course of this History. But this Exchange did not take Place at this Time ; for tho' upon *Leo's* coming into *Italy* with the Troops which the Emperor had given him, Prince *Pandulphus* and his Son had been banish'd that City <sup>3</sup>, and a certain *Rodulphus* elected Prince of *Benevento*, yet nevertheless they soon return'd, and possess'd *Benevento* many Years, until they were expell'd it by *Robert* in the Year 1076, from which Time by Agreement made with the *Normans*, the City of *Benevento* began to be govern'd by the Church of *Rome*, and the Principality by the *Normans*, as we shall relate hereafter ; so that the new *Neapolitan* Historian <sup>4</sup> is widely mistaken, who with a great Ostentation of Eloquence in relating the Transactions about this Exchange, says, it was made with the Principality of *Benevento* ; and it seems he never had read *Ostiensis*, who speaks only of the City of *Benevento*.

IN the mean time, *Leo* having put himself at the Head of a great Army compos'd of *Germans*, and a good Body of *Italian* Troops, consisting not only of Laicks, but also Clergy <sup>5</sup>, gave the Command of the *Germans* and the *Suevi*, to *Guarnerius* a *Suevian*, and of the rest to *Albertus Tramundus*, *Asto*, and *Rodulphus*, whom a little before he had made Prince of *Benevento*, and march'd the Army towards *Puglia* in order to find the *Normans*, who being much inferior in Number, he believ'd he could easily defeat and drive them out of *Puglia*, and all the Places they had hitherto conquer'd.

THE *Normans* being surpriz'd at the News of this March, were terribly afraid, not only because by the Conspiracy hatch'd against them by *Argirus* they had lost their chief Commanders, and the greatest Part of the gallant Warriors, but likewise because they had to do with an Army not compos'd of *Greeks* and *Puglians*, but of *Germans*, Men of prodigious Stature and Strength, couragious and skill'd in military Affairs ; besides they could not trust the *Puglians*, by reason of the Hatred they bore them. Therefore they bethought themselves of Means how to ward off the impending Danger ; whereupon they sent Ambassadors to the Pope to desire Peace of him ; they offer'd to subject themselves in all Matters relating to him ; that they pretended only to possess those Lands they had acquir'd with the Sweat of their Brows and their Arms ; that they had not robb'd the Churches, offering their Service with all the Submission and Respect imaginable. But *Leo*, who thought he was sure of Victory because of his strong Army, and being likewise push'd on by the *Germans*, who despis'd the *Normans* on account of their low Statures, dismiss'd the Ambassadors with a very harsh Answer, That he would make no Peace with them, unless they would march out of *Italy* ; but they replied, That it was next to impossible to oblige so great a Multitude to go shift for themselves and Families ; all their Requests were to no Purpose, they were sent back without concluding any Thing.

WHEN these hard Terms were reported to the *Normans*, they became desperate, and resolv'd rather to die honourably, than basely and shamefully to part with what they had acquir'd with so much Toil and Labour ; and notwithstanding the Inequality of their Forces, and want of Provisions, chose to accept of the Battle, tho' with so great Disadvantage, and every one of them to die or be Victorious.

<sup>1</sup> Ostiens. lib. 2. cap. 46. Postmodum Leo IX. Papa Vicariationis gratia Beneventum ab Henrico, Corradi filio recipiens, prædictum Episcopium Bambergense sub ejus ditione remisit, equo tantum quem prædiximus sibi retento.

<sup>2</sup> Petr. Diac. ad Ostiens. lib. 2. cap. 84.

<sup>3</sup> Chron. Duc. & Princ. Benev. apud Pellegr. pag. 266. & exiliati sunt.

<sup>4</sup> P. Giannettas. hist. Neap. lib. 9.

<sup>5</sup> Lambert. apud Baron. A. 1053. num. 3. Item, alios quamplures tam Clericos, quam Laicos in re militari probatissimos.

THEREFORE they divided their Army into three Bodies, and gave the Command of them to their most renown'd Captains, of which Count *Umfred*, *Robert Guiscard*, and *Richard* Count of *Aversa*, the Son of *Asclettinus*, who had succeeded *Rodulphus*, were the most eminent.

IN the mean time *Leo* drew up his Army in Order of Battle in a great Plain near *Civitate*, in the Province of *Capitanata* <sup>1</sup>, and having dispos'd it under the foresaid Commanders, there was nothing to hinder the two Armies from engaging, but a little Hill that divided them. The *Normans* were the first that mounted it in order to view the Enemy, and finding that they consisted of a great Number of *Italians*, who knew nothing of military Discipline, and a few *German* Troops regularly drawn up, and much more to be fear'd, took their Measures accordingly, and divided their small Army into three Bodies. The right Wing was given to *Richard* Count of *Aversa*, in order to charge the *Italians*; *Umfred* commanded the main Body, with what Cavalry there was for attacking the *Germans*; and *Robert Guiscard* had the left Wing, with a good Number of chosen *Calabrians* who had ingag'd in their Service ever since they had been in that Country. He had Orders not to advance much, but to serve for a small *Corps de Reserve*, to be always ready to sustain the rest of the Army, and in Time of need to supply it with fresh Troops.

*RICHARD* first of all charg'd the *Italians* commanded by *Rodulphus* so suddenly and resolutely, that they had not time to make the least Resistance. Their Fear put them into such Confusion, that in Retreating, the one half bore down the other, and *Richard* gallantly pursuing them, they took themselves to a shameful Flight, so that this brave Commander, what with the Sword, and what with Darts, made a terrible Slaughter <sup>2</sup>.

COUNT *Umfred* had much ado to manage the *Germans*, and especially the *Suevi*. He discharg'd a terrible Shower of Arrows upon them, which they return'd him in the same Manner, after which they fell upon one another with their Swords, and made a dreadful Slaughter on both Sides. Then *Robert Guiscard* thought it time to come to his Brother's Assistance; which he did immediately, with *Pandulphus* and *Landulphus* his Son, who had been banish'd *Benevento* <sup>3</sup>, back'd likewise by his *Calabrians*, who under his Discipline had become gallant Soldiers; he threw himself with Fury into the Midst of the Enemy. The Battle was desperate, and the Bravery of *Robert* incredible; so that at last he defeated and put the Enemy into such Confusion, that after having made a prodigious Slaughter, perceiving there were still some remaining, he made a fresh Attack, and cut them all to pieces <sup>4</sup>.

THE Pope, who at a little Distance beheld this bloody Tragedy, seeing himself brought into such Distress, when he least thought of it, resolv'd to retire to the City of *Civitate* <sup>5</sup>; but he was not long safe there, for it was presently besieg'd, and he forc'd to surrender. One may easily conceive what Perplexity of Mind the Pope was in, and how he was puzzled when he fell into the Enemies Hands, whom he had treated so harshly and severely, and whom he took to be a barbarous and inhuman People, without Religion, and had describ'd them as such to the Emperor *Henry*.

BUT he quickly found how much the *Normans* had the Christian Religion at Heart, and what Regard they had for him, whom they respected as the Head of the Christian Church, and Vicar of *Jesus Christ*. For seeing as a Secular Prince he had made War against them, they might have treated him as they thought fit *Jure Belli*, and according to the Laws of Victory. But they were not then so learn'd, as to conceive a Distinction betwixt two Persons in one Man, an Invention of Churchmen to cloke the monstrous Conduct of a Pope, which was no ways consistent with the Character of *St. Peter's* Successor. They look'd upon him always on account of his sublime Character, as worthy of the utmost Respect and Veneration, Religion, which they so much regarded, could inspire, and with singular Piety, and profound Respect, conducted him honourably and decently to their Camp. They not only set him at Liberty, but *Umfred* took his Parole, and with a great many of his Officers accompanied him to *Benevento* <sup>6</sup>, and besides told him, that if

<sup>1</sup> Malaterra, lib. 2. c. 14.

<sup>2</sup> Ostiens. lib. 2. cap. 87.

<sup>3</sup> Chron. Duc. & Princ. Benev. apud Pellegr. pag. 266.

<sup>4</sup> Ost. loc. cit. Omnibus tandem in ipso certamine trucidatis, Normanni Dei judicio extitere victores.

<sup>5</sup> Malaterra. lib. 2. cap. 14. Intra Urbem Provinciae Capitanatae, quae Commitata dicitur.

<sup>6</sup> Anonym. Barenf. apud Pellegr. A. 1052. Comprehenferunt illum, & portaverunt Benevento, tamen cum honoribus.

he had thought fit to go to *Rome*, they would have accompanied him to *Capua* <sup>1</sup>. The Pope, surpriz'd at this Generous and Christian Behaviour, not only chang'd the bad Opinion he had formerly entertain'd of them, but repented him of what he had hitherto done so unadvisedly and unbecoming his Character, and bitterly lamented his Misfortunes. He enter'd *Benevento* on the Eve of St. *John*, in the Year 1053, and continu'd there to the 12th of *March* of the following Year 1054, the Festival of St. *Gregory* the Pope <sup>2</sup>; and there, by reason of the Fatigue he had undergone, and an Oppression of his Spirits, fell sick, and sent for Count *Umsfred*, who conducted him to *Capua*, where he stay'd twelve Days and then return'd to *Rome*. Upon his Arrival there, in order to reconcile the Differences which in these Times were become more implacable than ever betwixt the Churches of *Rome* and *Constantinople*, he sent three Legates to the Emperor *Constantinus Monomachus*, to wit, *Peter Archbishop* of *Amalphis*, *Frederick* his Chancellor, and *Umbertus* Bishop of *St. Rufina*, which Bishoprick was afterwards by *Calixtus II.* annex'd to that of *Porto*; but this Legation was not successful, for *Leo* soon after, with great Signs of Piety and Repentance, ended his Days in the Month of *April* this Year 1054; and for his Sanctity and upright Life, was esteem'd a Saint.

IN this Juncture of Affairs 'tis said, that *Leo*, after having absolv'd the *Normans* from the Censures, and the Offences which he reckon'd they had done him, gave to *Umsfred* and his Heirs, the Investiture of *Puglia* and *Calabria*, and likewise of all they could conquer in *Sicily*, and that *Umsfred* on the other Hand, paid Homage to the Holy See for these Lands, as Fiefs depending on it; and that this was the first Investiture the *Normans* had, as *Inveges* and others write.

INDEED *Malaterra* <sup>3</sup>, speaking of the Submission and Respect the *Normans* pay'd *Leo* at this Juncture, says, That this Pope, as an Acknowledgment, *Omnem terram, quam pervaserant, & quam ulterius versus Calabriam, & Siciliam lucrari possent de Sancto Petro hæreditarij Feudo sibi, & hæredibus suis possidendam concessit*. But this was nothing else but a Testimony of his Friendship for the *Normans*, who wanted nothing of him but to bless their Arms, in order to justify all their future Undertakings; which the *Normans*, as being a religious People, desir'd at least, as a Pretence to vindicate their Acquisitions, and have the Popes for their Friends, who at that Time, by their Censures and Excommunications had become terrible to Princes. These were the Beginnings of our Papal Investitures, which afterwards were brought to Perfection by *Nicholas II.* by those Investitures he gave to *Robert Guiscard* of the Dukedoms of *Puglia* and *Calabria*, and of *Sicily*, as we shall relate.

MEAN time the *Normans* having defeated *Leo's* Army, though they had treated himself with so much Respect, and made him their Friend, thought fit not to slip so favourable an Opportunity of extending their Dominion, and carrying their Arms further. They restor'd nothing to the Pope of what he pretended to in *Benevento*; for tho' *Pandolphus* Prince of *Benevento*, and *Laudolphus* his Son, upon *Leo's* coming, had been banish'd that City, nevertheless after *Leo's* Defeat by the *Normans*, whom they assisted in the Battel, they return'd anew to govern *Benevento* <sup>4</sup>; and it was not rul'd by the Church of *Rome* till many Years after, so that the Exchange made with *Henry*, did not take Place at this Time, and their Possession of it was more owing to the Bounty of the *Normans*, than to that Exchange; for which we need no better Testimony than the antient Chronicle of the Dukes and Princes of *Benevento*, the Author of which was a Monk of the Monastery of *St. Sophia* in that City, and it is preserv'd in the Archives of the *Vatican*, which the most careful *Pellegrinus* caus'd to be printed, to whom it was sent from *Rome* by the Abbot *Constantinus Gaetanus* a Monk of *Cassino*, who had transcrib'd it from an antient MS. in the *Vatican* <sup>5</sup>. In this Chronicle <sup>6</sup> we read, that though *Pandolphus* and *Laudolphus* his Son, who govern'd *Benevento*, were banish'd on the coming of *Leo*, nevertheless 'tis subjoin'd, that they return'd thither, and that *Pandolphus* after having reign'd many Years there, forsook the World and turn'd Monk in the same Monastery of *St. Sophia*, leaving *Laudolphus* his Son for Successor, who held the Principality to his Death in the Year 1077. Whence we are clearly convinc'd that the Exchange with *Henry* did not take Place; but if the Church of *Rome* acquir'd

<sup>1</sup> Ofsenf. lib. 2. cap. 87.

<sup>2</sup> Malater. lib. 1. cap. 14. Ofs. loc. cit.

<sup>3</sup> Malater. lib. 2. cap. 14.

<sup>4</sup> Chron. Duc. Benev. apud Pell. p. 266. Post-

modum autem reverf. sunt in Beneventum.

<sup>5</sup> Pellegr. de Chronica Ducum & Princ. Ben. pag. 262. Idem in Srem. & alibi pluries.

<sup>6</sup> Chron. num. 8. & 9. apud Pellegr. pag. 266. this



this City afterwards, it was owing to the Bounty of the *Normans*; as for the Right she had by Virtue of that Exchange made with *Henry*, it was given up, as shall be seen by and by.

THE *Normans* took care to make their Advantage of this Victory, for they subjected all *Puglia* to their Dominion, after Thirteen Years Wars, from the Time they invaded it. They took from the *Greeks*, *Troja*, *Bari*, *Trani*, *Venosa*, *Otranto*, *Acerenza*, and all the other Cities of this Province, so that *Gulielmus Pugliensis* might well say;

*Jamque rebellis eis Urbs Appula nulla remansit :  
Omnes se dedunt, aut Vestigalia solvunt.*

FROM this time they were solely intent on the Conquest of *Calabria*, as we are now going to relate.



## CHAP. IV.

*The Conquest of Calabria by the Normans. Pope Stephen opposes it; but he dying opportunely in Florence, all his Measures were broke.*



THE Election of a Successor to *Leo IX.* occasion'd new Disorders in *Rome*, and after that Church, by reason of opposite Factions, had been a Year without a Head, at last the famous *Hildebrand*, who had come to *Rome* from the Monastery of *Clugny*, and was made Sub-Deacon of that Church, being a Man of exquisite Cunning, was employ'd to put an end to all these Disputes. The *Romans* not finding a fit Person in *Rome* to be Pope, sent *Hildebrand* to the Emperor in *Germany*, to desire such a one as he, in the Name of the Clergy and People of *Rome*, should pitch upon; the Emperor consented, upon which he demanded *Geberardus* Bishop of *Eichstat*, whom we lately mention'd: Tho' much against the Emperor's Inclination, who was unwilling to part with him, *Geberardus* came to *Rome*, and being plac'd in that See, was nam'd *Victor II.* He had no sooner mounted the Pontifical Throne, than he presently was of an Opinion, contrary to what he had while he was in *Germany*, where he had oppos'd the Assistance demanded by *Leo*, which, when Pope, he heartily repented; and if his Pontificate had not been so very short, and his Power greatly diminish'd by the late Defeat, and that of the *Normans* increas'd, they had found *Victor* of the same Mind with *Leo*.

BUT he died in *Florence* in the Year 1057, two Years after his Exaltation, and *Frederick* Abbot of *Monte Cassino* and Cardinal, was elected in his Place, who took Possession of that See on the Festival of St. *Stephen*, and therefore call'd himself *Stephen X.* by some, for Reasons formerly related, nam'd *Stephen IX.* He followed the same Footsteps with his Predecessors. It has been observ'd with Astonishment by the careful Searchers into the Deeds of the Popes, that though their Predecessors, in order to support their Undertakings, had suffered Death, Imprisonment and other Calamities; yet for all that, their Successors were not deterr'd from pursuing the same Measures, but expos'd themselves more obstinately to all Dangers and Per-

<sup>1</sup> Ofsienf. lib. 2. cap. 89.



secution. They were persuaded that the Growth of the *Normans* in these our Provinces, was their Fall and Decay, as they had been jealous of the *Longobards*, when they became too powerful in *Italy*. Therefore the Popes charg'd the *Normans* with a Thousand Enormities, such as robbing of Churches, laying waste Provinces, and in fine, made them to be hated by the Country People, that thereby they might justify their own Undertakings, and impose them upon the World as Praise-worthy. And though they could not pretend to any Right of Sovereignty over these Provinces, yet their Jealousy oblig'd the *Normans*, who, before this, had none to struggle with but the Emperors of the East, from whom they wrested these Provinces, now to be on their Guard against the Popes, who, as if the Wrong had been done to themselves, vigorously oppos'd their Designs, and did their utmost to put a Stop to their Progress.

FORMERLY, as may have been observ'd in the Course of this History, when the Popes were not so powerful, they were wont to crave the Assistance of foreign Princes, as in order to expel the *Longobards*, they had recourse to the *French*; whereas now being grown more powerful by their temporal Dominion over so many States, when other Succours were at a great Distance, and there were no Hopes of getting any from the Emperor, and their own Dominions, were able enough to furnish them with Troops; they acted by themselves, and when these fail'd, they had recourse to spiritual Arms and Excommunications, to which the Influence of Religion had given so much Vigour and Terror, that they were not only dreadful to the People and Princes, but, which is surprizing, were formidable and frightful to the very Officers and Soldiers, who, though for the most part they were profligate Men; and made no Scruple to lead wicked Lives, and rob their Neighbours, without minding that thereby they offended the divine Majesty, yet stood in Awe of Ecclesiastick Censures.

STEPHEN, upon his Advancement to the Papacy, prepar'd immediately to drive the *Normans* out of *Italy*. He was descended originally from the Dukes of *Lorrain*, and being of Royal Blood, resolv'd to signalize his Pontificate with great and remarkable Actions. He had first been made Chancellor of the Apostolick See by *Leo IX.* afterwards Abbot of *Monte Cassino*, and by *Victor II.* Cardinal. Being now rais'd to the Papacy, he had a Mind, in Imitation of *Leo*, to expel the *Normans* out of *Italy*<sup>1</sup>; but being born for greater Things, prepar'd himself for a more noble Undertaking.

THE Year before, which was 1056, *Henry* had died in *Germany*, and left a Son Seven Years old, who afterwards succeeded him in the Empire, likewise nam'd *Henry* after his Father. There's great Confusion in the Number of these *Henrys* amongst the *German* and *Italian* Writers. *Henry the Black*, by the *Germans* is call'd III. and by the *Italians* II. not reckoning the other *Henry*, who was only King of *Germany*, but never Emperor. We shall follow the *Italians*, and call the Successor of *Henry the Black*, *Henry III.* not IV. *Henry* died after having reign'd Seventeen Years and Four Months. His Laws were collected by *Godalfus*<sup>2</sup>, and *Cujacius* has recorded some of them in his Fifth Book of Fiefs.

On account of the Minority of the Son, the Empress *Agnes* his Mother, took the Government upon her. *Stephen* taking advantage of the Time, resolv'd to raise *Duke Godfrey* his Brother, to the Imperial Throne, with a Design to joyn his own Forces with those of his Brother, in order to drive the *Normans*, whom he mortally hated, the more easily out of *Italy*.

BUT in the mean Time, these gallant Champions had made wonderful Progress in *Calabria*, under the famous *Robert Guiscard*, to whom Count *Umfred* his Brother, had sent a good Body of Troops to be employ'd in the Conquest of this Province<sup>3</sup>. After they had made themselves Masters of *Melvito*, by a cunning Stratagem of *Robert*, they had extended their Limits further, and soon after added the Cities of *Bisignano*, *Cosenza* and *Martura* to their Dominion.

NEITHER did the Death of *Umfred*, which happen'd about the Year 1056, interrupt the Course of their Conquests, but they rather went on at a greater Rate; for *Umfred* having left only two young Sons, *Bacelardus* and *Hermanuus*, recommended the Government of his Dominions to *Robert* his Brother, as he did also his

<sup>1</sup> Ofsiens. lib. 2. c. 56. & 99.

<sup>2</sup> Goldast. tom. 3. pag. 312.

<sup>3</sup> Gul. Ap. lib. 1. Roberto fratri Calabrias  
| acquirere terras concedit.

5 X

Children,

Children, especially *Barcelardus* the Eldest ; so that *Robert* having succeeded in the County of *Puglia*, struck Terror in all the neighbouring Princes, more especially in Pope *Stephen*, who hated him the more on that account.

BUT *Stephen*, though he had Courage enough to undertake, yet he wanted Power, or rather Money, to drive the *Normans* out of *Italy* ; therefore all his Thoughts were employ'd how to fill his Coffers, and the Affair he was engag'd in, put him upon too desperate and scandalous Methods. He, who from Abbot of *Monte Cassino*, had been rais'd to the Chair of *St. Peter*, even now when he was Pope, resolv'd to retain that Abbacy, nor would he allow of another to be chosen in his Room ; so that by a double Right, he dispos'd of that Monastery at his own Will and Pleasure<sup>1</sup>. By the many Oblations of the Faithful in these Times, in which the Monks had succeeded too well, they had amass'd a vast Treasure of Gold and Silver, which they kept in this Monastery with great Care and Circumspection : *Stephen* seeing he had no other way for obtaining his End, resolv'd to have it in his Clutches, therefore he order'd the Overseer to bring all the Treasure of Gold and Silver that was in the Monastery privately to *Rome*. He design'd to carry it to *Tuscany*, where his Brother *Godfrey* was, and impart his Design to him, that they might return together to drive the *Normans* out of *Italy*. One may easily judge what Consternation the Monks were in on the News of so mischievous an Order : With Lamentations and Tears they endeavour'd to divert the Pope, but all in vain, so that at last, being forc'd by cruel Necessity, they pack'd up the Treasure, and carried it to *Rome*. When the Pope saw it, and at the same Time observ'd the Grief and Anguish of the Monks that brought it, struck with the Monstrousness of the Fact, and conscious of the Heinousness of the Crime, he presently repented his having demanded it, and sent it back again<sup>2</sup>. But shortly after, having gone to *Tuscany*, where he stopp'd in *Florence*, he was suddenly seiz'd with a Faintness, which in a few Days, put an end to his Life in the Year 1058<sup>3</sup>.

*STEPHEN* being dead, all his Designs evanish'd, which fell out so luckily for the *Normans*, that having none other to hinder their Progress, they were soon in a Condition to extend their Conquests, not only in *Calabria*, but also over the Principality of *Capua*, on an Occasion we shall shortly relate.

<sup>1</sup> Ost. lib. 2. cap. 98.

<sup>2</sup> Ostiens. lib. 2. cap. 99.

<sup>3</sup> Ostiens. lib. 2. cap. 100.

## SECT. I.

*Robert Guiscard is Proclaim'd first Duke of Puglia, and Calabria.*

IN the mean Time, on the Death of *Stephen*, *Rome* was again involv'd in Confusion and Disorders ; for *Gregorio d'Alberico* Count of *Frescati*, and some other Roman Lords, in the Night-time, with arm'd Force, plac'd *John* Bishop of *Velletri*, in the Holy Chair, who took the Name of *Benedict* ; but *Peter Damian*, a Man of Worth (who a little before had been call'd from *Eremo*, and made Bishop of *Ostia*) with the other Cardinals oppos'd this Election, and order'd Matters so, that *Hildebrand* in his Way from *Germany*, whither he had been sent by *Stephen* to the Empress *Agnes*, hearing of these Disorders, stopp'd in *Florence*, and endeavour'd to bring over the chief Romans from the opposite Faction, and with the Assistance of Duke *Goffredo* Marquis of *Tuscany*, manag'd Matters so, that those Cardinals, who had had no hand in the Election of *Benedict*, met in *Sienna*, and elected *Gerardo* Archbishop of *Florence*, Pope. The Empress *Agnes*, Mother of *Henry*, confirm'd the Election, and order'd Duke *Goffredo* to put *Gerardo* in Possession, and expel *Benedict*, who voluntarily abdicated the Papacy ; whereupon *Gerardo* went to *Rome*, and was acknowledg'd for lawful Pope, and nam'd *Nicholas II.* who shortly after in the Year 1059, held a Synod of 113 Bishops, where *Benedict* appear'd, ask'd Pardon, and protested that he had been compell'd to do what he had done. In this Council Regulations were made concerning the Freedom of Elections, on a Vacancy of the See, and it was ordain'd, that the Cardinals should have the greatest Share in them ; then

then the Elect'd was to be declar'd to the Clergy and People, and lastly, the Consent of the Emperor was to be ask'd.

THESE Revolutions, which very frequently happen'd in *Rome*, and the many Disorders in the Court of *Constantinople*, wonderfully contributed to the Growth of the *Normans*. They had nothing to fear from any Quarter; for the Minority of *Henry III.* during the Government of the Empress his Mother, made the Affairs of these our Provinces to be little minded. *Constantinople* was all in Disorder and Confusion, by reason of the Death of *Constantinus Monomachus*, which fell out in the Year 1054; for *Theodora* Sister of *Zoe*, had succeeded in the Empire, and she dying a Year after, *Michael Stratioticus* was put in her Room by the Officers of the Palace; but he became Monk afterwards, and voluntary renounc'd the Crown in the Year 1057; so that there arose new Factions about the Election of a Successor, but that of *Isaac Comnenus* being the strongest, in the Year 1058, he was proclaim'd Emperor.

THE *Normans* therefore had a fair Opportunity for enlarging their Dominions, and those of *Puglia* under the renown'd *Robert Guiscard*, extended them almost over all *Calabria*. This Prince now Count of *Puglia*, was acknowledg'd, not as Tutor to *Bacelardo* his Nephew, but, according to *Gulielmus Apulienfis*<sup>1</sup>, as Sovereign Lord. He appear'd not to be satisfied on this Occasion with the simple Guardianship, as indeed he shew'd afterwards; but pretended to succeed to *Umsfred*, as *Umsfred* had succeeded to his elder Brothers, and he had already appointed *Roger* his younger Brother to succeed himself, with whom he had shar'd the Government, and therefore had created him Count. For this end he was wholly intent on driving the *Greeks* out of the rest of *Calabria*; he took *Cariati*, and many other Places in the Neighbourhood, and at last march'd his Army to *Reggio*, the head City of the Province, and laid Siege to it. The Besieg'd not able to hold out long, surrender'd it to *Robert*, who now Master of so famous and antient a City, was no longer satisfied with the Title of Count, but with solemn Ceremony caus'd himself to be proclaim'd Duke of *Puglia* and *Calabria*. *Leo Ostiensis*<sup>2</sup> says, that it was the Honour of having taken *Reggio*, that gave Birth to this new Title. *Curopolata* writes, that it was the careless and childish Government of *Michael VII.* Emperor of the *Greeks* that gave Rise to it; but *Pellegrinus*<sup>3</sup> shews us, that *Robert* did it in Emulation of the *Greeks*, and to pull down their Pride. In *Bari* they had made *Argirus* Duke of *Puglia*, though the greatest Part of it was at this Time subject to the *Normans*; for though the *Greeks* had lost whole Provinces, yet they still retain'd the vain-glorious Titles and Names of them, and often transferr'd them to other Parts, as they did with the Name of antient *Calabria*, which, as we have observ'd in the preceding Books, was no sooner in the Possession of the *Longobards*, than they transferr'd the Name of *Calabria* to another Province, which at that Time was still subject to them.

THERE are various Opinions about the Manner how *Robert* came by this Title of Duke. *Leo* Bishop of *Ostia*, seems to say, That it was by an accidental Acclamation of the People; but *Curopolata* says, That the Lords and Barons of *Puglia* his Vassals, seeing that he had added *Calabria* to his Dominion of *Puglia*, with common Consent agreed, that the Title of Duke should be given to *Robert*, and reserv'd to themselves the Title of Counts over the Lands they had divided amongst them; which shews us that *Sigonius*<sup>4</sup> is mistaken, who pretends, that *Robert* being puff'd up with Pride on his having taken *Reggio* in *Calabria*, and soon after, *Troja* in *Puglia*, scorning the old Title of Count, of himself, and by his own Authority, took the Title of Duke of *Puglia* and *Calabria*.

AUGUSTINUS INVEGES<sup>5</sup> imagines, that the same Ceremonies then us'd in *France* at the Creation of a new Duke of *Normandy*, as they are describ'd by the antient Writers of the History of the *Normans*, were practis'd at the Creation of this new Duke; where 'tis said, that the Archbishop after some Prayers, and the Oath which the new Duke swore to defend the People committed to him, and to govern them with Justice, Equity and Mercy, gave him the Ring, and afterwards

<sup>1</sup> Gul. Appul. lib. 2.

<sup>2</sup> Ostiens. lib. 3. cap. 16. & ex tunc cœpit Dux appellari.

<sup>3</sup> Pellegr. Castigat. in Lup. Protosp. A. 1053.

<sup>4</sup> Sigon. Hist. de Regn. Italiæ lib. 9. A. 1059.

*Rhegio Calabriæ oppido, & Troja Apuliæ capto Superbus ultro se Ducem Apuliæ atque Calabriæ appellabat.*

<sup>5</sup> Inve. Annal. di Paler. par. 3. A. 1059.

girt him with the Sword ; whence, says he, 'tis very probable, that *Guiscard* the Norman, being to be created Duke of *Puglia* in *Italy*, made use of the same Ceremonies. Dukes had also their particular Crowns, Caps of Maintenance, Mantles, and their proper Titles. The Ducal Crown which they put above their Arms, as *Scipio Mazella* describes it <sup>1</sup>, was a Circle without Rays, or rather Points upwards, (which belong'd to Princes only) but in place of Points, they had some Pearls, and Jewels set round it. The Cap, which was the second Mark of a Duke, as *Bartholomæus Cassaneus* <sup>2</sup> describes it, was in the Form of a Hat, surrounded with a round Crown, but not straight nor circular, such as Kings wear ; and *Cassaneus* confesses he never could find out the Origine of this Ducal Cap. *Inveges* imagines the Ducal Mantle to have been like that of the Archdukes of *Austria*, as it's describ'd by *Guazzi* <sup>3</sup>, to wit, a Garment of different Colours, reaching down to the Feet, trimm'd with Ermine. Duke *Robert*, in the Year 1059, appear'd at publick Solemnities, dress'd in this Manner with the Ducal Robes and Crown ; whence in his Charters and other Writs, he began to use this Title ; *Ego Robertus Dux Apuliæ, & Calabriae*.

<sup>1</sup> Mazzel. descriz. del. Reg. di Nap. p. 374.

<sup>3</sup> Guazzi, Hist. Moder. pag. 78.

<sup>2</sup> Cassan. Catalog. glor. Mund. part. 1. concl. 9. pag. 8.



## C H A P. V.

*The Principality of Capua being taken from the Longobards, came under the Dominion of the Normans of Aversa.*



THE Normans who were settled in *Aversa*, as well as those of *Puglia*, extended their Bounds over their Neighbouring Country. *Richard* Count of *Aversa*, being now powerful, had a Design upon the Principality of *Capua*, invaded it, and laid close Siege to the City. At this Time *Pandolphus V.* govern'd *Capua*, who though for some time he could have defended the City with his own Troops, yet *Richard* straitning the Place still more and more, he was forc'd to offer Seven thousand Crowns of Gold, if he would raise the Siege <sup>1</sup> ; which *Richard* then accepted of ; but *Pandolphus V.* was no sooner dead in the Year 1057. and succeeded by *Landolphus V.* than *Richard* invaded *Capua* anew, and besieg'd the City more closely than before. The *Capuans* offer'd another greater Sum for their Liberty : *Richard* would hear of no Terms ; but that the City must be surrender'd to him. It was a hard Matter to get the *Capuans* to consent ; but at last being reduc'd to Famine, and *Landolphus* yielding and quitting the Principality, *Richard* was receiv'd and proclaim'd Prince this Year 1058.

*RICHARD*, like *Archiebis*, first Prince of *Benevento*, would have himself anointed with sacred Oyl <sup>2</sup>, which Custom all the Norman Princes of *Capua* retain'd afterwards <sup>3</sup>. And though it had been stipulated in the Capitulation, that the *Capuans* should have the keeping and guarding of the Gates and Towers of the City,

<sup>1</sup> Ostiens. lib. 2. cap. 16.

<sup>2</sup> Ostiens. loc. cit.

<sup>3</sup> Pellegr. in Stem.

which

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which this new Prince *Richard* wink'd at for the present, yet he resolv'd at another more proper Time to deprive them of that Privilege likewise. In the mean time he went to *Monte Cassino*, where he was receiv'd with great Solemnity by the Monks, and return'd to *Campania*, which extends itself as far as the River *Sele*, and in the Space of three Months conquer'd the whole Province; from thence he return'd to *Capua*, and having conven'd all the Nobility, he set forth to them, that it was very reasonable the Gates and Towers of the City should be deliver'd up to him; but the *Capuans* obstinately refusing to comply, in great Wrath he left the City, laid close Siege to it anew, and reduc'd them to Famine.

IN the mean time the Citizens sent their Archbishop to *Germany* to seek Assistance from the Emperor *Henry*; but this Prince not being in a Condition to mind these our Provinces, dismiss'd him with great Promises and fair Words, which were never perform'd. The *Capuans* then being left without all Hopes, and able to resist no longer, surrender'd the Towers, Gates, Themselves, and all their Effects to the Discretion and Mercy of *Richard*. Thus in the Year 1062, the *Capuans*, after having bravely defended themselves for the Space of ten Years against the Power of their Enemies, lost the Principality of *Capua*, which became subject to the *Normans* <sup>1</sup>, first under Prince *Richard*, who was descended of *Asclettinus*, afterwards under the other Successors of the same Race, and at last it came under the Dominion of those other gallant *Normans* of the Blood of *Tancred* Count of *Hauteville*, as we shall see in the following Book. Therefore the Mistake of *Sigonius* <sup>2</sup> is unpardonable, who reckon'd this *Richard* to be the Brother of *Robert Guiscard*, as if from this Time the Principality of *Capua* had come under the Dominion of the *Normans* of *Puglia* to the Sons of Count *Tancred*.

THUS ended the Dominion of the *Longobards* in the Principality of *Capua*, which from *Atenulphus*, in an uninterrupted Series of many Years, had continu'd till it was quite extinguish'd in the Person of *Landulphus* V. a most unfortunate Prince, who, besides his being forc'd to desert his Dominion, saw, to his great Grief and Affliction, the many Children he had begotten, reduc'd to a needy and wandering Life, in the very Country where he had reign'd. And the Abbot *Desiderius* <sup>3</sup> in his Dialogues relates, that in his Time, he had seen many Sons of *Landulphus* going about as Vagabonds and Exiles, begging Bread to support their miserable Lives; which he look'd upon as a Punishment for the Wickedness and Cruelty of that most wretched Prince *Pandulphus* IV. of whom they were descended. Whence it may be gather'd, that the Blood of the *Longobard* Princes was not quite extinguish'd in the Principality of *Capua*; for besides that there still remain'd some Counts of the Race of *Atenulphus*, whose Descendants for some Time, were distinctly known in some Families by the Fiefs they possess'd; there were likewise remaining the Sons of *Landulphus*, who, because of their extreme Misery and Poverty, as we may reasonably believe, have been the Forefathers of Mechanics, Labourers, and other Handycrafts-men, some of whom, though not known, may be amongst us to this Day: Which we ought to take for a Warning of the Inconstancy and Changeableness of Worldly Things, and not be puffed up on account of the Nobleness of our Pedigree above others, who, tho' they cannot make it appear, yet perhaps are descended of more noble and illustrious Blood than ourselves. *Seneca* relates an Instance of the like nature to his *Lucilius* <sup>4</sup>, that after the Defeat of *Marius's* Army, many born of great Parentage and noble Blood, as well Knights as Senators, upon the Overthrow of *Marius's* Faction, were reduc'd to so abject Conditions, that some became Shepherds, others Ploughmen, and liv'd in Cottages.

IN the following Book, to which we refer the Ecclesiastical Polity of this eleventh Century, we shall see the gallant *Normans*, after having thus vanquish'd the *Greeks* in *Puglia* and *Calabria*, and the *Longobards* in the Principality of *Capua*, proceeding triumphantly in the Conquest of the other Provinces, till they establish a great and flourishing Kingdom.

<sup>1</sup> Ostiens. lib. 3. cap. 16.

<sup>2</sup> Sigon. lib. 9. A. 1059.

<sup>3</sup> Desid. Dial. lib. 5. Pellegr. in Stem.

<sup>4</sup> Senec. ad Lucil. Epist. 47.





THE  
CIVIL HISTORY  
Of the KINGDOM of  
NAPLES.

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BOOK X.

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DUKE Robert, not allowing *Bacelardus* his Nephew to succeed in his Father's Dominions, govern'd the Dukedoms of *Puglia* and *Calabria*, not as Tutor, but as his own Inheritance, and in order to extend his Dominion the better over the other Provinces, and to secure the Conquests he had made, with all Submission, he endeavour'd to cultivate the Pope's Friendship, being taught so to do by the Behaviour of *Leo*; so that by having him on his Side, he might justify his Undertakings, and render them Praise-worthy in the Eye of the World, without the Blemish of Usurpation. On the other Hand the Popes being now grown more terrible to Princes on account of their Excommunications, slipp'd no Opportunity of taking Advantage of the Opinion that prevail'd every where of their Superiority and Power. For which reason the Papal Investitures were more firmly establish'd among us in the Pontificate of *Nicholas II.* to which a Revolt that happen'd in *Puglia* at the same Time, when Duke Robert was triumphing in *Calabria*, contributed not a little.

*BACELARDUS* taking in ill Part that his Uncle Robert had depriv'd him of the Succession to his Paternal Dominions, made heavy Complaints, which so mov'd the Compassion of many of the Inhabitants of *Puglia*, that they openly revolted and assaulted some Places of that Province. But Robert's Vigilance soon put a Stop to their ill-concerted Designs; for having attack'd them all on a sudden, he soon reduc'd those Places that had revolted, and stifled the Rebellion; and without halting, march'd to the furthest Parts of the *Capitanata*, where the *Greeks* were still in Possession



feſſion of ſome Places, which he ſurpriz'd, and amongſt the reſt took the City of *Troja*, which the *Greeks* had built ſome Years before, and made the chief City of this Province.

THE Conqueſt of the City of *Troja* rouz'd the Pope; for the *Roman Pontiffs* in thoſe Days pretended, that this City belong'd to them by a ſpecial Right, in the ſame manner as *Benevento*<sup>1</sup>. But all Authors are ſilent as to the way how they came by this ſpecial Right; for, according to the Authority of *Leo Oſienſis*<sup>2</sup>, which we have already related, this City was in the *Greek Dominions*, which in the Year 1022 they had built from the Foundation, under the *Catapanus Bejanus*, and gave it the Name of *Troja*, in Memory of the famous City of that Name in the leſſer *Phrygia*, of which they reckon'd this a Colony.

AND tho' when *Henry* came into *Italy* with that formidable Army, he laid Siege to that City, as the ſame *Leo*<sup>3</sup> relates, and forc'd the *Trojans* to ſurrender to him; yet he pardon'd them at that Time<sup>4</sup>, and return'd to *Germany*; neither do we read that he made a Preſent of it to the Church of *Rome*, as he did of *Benevento*. But however that may be, *Nicholas II.* who, conſtantly treading in the Footſteps of his Predeceſſors, was jealous of this Progreſs of *Robert*, under pretence that this City belong'd to the Apoſtolick See, gave him to underſtand that he muſt reſtore it to him. The *Normans* had no mind baſely to part with what they had conquer'd from the *Greeks* with their Arms, and ſo much Fatigue and Labour; ſo that *Robert*, little minding the Demand of the Pope, march'd back towards *Calabria*.

NICHOLAS II. was not in a Condition to march an Army againſt him, as *Leo* had done; and the Aſſiſtance he could expect from the Emperor of the Weſt was at a great Diſtance, and theſe Emperors began now to withdraw the Reſpect they were wont to have for the Popes, and to have an Averſion for them, becauſe they diſputed their Right in the Election of Popes, and Inveſtitures of other Benefices which they had hitherto been in Poſſeſſion of. Neither could *Nicholas* expect Aſſiſtance from the neighbouring *Longobard Princes*; for the Principality of *Capua* was in the Poſſeſſion of the *Normans*; the Power of the Prince of *Salerno* was very inconfiderable; and that of the Prince of *Benevento* leſs to be depended on. There was nothing to be expected from the *Greeks*, who were implacable Enemies of the Popes, on account of the famous Schiſm betwixt theſe two Churches, which had now taken ſuch deep Root, that it had quite alienated the *Greeks* from the *Latins*.

NICHOLAS II. then had no other Game to play but to have recourſe to Spiritual Arms and Excommunications. The Popes had already begun to employ them againſt Princes, as we have ſeen in the preceding Books; yet they had then been made uſe of for Reaſons which they at leaſt believ'd to be more juſtifiable, and often on account of Religion, and their abominable Hereſies; they alſo made uſe of them for breaking Confederacies which Chriſtian Princes frequently enter'd into with the infidel *Saracens*, as *John VIII.* did againſt the *Neapolitans* and *Amalphytans*, for which he had a ſpecious Pretext of Piety and Religion. But afterwards, as it uſually happens, that good Things are often put to a bad uſe, they began to uſe them indifferently, either for worldly Ends, or to gratify ſome Prince, but chiefly to preſerve and increaſe the Temporal Riches of the Church. Thus we have ſeen the *Beneventans* treated becauſe they would not open the Gates of their City to the Emperor *Henry*, who got *Clement II.* to excommunicate them, and afterwards carried him to *Germany* with him as one of his Courtiers.

AS in the primitive Church the Prelates minded only Spiritual Matters, ſo they made no uſe of Excommunications but againſt Hereticks, or for the Correction of publick Sinners; the chief Deſign of them was againſt thoſe who had imbib'd wrong Notions with regard to Religion, who, after many Admonitions, if they did not acknowledge their Errors, were ſeparated from the Church: And in the ſecond Place, in order to avoid Scandal, they were employ'd againſt publick Sinners. And they had no other Effect, but to deprive them of the Sacraments and other Spiritual Things which the Church beſtow'd on the Faithful. But afterwards, and eſpecially in theſe Times, the Spiritual Care was abated in the Prelates; and on the contrary, the Avarice of Temporal Riches increas'd in the Eccleſiaſtick State, ſo that as Ex-

<sup>1</sup> Freccia de Subſeud. lib. 8. Speciali quodam jure ſibi vindicer, ſicut Beneventum.

<sup>2</sup> Oſienſ. lib. 2. cap. 40.

<sup>3</sup> Idem eod. loc. cap. 39.

<sup>4</sup> V. Baron. A. 1022.

communications were formerly made use of only for the Correction of publick Sinners, and against Hereticks, they were now more frequently used, not only in the Defence, but likewise in Recovery of the Temporal Possessions, if perchance thro' the Neglect of their Predecessors they had been lost.

BUT it would have been to no purpose to have made use of these Arms, if at the same Time they had not made the People believe, that in whatever manner they were fulminated, if the Goods were not restor'd, the Possessors were irrecoverably damn'd, which they imputed more to the Censure than the Sin. And in order to make them more terrible, they had found Means to introduce a new Doctrine, that the Excommunicated were not only render'd unworthy of what the Church bestow'd on the Faithful, which was the true Effect of Excommunication, but likewise that it unmann'd, defam'd, and render'd them abominable; that they ought to be shunn'd as infected with the Plague, and depriv'd of Civil Society and Commerce; and several Papal Decretals were made for rendering them incapable of making Wills, Contracts, to sue at Law, adopt, or do any other legal Act; they could exercise no Office in the State, and a thousand other Things, of which perhaps we shall have occasion to treat more at large elsewhere.

'TIS incredible with what Terror and Dread these Censures affected the Minds, not only of the common People, but those of higher Rank, yea Princes themselves; and it was truly matter of Astonishment, that the Officers and Soldiers, Men otherwise addicted to all Wickedness, and without the Fear of God, and who did not stand in awe to offend Him by robbing their Neighbours, yet were so over-aw'd by the Dread of Excommunication, that they guarded the Goods of the Church with great Respect; and in these Times there was no surer way of preserving one's worldly Goods, than by putting them under the Keeping and Protection of the Apostolick See.

FROM this (as we have observ'd elsewhere) a large Field was open'd for augmenting the Temporal Possessions of the Church; for many People unable to preserve their Effects from being seiz'd by Force, a Thing too common by the Depravity of the Age, were induc'd to make them over to the Church, on Condition that they should still be Masters of their Estates, and hold them of the Church in Fief for a small Acknowledgment; for in these Times it was the Custom to convert Freeholds into Fiefs, by resigning them to the Prince who had given the Investiture. And of this sort of Fiefs call'd *Oblata*, there's mention made in our Feodal Books, and *Cujacius* treats of them at large. This secur'd Estates, as being under the Protection and direct Dominion of the Church, which had recourse to her Censures in case they were invaded; by this the Church had a prodigious Advantage, for tho' she receiv'd nothing during the Life of the Possessor but a small Quit-Rent, yet when the Male-Issue of the Feudatories fail'd, which often happen'd in these Times by reason of the continual Wars, and popular Seditions, the Estates fell to the Church.

THE *Normans* were no less terrified and over-aw'd by these Censures than others; for having but lately embrac'd the Catholick Religion, which they had in great Veneration, as their frequent Pilgrimages to the most noted holy Places both in the East and West demonstrated, and being greater Votaries of the Apostolick See than any other Nation, as we have seen by their Behaviour to Pope *Leo*; they were very unwilling to expose themselves to these terrible Thunder-bolts. *Nicholas II.* encourag'd by this, resolv'd to try them, and thinking to obtain by the Censures, what *Leo* could not do with Armies, he solemnly excommunicated *Robert* and his *Normans*.

HOWEVER these Thunder-bolts were thrown in vain; for the *Normans* as well as they, knew very well how to keep what they had acquir'd with so much Labour and Danger, and they thought it would be the Height of Baseness to yield what they were in Possession of by so much Toil; whatever Respect they had for the Popes and the Apostolick See, yet when the Question was to part with what they had got, they took Example from the Popes themselves, and were not easily persuaded to do it; and tho' they dreaded the Censures thunder'd out against them, yet not to that Degree as to part with what they had taken, because they reckon'd the Censures unjustly pronounc'd against them.

MATTERS then being brought to this pass, that neither Side was in a State of Tranquillity, both came to think seriously how to extricate themselves from so much Distrust and Anguish of Mind, by means of an Agreement that might be for their mutual Advantage.

ROBERT consider'd with himself, that tho' he was sure he could not be forc'd to quit his Conquests by the Power of the Popes, yet it was not convenient to have them for Enemies; for tho' as Matters now stood, they could get no Assistance from the Emperors of the West, nor other neighbouring Princes, yet he had been taught by long Experience, that as Opportunity should offer, they would not fail to give him Disturbance; and that the greatest Rubs his Nation had met with, had been more owing to the Popes than the *Greeks*. The Censures, yea rather the Misfortunes they had often brought upon other Princes, much terrified him, lest they might occasion a Revolt amongst the People, and especially those of *Puglia*, who were terribly afraid of them, and not as yet well settled; that his Conquests were but lately made in foreign Countries, where he stood more in need of Friends than Enemies; that the Party for his Nephew *Bacelardus* might be strengthen'd by getting Encouragement from the Popes, who were ready to take Advantage of all Opportunities, the rather, because they were of Opinion that he himself was an Usurper: In fine, he saw it necessary for him to have the Pope on his Side, not only on account of what he had already acquir'd, but much more for what he had as yet to conquer in the other Provinces, that by the Authority the Popes had assum'd, he might be confirm'd in the Possession of what he hop'd to conquer.

ON the other hand the Pope consider'd, that the *Normans* did not mind Excommunication; that they were a People who would part with nothing willingly; that neither the Power of the Church, nor the neighbouring Princes was able to constrain them, and no Succours were to be expected from the Emperors of the West, who were at Variance with the Popes on account of their Election and the Investitures; and tho' *Nicholas* in a Council held a little before in *Rome*, had found Means to satisfy *Henry*, yet Matters were like to come to an open Rupture betwixt him and the *Romans*; that in order to be able to maintain the Cause of the Clergy, the People of *Rome*, and the Popes, against the Emperor, it behov'd him to pitch upon some powerful and gallant Prince, who henceforward might be able to support them, because otherwise all their Designs would come to nothing; that he could pitch upon none fitter than *Robert*, who with his Forces would be able to oppose him effectually, and to restore that Prerogative to the Church of *Rome*, which the Emperors had usurp'd: In fine, that there might be a way found out of reconciling *Robert* to the Apostolick See, whereby it would rather reap Advantage than Detriment.

ON these Considerations both Parties were dispos'd by means of a Reconciliation to put an End to all Debates, and to restore Peace. *Robert* resolv'd to be before-hand with the Pope, and having retir'd to *Calabria*, sent him an Ambassador with generous Offers to satisfy him in whatever he desir'd, and for that End invited him to an Interview, with which he assur'd him he would have good reason to be pleas'd.

THE Pope, who desir'd no better, and which likewise answer'd his Ends, was very well pleas'd, and accepted the Proposal; he having resolv'd before to hold a Council for reforming in some measure the abominable Manners of the Ecclesiasticks, sent him Word, that he had appointed this Council to be held in *Melpbis*, where he resolv'd to be in Person, and where they two being met together should adjust all Differences to their mutual Satisfaction.

THE Corruption of Manners in the Ecclesiastick State in these Times was excessive; for laying aside all Shame, they did not scruple to keep Concubines publicly in their Houses, as also the Children born of them, as *Peter Damian* with Grief relates. *Nicholas* made some Canons in the *Roman* Council against such Concubinage; but in these our Provinces this Vice had got such Footing, that neither Bishop, Priest, Deacon, yea nor the very meanest of the Clergy wanted their Concubines; therefore *Nicholas* this Year 1059 held a Council in the City of *Melpbis*, wherein he condemn'd and detested that vile Custom, by imposing severe Punishment on the Fornicators, and he likewise depos'd the Bishop of *Trani*. But for all that, this wicked Practice could not be rooted out: it appear'd next to impossible to get the Priests to leave it off, whence, in the Councils held since, we see nothing so much

much inculcated, as to have the Priests to wean themselves from it, but always to no purpose; for the Use of Concubines was so publick in these our Provinces, and the Number of them so great, that they pretended Exemption from Secular Judicatories, and that they were not liable to the Penalties appointed by Secular Princes against Concubinage; that seeing they belong'd to Priests, they ought to enjoy the same Privilege with them. And 'tis surprizing, that *Charles II.* of *Anjou*, in his Time should ordain, that the Concubines of Priests should not be liable to forfeit the fourth Part of their Goods, as other Seculars were, tho' he did not think fit to exempt them from Secular Judicatories, a Privilege which the Priests claim'd.

THE Pope then being at the Council in *Melphis*, the famous *Robert* arriv'd in that City accompanied with Prince *Richard*, and all the *Norman* Nobility; after great Rejoicings and Entertainments, they came to the main Point.

THE *Normans*, for the greater Security of their Dominions, got the Popes engag'd to defend them, particularly against the Emperors, from whom they had taken them: *Puglia* and *Calabria* were not contraverted, having been taken from the Emperors of the East, and not from the Popes, who had no manner of Title to them. On the other hand, the Emperors of the West pretended, that what the *Normans* possess'd in these our Provinces, they held it of them in Fief, having been invested in it by *Henry II.* and that as Vassals they ought to acknowledge them for their Sovereigns; that *Richard*, who had robb'd *Landulphus* of the Principality of *Capua*, ought to be reckon'd their Vassal, in the same manner as the *Longobard* Princes of *Capua* his Predecessors were, that Principality being subject to the Emperors of the West as Kings of *Italy*; they pretended the same Right over the Principalities of *Benevento* and *Salerno*, which *Robert* intended to invade. The Popes then were to engage themselves against those two powerful Enemies, whose Dominions were the subject Matter of this Treaty.

THEREFORE a Method was thought on, that would turn to both their Advantages. As we have said, there had been already a Custom introduc'd, that for the better Preservation of Estates, the Owners made them over to the Church of *Rome*, paid a small Acknowledgement, declar'd themselves Vassals, and swore Fealty. In these Contracts all the Advantage was on the Pope's Side, for they gave nothing away; on the contrary, besides the Oath of Fealty and Quit-Rent, in case of Failure of lawful and Male-Issue, the Estates devolv'd to the Church, and it was in the Pope's Power to invest others. Neither People nor Princes were at pains to inquire into this Right of Investiture, and by what Authority the Popes assum'd a Power to create Dukes and Counts, and oblige them to swear Fealty to them; it was sufficient to them if they were protected by Excommunications, which were so much dreaded, that their Enemies abstain'd from making War upon them in order to avoid the Censures of the Church. Besides they likewise saw the Popes were come to that pitch of Greatness, that they arrogated to themselves the Power of absolving Vassals from their Oaths, and likewise of deposing Emperors, and the greatest Monarchs in the World; so that they were the less surpriz'd at their giving the Titles of Counts and Dukes, when they presum'd to make the very Emperors of the West, and to transfer the Empire from one Nation to another.

BUT to fancy or imagine that Popes had not only a Power to give Investiture, and take Oaths of Fealty for those Lands that were made over to them, but also to do the same with respect to Provinces and Kingdoms not as yet conquer'd, is still more astonishing. As for those who were preparing to make such Conquests, it was an easy matter to persuade them of it, because they found their account in it, which not only encourag'd them in the Undertaking, but likewise secur'd them in the future Conquests, because if the former Possessors after the Conquest, should endeavour to recover their Right, they were sure to be expos'd to the Thunder-bolts of the Church.

IT was no hard Thing then to make an Agreement, when the Parties had nothing in view but to rob their Neighbours of their Rights, and to make their Advantage by the Bargain. There was no occasion to mention the Dominions taken from the *Greeks* and *Longobards* in the Agreement. Prince *Bacelardus* who had been robb'd by his Uncle, was not regarded in it; Prince *Landulphus* who had been expell'd *Capua*, was as little minded; but both Parties having an Eye to their own Interest and Designs, the Agreement was concluded in this manner; That *Robert* and his *Normans* should be absolv'd from all Censures; that the Dukedoms of *Puglia* and *Calabria*

*bria* should be confirm'd to him; and besides, when he shall drive the *Greeks* and *Saracens*, who possess'd the greatest Part of *Sicily*, out of that Island, the Pope should give him the Investiture of it with the Title of Duke; and in fine, that the Principality of *Capua* should be confirm'd to *Richard*, who had usurp'd it from *Landulphus*.

ON the other hand it was agreed, that *Robert* and *Richard*, and their Successors, should put themselves under the Protection of the Pope, who confirm'd to them the Possession of all the Dominions they had in *Italy*, and of *Sicily* when they should conquer it from the *Saracens*; therefore they swore an Oath of Fealty as Feudatories of the Holy See, to which *Robert* was oblig'd to pay yearly Twelve-pence of *Pavia* for each Yoke of Oxen, as *Leo Ostiensis* relates<sup>1</sup>; and *Fr. Tolomeo* of *Lucca* adds, that this annual Tribute was not so much as demanded by the Pope, but that *Robert* oblig'd himself to pay it of his own Free-Will.

THIS Agreement was settled in *Melpbis* in the Year 1059, and tho' some have written that it was likewise confirm'd in the Council held in this City; nevertheless it not being an Affair that concern'd the Council, which was only conven'd for reforming the Manners of Ecclesiasticks, others have not ventur'd to say it, but only that while the Pope was at this Council in *Melpbis*, he receiv'd the Oath of Fealty from the *Normans*, and gave the Investiture. However that may be, 'tis most certain, the Treaty was very faithfully perform'd on both Sides; and *Robert* took the Oath of Fealty, which *Baronius* says he found in a Book in the Vatican call'd *Liber Censusuum*, in which the Form of the Oath which *Robert* swore to the Pope is recorded: it begins thus; *Ego Robertus Dei Gratia, & S. Petri, Dux Apuliæ & Calabriæ, atque utroque subveniente futurus Siciliæ*. *Signius* observes, that the Pope did not confirm him Duke with the *French* Ceremonies us'd by the Dukes of *Normandy*, as already related, to wit, by putting the Ring on his Finger, the Cap on his Head, and girding him with the Sword; but after the *Italian* manner, by putting the Standard in his Right Hand, which made him Standard-bearer of the Holy Church; whence *Guiscard* from this Year began to use this Ducal Title; *Dux Apuliæ, Calabriæ, & futurus Siciliæ*.

SOME also say, that *Robert* at this Time restor'd the Cities of *Benevento* and *Troja* to the Pope, but without any Foundation of Truth; for at this Time the City of *Benevento* was in the Possession of *Landulphus* its Prince, and *Pandulphus* his Son, who had been now restor'd to their Principality, as the Cotemporary Author of the Chronicle of the Dukes and Princes of *Benevento* relates; and it was not restor'd to the Church of *Rome* by *Robert* till long after, when he had vanquish'd the *Longobard* Princes who held that Principality, and expell'd them their Dominions, as shall shortly be told. Neither is there any mention made in grave and ancient Writers of the Restitution of *Troja* to the Pope, seeing there is no Evidence that the Popes could ever have had any Right to it; for a few Years after the *Greeks* had built it, the *Normans* took it from them; and what confirms this the more, is, that at this Day we find *Benevento* only in the Possession of the Church of *Rome*, but we read no where, that ever *Troja* was under her Dominion.

THIS is the Foundation of the Right which the Popes pretend to have over the Kingdoms of *Naples* and *Sicily*; a Foundation tho' in those Times weak and tottering, nevertheless in process of time being grown more firm and fix'd, by the Cunning of the Successors of *Nicholas II.* it was able to support such great and lofty Buildings, that the Popes came to dispose of these Kingdoms at their Pleasure, and to transfer them from one Nation to another, as may be observ'd in the Course of this History.

THEY owe this Advantage, and this so considerable a Part of their Temporal Grandeur to the *Normans*, who, in order to engage them in their Defence, particularly against the Emperors of the East, who could plead that a great Part of what these Conquerors had made themselves Masters of, belong'd to them, or that they held it in Fief of the Emperors of the West, from whom they had formerly got Investiture, did not scruple to declare themselves Vassals of the Popes, that none might pretend to make War against them, without exposing themselves to the Censures of the Church.

<sup>1</sup> Ostiens. lib. 3. cap. 16. Hisdem quoque diebus, & Richardo Principatum Capuanum, & Roberto Ducatum Apuliæ & Calabriæ. atque Siciliæ confirmavit, cum Sacramento, fidelitate

Romanæ Ecclesiæ ab eis primo recepta, nec non Investitione census per singulos annos, per singula boum paria, denarios duodecim.

THESE

THESE were the first Seeds, which being afterwards cultivated with skilful Hands, in process of Time, took such deep Roots, and from whence sprung such lofty Plants, that at last the Kingdom of *Sicily* was reckon'd the special Patrimony of *St. Peter*, and a Fief of the *Roman* Apostolick See. Whence our Writers believed, that the Church of *Rome* had invested the *Normans* therewith, as being her Patrimony, for which some quote the Donation of *Constantine the Great*, some that of *Pepin* and *Charles the Great*, and others those of other Emperors of the West. These Writers continued in this Darkness through their Ignorance of History, till *Marinus Freccia*<sup>1</sup>, by the Light thereof, discover'd the Cheat, and let the World see that these Investitures were grounded on nothing but Custom. And speaking of this Investiture of *Nicholas II.* and of others that follow'd afterwards, he did not scruple to say, *Ecclesia non dedit, sed accepit; non transtulit, sed ab alio occupatum recepit*; he pity'd his Kinsman *Matteo degli Afflitti*, who wrote, that *Constantine the Great*, gave this Kingdom to the Church, and said, *Affinis meus historicus non est, auditu percepit, &c.*

THIS first Investiture, with respect to the Person of *Robert*, comprehended only the Dukedoms of *Puglia* and *Calabria*, as *Gulielmus Pugliensis* sings<sup>2</sup>.

*Robertum donat Nicolaus honore Ducali.  
Unde sibi Calaber concessus & Appulus omnis.*

And as to *Richard*, the Principality of *Capua* only. But it was couch'd in such a Manner, that it might be interpreted to extend to all the other Provinces, which as yet had not been subjected by the *Normans*: *Robert* was likewise invested with *Sicily*, that was as yet to be taken from the *Greeks* and *Saracens*, who were in Possession of it. The same ought certainly to be understood with respect to the Principalities of *Salerno*, *Benevento*, *Amalphis*, *Naples*, *Bari*, *Gaeta*, and all that now makes up the Kingdom, as the Event prov'd; for they were no sooner conquer'd by the *Normans*, and the *Greeks* and *Longobard* Princes intirely expell'd, than the Popes gave the Investiture of them, with all the Pleasure imaginable, because, besides, that it cost them nothing, they found their account in it, more than the *Normans* themselves.

ON the other hand, the *Normans* were easily catch'd, for they saw the Advantages, which we have already taken Notice of, but were not aware of the Consequences, and excepting the small Acknowledgement of Quit-rent, the Sovereignty was lodg'd in them, and they govern'd their Dominions with a free and absolute Sway, as supreme and independent, and reckon'd themselves rather Tributaries, than real Feudatories of the Apostolick See; for in those Times, the Word *Liege-man* was not taken in the same Sense, as it is now by our Feudists, but denoted a sort of Confederacy and League, when the Inferior, by swearing Fealty, oblig'd himself to assist the Superior in his Wars, or to pay him a certain yearly Tribute or Quit-rent<sup>3</sup>. The same was practis'd among Princes themselves, witness *Robert* Count of *Namur*, to *Edward III.* King of *England*<sup>4</sup>; the Duke of *Guelder*, to *Charles* King of *France*, and *Philip* of *Valois* King of *France*, to *Alphonfus* King of *Castile*<sup>5</sup>.

THIS Custom was more frequent with respect to the Popes, on the foresaid account. The Kings of *England* oblig'd themselves to pay Tribute to the Apostolick See, which was exacted from that Kingdom, till the Reign of *Henry VIII.* and was call'd *St. Peter's Pence*; yea, there was not a Prince in *Europe*, who did not subject their Kingdoms to pay Tribute to the Church of *Rome*; so that *Cujacius* speaking of this Custom, which was become very frequent in those Times, said, *& qui non Reges olim?* The Popes at first were satisfied with the Quit-rent only, in order to make the Yoke seem easy; but in process of Time, made a Handle of it, to pave the Way to greater Pretensions, which they cunningly trump'd up, as occasion offer'd, as shall appear in the Course of this History.

<sup>1</sup> Freccia de Subfeud. lib. 1. pag. 53.

<sup>2</sup> Gul. Apul. lib. 2.

<sup>3</sup> V. Pratejum lex juridic.

<sup>4</sup> Frossard. hist. lib. 1. cap. 14.

<sup>5</sup> V. Bodin. de Republ. lib. 1.



## C H A P. I.

*The Dukedom of Bari subjected by the Normans.*

**A**FTER this Interview, which prov'd to the Satisfaction of both Parties, the Pope return'd to *Rome*, and *Robert* to *Calabria*, in order to reduce some other Towns that were as yet in the Possession of the *Greeks*, of which he soon made himself Master ; and perceiving that Count *Roger* his Brother, had behav'd himself with extraordinary Courage in these Expeditions, he left him in *Calabria* to compleat the Conquest thereof, which he did most gallantly, and he himself in the mean time went to *Puglia*, and contriv'd means how both to secure and inlarge his Conquests.

**F**OR this End he resolv'd to make the *Longobard* Princes his Allies, by marrying one of their Daughters, and finding that the Prince of *Salerno* was the most powerful, he sent Ambassadors to *Gisulphus* II. who had succeeded *Guaimarus* IV. his Father in that Principality, to desire his Sister in Marriage. Although the Match was honourable, yet *Gisulphus* made some Difficulty in it, as knowing it was the Genius of that Nation, to catch at all Advantages, and besides that it might be of dangerous Consequence, because at the same time that he sought his Sister, his Wife *Alverada* was still alive, by whom he had a Son the famous *Boemondus*. But he gave him to understand that he had divorc'd her, because she was his near Kinswoman, which at that Time was thought would not be dispens'd with by the Pope, as being rarely practis'd : *Gisulphus* durst not give him a Denial, for fear of breaking with him ; whereupon he gave him his eldest Sister, nam'd *Sicelgaita* <sup>1</sup>. At the same time he gave another Sister in marriage, nam'd *Gaidelgrima*, to another *Norman* Prince, and gave him for Portion with her, *Nola*, *Marigliano*, *Palma*, *Sarno* and some other neighbouring Places, which had never been subject to the Princes of *Capua*, but to those of *Salerno* <sup>2</sup>. This was *Giordano* I. Son of *Richard* Count of *Aversa*, who, after having taken the Principality of *Capua* from *Landolphus*, the last of the *Longobard* Princes, had made *Giordano* his Son Prince of it. He had also made him Duke of *Gaeta*, as he himself was ; not but *Gaeta* had likewise its own particular Dukes under these two Princes, to wit, *Goffredo*, or *Loffredo Ridello*, in the Year 1072, and others ; but they were so call'd, just as *Pandolphus* was said to be Count of *Capua*, to whom Pope *John* VIII. had given it, though *Docibilis* was Duke of it, who was subject to *Pandolphus*, as *Goffredo* was at this Time to the *Norman* Princes of *Capua*.

**M**EAN while *Robert* set out on the bold Expedition into *Sicily* <sup>3</sup>, and after having, with his Brother *Roger*, made many Conquests there, which shall be related in a more proper Place, he return'd to *Calabria* with his new Spouse, and seeing the *Greeks* were still in Possession of *Bari*, *Otranto*, and some other Places of antient *Calabria*, he bent all his Thoughts on driving them out of that Corner, and especially out of *Bari*, where they had assembled all their Forces.

**B**UT before he set out for this Expedition, he was oblig'd to suppress a new Conspiracy, which *Goffredo* and *Gocelino*, two considerable *Norman* Cavaliers had hatch'd, under pretence of restoring *Bacelardus* the Son of *Umfred*, to the County of *Puglia*, which *Robert* had robb'd him of. As soon as this noble Champion was appriz'd of it, he surpriz'd the Conspirators, imprison'd and punish'd many of them

<sup>1</sup> Ofsiens. lib. 2. cap. 16.

<sup>2</sup> Pell. in Stemm.

<sup>3</sup> Ofsiens. loc. cit.

with



with the utmost Rigour, and put the rest to flight : *Gocelino* retir'd to *Constantinople* for Shelter amongst the *Greeks*, and *Goffredo* fled to a Castle ; and the unfortunate Prince *Bacelardus* run to *Bari*, from whence some time after, he went to *Constantinople* to beg Assistance of the Emperor *Constantinus Ducas*, who in the Year 1060 had succeeded *Ifacius*.

*B A R I* had hitherto maintain'd itself under the Dominion of the Emperors of the East, and as Head of that Province, likewise continu'd to be the Seat of the chief *Grecian* Magistrates, for at this Time the Emperors of *Constantinople* had rais'd it to be the Metropolis of a new Principality, call'd the Principality of *Bari* ; it was formerly a Dukedom, and the *Greeks* had made *Argirus* Duke of it, and, according to their wonted Vanity, call'd it the Dukedom of *Italy*. They had drawn together all their Forces into this City, as the Place of greatest Defence ; wherefore it was the Source of Sedition against the *Norman* Princes for many Years, and a safe Shelter for the Seditious ; which made *Robert* for a long Time consider how he might besiege it.

*B U T* the *Baresians* were no sooner appriz'd of the Designs of this Prince, than they sent to *Constantinople* to acquaint the Emperor, who being spur'd on by *Gocelino*, immediately sent a new *Catapanus*, *Stephannus Pateranus*, or, as he's call'd, *Sebastophorus*, to defend the City. This new *Catapanus* being come to *Bari*, resolv'd to make a strong Defence ; in the mean time *Robert* assembled his Army, and not thinking it sufficient for the Siege of this Capital, he over-run the neighbouring Places, and ere he march'd to *Bari*, sat down before *Otranto*, which he harra's'd so much, that he oblig'd it to surrender<sup>1</sup> ; thereafter having order'd many Ships to come from *Calabria*, he reinforc'd his Army with a good Body of Troops, and at last in the Year 1067, laid close Siege to *Bari*, both by Sea and Land<sup>2</sup>. This Siege was very remarkable, where there were many glorious Actions perform'd on both Sides, which the Design of my Work obliges me to pass over, and I do it the more willingly, seeing there are not wanting Writers, who give account of them at large<sup>3</sup>.

*A C C O R D I N G* to *Gulielmus Pugliensis*<sup>4</sup>, and *Leo Osiensis*<sup>5</sup>, this Siege lasted little less than four Years, and the Place was attack'd and defended with extreme Valour and equal Courage. The new *Catapanus* made an obstinate and gallant Defence, and the Besiegers, intrepid and bold Attacks ; and this Enterprize of the *Normans* would have prov'd unsuccessful, if *Robert's* Army had not been reinforc'd by his Brother *Roger*, who having made himself Master of a good Part of *Sicily*, sent him another Army to his Assistance. At last *Robert* overcame the Obstinacy of the Besieged, and oblig'd them to surrender that most important Place ; for in the Month of *April* in the Year 1070, the Gates were open'd, and they yielded at Discretion. Duke *Robert* made his Entry into the City, and treated the *Baresians* with all Humanity : He valued the *Catapanus*, and left it to his Choice, either to remain in *Bari* with his *Greeks*, and serve him, or to return to *Constantinople*, which last he embrac'd ; and after *Robert* had spent many Days in *Bari* in publick Feastings and Rejoycings, he embark'd, and with a Fleet of 58 Ships, sail'd for *Sicily*, in order to besiege *Palermo*<sup>6</sup>.

*T H U S* did the famous *Robert* conquer *Bari*, a City that had so long maintain'd itself under the Dominion of the *Greeks*, and by various Turns of Fortune, sometimes taken, sometimes re-taken, was now for the last Time dismembred from their Empire, though the *Greeks* afterwards attempted to recover it, but in vain, for *Robert* kept Possession of it, and transmitted it to his Posterity. And thus did the Dukedom of *Bari* pass from the *Greeks* to the *Normans* under *Robert*, who created a new Duke to govern it. And thus by degrees the Way was pav'd to the Union of these Provinces under one single Person, which was happily compleated by *Roger*, who had the Glory to wear the united Crowns of the Kingdoms of *Sicily* and *Puglia*.

<sup>1</sup> Beatil. hist. di Bari, lib. 2.

<sup>2</sup> Osiens. loc. cit.

<sup>3</sup> Goffredus Malaterra lib. 2. cap. 43.

<sup>4</sup> Gul. Appul. lib. 2.

<sup>5</sup> Malater. lib. 2. cap. 42.

<sup>6</sup> Gul. Ap. lib. 2. Lupus Protosp.



## CHAP. II.

### *The Conquest of Sicily by the Normans.*



IN the mean time Pope *Nicholas II.* died in *Florence* in the beginning of *July* in the Year 1061, whose Pontificate had lasted two Years and a Half<sup>1</sup>, and the wonted Disorders and Tumults happen'd in *Rome* about the Election of his Successor. The famous *Hildebrand*, in order to quiet them, joyn'd with the Cardinals and *Roman* Nobility, and after three Months, elected the Bishop of *Lucca*, a Native of the *Milaneze*, who took the Name of *Alexander II.* The Emperor, who had not been consulted in the Election, being much offended, caus'd the Bishop of *Parma* his Chancellor, to be elected Pope, whom they nam'd *Honorius II.* in opposition to *Alexander*; and moreover, sent him to *Rome* with a good Army, to drive out his Rival. Whereupon the Jars betwixt the Popes and the Emperors of the West, broke out into open War and Factions, and each of them strove to increase his Party. Some of the greatest Prelates of the Church, and the most renown'd Divines of that Age were of the Emperor's Party, and supported his Cause; but the intrepid *Hildebrand*, with unheard-of Boldness and Vigour, oppos'd them all; and when the Archbishop of *Cologn* check'd *Alexander*, for daring to take the Papacy upon him, without the Consent of the Emperor, contrary to what had been formerly practis'd; told him to his Face, That to ask the Emperor's Consent, was a damnable and most corrupt Custom, and contrary to the Canons of the Church; that neither the Pope, nor the Bishops, nor the Cardinals, nor the Archdeacons, nor any Persons whatsoever, ought to comply therewith; that the Apostolick See was free, and subject to none; that *Nicholas II.* had acted the Part of a Fool, and the Church ought not to lose its Dignity through any Man's Folly; and that so great an Indignity, as to allow the Kings of *Germany* to make Popes, was by no means to be born with.

THEREFORE the Quarrels increas'd, and they became more exasperated against one another, but by the Cunning and Activity of *Hildebrand*, *Alexander's* Party grew strongest, and that of *Honorius* was depress'd, who, the same Year that he had intruded into the Papacy, was depos'd, and condemn'd in the Council of *Mantua*; but for all that, he never parted with the Pontifical Badges.

DURING the Pontificate of *Alexander II.* by reason of the Agreement made a little before with his Predecessor, there was no occasion of Dispute betwixt him and the *Norman* Princes; on the contrary, *Alexander* confirm'd to *Robert* what *Nicholas II.* had granted him, and whilst *Roger* was making Preparation for the Expedition into *Sicily*, he sent him a Standard for the Conquest of it; it being at that Time the Custom, as *Baronius* relates<sup>2</sup>, that when the Popes had a Mind to encourage any Christian Prince to conquer a new Kingdom, they sent him a Standard, and declared him Standard-Bearer of the Holy Church. But at the same time that the *Normans* were paying all Respect to the Apostolick See, they serv'd their own Interest; in the mean time they did not neglect to leave Monuments of their Piety and Bounty towards the Churches, and particularly to the Monastery of *Monte Cassino*, while the Abbot *Desiderius* govern'd it, *Richard* Prince of *Cipua*, made so large and noble Donations, that *Leo Ostiensis* and *Petrus Diaconus* relate, there never were

<sup>1</sup> Oñf. lib. 3. cap. 21.

<sup>2</sup> Baron. A. 1066. num. 2.

better and more agreeable Times for these Monks'. This Prince, besides many Castles and Places in the Neighbourhood of that Monastery, gave it the Castle of *Teramo*, which, by the Rebellion of its Count, had been formerly forfeited *secundum Longobardorum legem*, as he says in his Charter, related by P. Abbot of *Noce*<sup>2</sup>. He gave it many other Churches, for Churches then were Matter of Traffick, and amongst the rest the Church of *Calena*, situated in *Gargano* near the City *Vesti*; for according to the Division made in *Melphis*, *Siponto* with *Monte Gargano* fell to *Richard's* Share. Therefore the Abbot *Desiderius*, tho' of *Longobard* Extraction, adhered to the *Normans*, and was their Dependent, and seem'd no ways uneasy at the Depression of the *Longobard* Princes, tho' formerly he had shewn himself to be of different Sentiments with respect to his Nation.

BUT this Prince *Richard*, hearing what Progress the *Normans* descended from *Tancred* of *Hasterville*, had made in *Puglia* and *Calabria*, and what they were now making in *Sicily*, thought it would be reckon'd want of Courage in him if he did not follow their Example: Spurr'd on by this Reflection, and not content with the Principality of *Capua*, which he had taken from *Pandulphus*, he resolv'd upon greater and more noble Undertakings. He design'd to take Advantage of the Jars which had arisen betwixt the Pope and the Emperor *Henry* for the Reasons above related, and therefore, without any Scruple, invaded *Campania di Roma*, and advanc'd near to *Rome* itself, in order to get the Start of *Henry*, who intended to go to that City to receive the Imperial Crown from the Hands of the Pope<sup>3</sup>. When he was in the Neighbourhood of *Rome*, he us'd all Means possible to get the Dignity of Patriciate from the *Romans*, which was then in the greatest Esteem, and wont to be the next Step to the Empire; but *Henry* being appriz'd of it, in all haste march'd to *Italy* with a great Army, and was join'd by *Goffredo* Marquis of *Tuscany*. The *Normans* knowing themselves to be inferior in Force, were oblig'd to give over the Undertaking, and retire out of *Campania*; and after some Skirmishes, at last, by the Interposition of the Pope, *Richard* made up Matters with *Goffredo*, and return'd to *Capua*.

THE Pope soon after having been invited by the Abbot *Desiderius* to consecrate the Church of *Monte Cassino*, which he had magnificently rebuilt, went thither with *Hildebrand* and many Cardinals, where he perform'd the Function with solemn Ceremony and Magnificence, at which ten of our Archbishops, and 43 Bishops assisted. And for making it the more splendid, he also invited all our Princes, as well *Norman* as *Longobard*, who possess'd these Provinces, as also the Dukes of *Naples* and *Sorrento*. *Gisulphus* Prince of *Salerno*, with his Brothers, and *Richard* Prince of *Capua*, with *Giordano* his Son, and *Rainulphus* his Brother, went thither; but what is worth our observing, and much to our Purpose is, that *Landulphus* Prince of *Benevento* was present at this Solemnity, as *Loc Ostiensis*, an Eye-Witness, and at that Time Library-Keeper of *Monte Cassino*, relates, which confirms what the Anonymous *Beneventan* wrote in the Chronicle of the Dukes and Princes of *Benevento*, that *Landulphus* was restor'd to the Principality of *Benevento*, and that it was long after that the Principality became extinct, when the City devolv'd to the Pope, and the rest of it to the *Normans*. *Sergius* Duke of *Naples*, and another *Sergius* Duke of *Sorrento*, were likewise present; for *Sorrento* was dismember'd from the Dukedom of *Naples*, to which it formerly was subject, as *Amalphis* had been long before; and these two Dukedoms were govern'd after the manner of Republics by their Dukes and Consuls, tho' they depended on the *Greek* Empire<sup>4</sup>, and *Amalphis* had been subjected to the Princes of *Salerno*. There were present likewise the Counts of *Marfi*, and many other Barons both *Longobard* and *Norman*, of which at this Time there was a great Number in these Provinces.

ONLY the famous Duke *Robert* was not there. He with his Brother *Roger* was in *Sicily*, wholly intent on the Siege of *Salerno*. *Maniaces* with the Assistance of the *Normans* had in a great measure restor'd this Island, which had fallen under the Yoke of the *Saracens*, to the Empire of the East; but after the *Normans* were disoblig'd, and *Maniaces* was succeeded by Governors not equal to the Charge, it had been retaken by the *Saracens*, who had driven the *Greeks* out of all the strong Places, except *Messina*; but at last in the Year 1058, they were forc'd to abandon that City,

<sup>2</sup> Ostiens. lib. 3. cap. 17. & 18.

<sup>3</sup> Abb. de Noce ad Ostiens. lib. 3. cap. 18.

<sup>4</sup> Ostiens. lib. 3. cap. 25.

<sup>4</sup> V. Carol. Borrel. in vindic. Neap. Nobil. Peregrin. in Campan. circa fin.

and leave the whole Island to the Discretion and Power of these Infidels. *Robert Guiscard* with his younger Brother *Roger* invaded it, and after having subdu'd almost all the chief Cities, had only *Palermo*, the strongest and principal City of the Island to conquer, and on which the *Saracens* laid their whole Streis; but these two gallant Champions laid so close Siege to it, that in less than five Months the *Saracens* were forc'd to surrender it to *Robert*, who with his Brother *Roger* made their Entry into the City with the infinite Acclamations of the People. As soon as *Robert* had conquer'd *Palermo*, in order to gain the Affection of the *Saracens*, he left it to their Choice, either to turn Christians, or to continue in their *Mahometan* Religion. It was at this Time that *Robert* invested <sup>1</sup> *Roger* his Brother with all this Island, and created him Count of *Sicily*, for by his Prowess and excellent Conduct he had acquir'd it. He retain'd to himself the half of *Palermo*, of the Valley of *Demonia*, and of *Messina*; and having left his Brother in *Sicily*, he return'd to *Puglia*, and stopp'd in *Melpbis* <sup>2</sup>. Hence 'tis clear, that *Roger* did not seek Investiture from the Pope, because he held it of his Brother *Robert*.

THUS these two Princes, the one reigning in *Puglia* with the Title of Duke, the other in *Sicily* with that of Count, struck Terror into all their Neighbours. Some have believ'd, because *Robert* invested his Brother *Roger* with *Sicily*, who acknowledg'd that he held his Dominion and Title of Count of *Sicily* of him, that therefore this Island was subject to the Dukes of *Puglia*; and that the Royal Title of King of *Sicily*, which *Roger* afterwards got from *Anacletus* the Antipope, and which was confirm'd to him by *Innocent II.* as we shall relate, was meant of this our Kingdom, which was call'd the Kingdom of *Puglia*, and not of the Island of *Sicily* <sup>3</sup>. Others on the contrary, such as *Inveges* <sup>4</sup>, say, that this our Kingdom was subject to the Island of *Sicily*.

BUT from what we have said, and much more from what we shall observe, it will appear, that the Kingdom of *Puglia* was neither subject to that of *Sicily*, nor *Sicily* to *Puglia*, for each of them had its own particular Laws, and was govern'd by its proper Officers. 'Tis true indeed, when we consider that the *Normans* made themselves Masters of this Island, after they had conquer'd *Puglia* and *Calabria*, it may seem probable that it was reckon'd as an Accession to these Dukedoms, and consequently subject to the Dukes of *Puglia*; but seeing *Robert* resided in *Puglia*, and *Roger* in *Sicily*, and govern'd those two States independently of one another, it cannot be said positively that the one was subject to the other. And tho' when *Robert* died, *Roger* succeeded him in the Dukedoms of *Puglia* and *Calabria*, and fix'd his Royal Seat in *Palermo*, where the *Norman* Kings his Successors also had theirs, yet for all that the Kingdom of *Puglia* was not subject to that of *Sicily*, but both were govern'd as two distinct Kingdoms, and neither of them reputed a Province of the other, which we shall make clear in the Progress of this History.

MEAN while *Robert* return'd to *Melpbis*, and was receiv'd with Acclamations and Rejoicings by all the Barons of *Puglia* and *Calabria*, who congratulated him as their Sovereign on his Conquest of *Palermo* <sup>5</sup>. Only *Peter* the Son of the Count of *Trani* would never pay him that Respect, but affected an intire Independency, and therefore had refus'd him Assistance for the Expedition of *Sicily* <sup>6</sup>. *Robert* therefore taking this in ill-part, order'd him to deliver up the City of *Trani*, and some other Towns subject to him; but *Peter* boldly refus'd to comply, which was the Cause of his Ruin, for *Trani* was besieg'd and soon taken; the other Towns that depended on him, such as *Bisceglia*, *Quarato* and *Giovenazzo* had the same Fate. However *Peter* retir'd to *Andria*, where he might have defended himself long enough; but wanting Provisions, and going into the Country with a strong Guard in order to get some, he was so unlucky as to be taken in his Return, by the Duke's Soldiers. *Robert* seeing him brought thus low, us'd him with all Tendernefs and Humanity, and obliging him only to take an Oath of Fealty, he generously restor'd all he had taken from him excepting *Trani*.

<sup>1</sup> Ostiens. lib. 3. cap. 16. Sicque fratrem Rogerium de tota investiens insula, & medietatem Panormi, & Demonæ, ac Messanæ sibi retinens.

<sup>2</sup> Malaterra, lib. 2. cap. 4. V. Fazzel. hist. Sicul.

<sup>3</sup> Tutino de Conteftabili del Regno.

<sup>4</sup> Inveges Istor. di Palermo, tom. 2.

<sup>5</sup> Gul. Appul. lib. 3.

<sup>6</sup> Idem.

Dux Petro suspectus erat, quia prorsus eunti. Ad fines Siculos vires adhibere negarat.

IN the mean time *Alexander II.* died in the Month of *April* in the Year 1073, who, while he was Pope had led a solitary and private Life, and had committed the Government of the Holy See to the famous *Hildebrand*; who, without minding the Emperor, immediately conven'd the Clergy and People of *Rome* in order to elect a Successor; and the same Day that *Alexander* died, he himself was proclaim'd Pope. *Hildebrand* desir'd the Emperor *Henry* to confirm his Election; but this Prince took some time to consider of it, and sent Count *Eberard* to *Rome* to take Information in what manner such a precipitate Election had been made. *Hildebrand* so much caref'd the Count, that he induc'd him to write in his Favour; and *Henry* seeing it would be to no purpose to oppose an Election already made, because *Hildebrand* was more powerful in *Rome* than he, consented to it. So he was ordain'd Priest, and afterwards Bishop of *Rome*, in the Month of *June* of the same Year 1073, and at his Ordination took the Name of *Gregory VII.*



### C H A P. III.

#### Robert conquers the Principalities of Salerno and Amalphis.



**R**OBERT after having subdu'd *Sicily*, resolv'd presently to add the other Provinces that remain'd in our Country to his Dominions; and by a lucky Opportunity, which we shall relate, he was successful in the Conquest of the Principality of *Salerno* from his Kinsman *Gisulphus*.

THE *Amalphitans*, as we have said, having fallen under the Dominion of *Guaimarus* Prince of *Salerno*, had found his Government too severe, and in order to shake off the Yoke, had invaded the City, and together with the other Conspirators near the Sea-shore, cruelly murder'd him; but they were suppress'd by *Guido* his Brother, who, in the Space of five Days after the Tumults, recover'd the City, and restor'd it to *Gisulphus* his Nephew, the Son of *Guaimarus*. But for all that *Gisulphus* treated the *Amalphitans* much more harshly than his Father had done, therefore they resolv'd to have recourse to Duke *Robert*, that he would be pleas'd to intercede for them with his Kinsman, to use them with some Humanity and Tendernefs. The Duke being mov'd with Compassion, sent Ambassadors to *Gisulphus*, begging him to forbear to treat the *Amalphitans* after so cruel a manner, but the Prince looking upon this Intercession as an impertinent Remonstrance, receiv'd the Ambassadors very coldly; and seeking an occasion to pick a Quarrel, pretended that the Coast from *Salerno* to the Port of *Fico* belong'd to him; and likewise declared, that he would have *Areco* and *Sancta Euphemia* restor'd to his Dominion, of which the Duke had made himself Master. *Robert* at first endeavour'd to gain his Kinsman by fair Means; and to accommodate Matters amicably; but *Gisulphus* refus'd to treat at any rate, perhaps trusting to the Assistance he expected from *Richard* Prince of *Capua*, who had espous'd his Interest, and was then at Variance with *Robert Guiscard*; who, that he might not have two Enemies to contend with, adjust'd Matters privately with *Richard*, and having made him very advantageous Offers, persuaded him to be on his Side against the Prince of *Salerno*.<sup>2</sup> He likewise made a particular Treaty with the *Amalphitans*, and took them under his Protection, and having put a Garrison into their City, prepar'd to

<sup>1</sup> Malac. lib. 3. cap. 2.

<sup>2</sup> Gul. Appul. lib. 3.

lay Siege to the City of *Salerno* with his own Troops, and those of the Prince of *Capua*.

ALL those who had the Interest of *Gisulphus* at Heart, counsell'd him to ward off the Blow; and *Gregory VII.* who lov'd him as his Son, and *Desiderius* his great Friend, advis'd him not to break with *Robert*<sup>1</sup>; but he being obstinate did not listen to them. However *Desiderius* did not desist, but knowing that *Robert* had already besieg'd *Salerno*, he engag'd Prince *Richard* to go with him in order to soften *Gisulphus*; but all to no purpose: On the contrary, he could not forbear declaring, out of an ill-grounded Pride, that he did not value the Duke's Friendship a Rush, and renounced it for ever.

*ROBERT* being highly offended, laid aside all fair Means, and besieg'd that City so closely, that at the End of five Months it was reduc'd to the utmost Necessity. Those who commanded the Place, perceiving they could hold it no longer, thought on their own Security<sup>2</sup>. One of the chief Persons in the Place was *Bacelardus* Son of *Umfred*, who, after having in vain expected Assistance from the Emperor of *Constantinople*, had return'd into *Puglia*, and us'd all Means to be reveng'd of his Uncle; but being afraid that if he should fall into his Hands, he would use him with the utmost Severity, he fled in the Night-time to *Sanseverino*, in the Neighbourhood, where he was receiv'd. The Duke wrote to Count *Roger* to come with all haste from *Sicily* to besiege *Sanseverino*, whilst he should put an End to the Siege of *Salerno*. But he soon made himself Master of the Place, for the Walls of the City were so batter'd down, that the Inhabitants came to invite *Robert* to enter at the largest Breach, to prevent the Misfortune to which a Place taken by Assault was liable. However *Gisulphus* did not surrender for all that, but defended himself in the Citadel; but being furiously attack'd by *Robert*, he was forc'd at last to shew as much Submission, as formerly he had shewn Pride; he yielded himself to the Clemency of the Victor, and of all Favours begg'd that of his Liberty, which was granted him; and having first retir'd to *Monte Cassino*, he afterwards put himself under the Protection of Pope *Gregory VII.* who assign'd him some Villages in *Campagna di Roma* to live in; nevertheless he continu'd to take the Title of Prince of *Salerno*, and Duke of *Puglia* and *Calabria*, as his Father *Guaimarus* had done, but not of *Sicily*, as by a Mistake we read in the Pedigree of the Princes of *Salerno* written by *Pellegrinus*.

THE Duke caus'd *Salerno* to be fortified anew, and march'd against *Bacelardus* to prevent his fortifying himself in *Sanseverino*. In a short time he join'd his Brother *Roger*, who had already attack'd the Place; so that being more closely besieg'd, it was oblig'd to capitulate; which made *Bacelardus* and his Brother *Hermannus* resolve to retire again to *Constantinople*, where these unfortunate Princes spent the rest of their Days in great Misery, and where after many Years they died.

THUS in the Year 1075, according to the Anonymous *Cassinensis*, *Fr. Tolomeo* of *Lucca*, and *Camillus Pellegrinus*, was the Principality of *Salerno* united to the Dukedoms of *Puglia*, *Calabria* and *Sicily*, under the famous Duke *Robert*, who also being Master of *Amalphis*, threaten'd likewise to subdue what remain'd of these Provinces to his Dominion. And thus were the *Longobard* Princes extinguish'd in *Salerno*; but that Nation was not quite extirpated; there were still many Families of *Longobard* Extract, both in the Principality of *Capua*, and in the neighbouring Countries<sup>3</sup>. There still remain'd *Guaimarus* Count of *Capaccio*, *Pandulphus* Count of *Corneto*, *Jordanus* Lord of *Castello*, *Corneto del Cilento* Nephew of Prince *Guaimarus*, *Astolphus* Son of Count *Gisulphus*, *Romualdus* Son of *Peter* Count of *Avulfo*, *Castelmannus* Son of Count *Adelferius*, *Berengarius* Son of Count *Alphanus*, *John* and *Landulphus* Sons of Count *Ademarus*, surnam'd *the Red*, *John* Son of Count *Guaimarus*, *Gloriosus* Son of Count *Pandulphus*, who were still alive in the Years 1110 and 1114; and *Sicelgaita* Daughter of *Gloriosus*, and Widow of *Marinus Cacapecce* of *Naples*, was still alive in the Year 1115<sup>4</sup>. So likewise *Pellegrinus* relates; that the Noble Family of *Porta* in *Salerno*, descended of the Counts *Guaiferius* and *Albertus*, who were of *Longobard* Extract, continu'd in a direct Line till the Year 1335, as is mention'd in the ancient Charters; as also we find in old Monuments many other *Salernitan* Counts for seven or eight Generations down to that Time, as

<sup>1</sup> Paul. Diacon. lib. 3. cap. 45.

<sup>2</sup> Malater. lib. 3. cap. 4.

<sup>3</sup> Pellegr. in Stem. Princ. Salern.

<sup>4</sup> Idem.

the same Author attests. And tho' it be next to impossible to find a Series of them in a direct Line, yet for all that the *Longobard* Blood is not quite lost in this Province; and perhaps at this Time is conceal'd under the coarse Cloths of Boors and Rusticks. This lets us see, that Noble Blood is of no Value, when Splendor and Riches have left it.



## C H A P. IV.

*The Principality of Benevento intirely subjected to the Dominion of the Normans, and the City of Benevento to the Church of Rome.*



PRINCE *Gisulphus* being expell'd *Salerno* and *Amalphis*, made *Gregory VII.* very much dread the Consequence of the Growth of the *Norman* Princes; but especially he was desirous to have *Gisulphus* restor'd, whom he so much lov'd, because by that Means he might be able to ballance the Power of those Princes, therefore he watch'd an Opportunity to bring it about. He was also encourag'd to set up another Party against *Robert*, and to take his expell'd Nephews under his Protection; but it was not long before *Robert* and his Brother *Richard* furnish'd him a large Field for Quarrels and Intrigues. These Princes, not content with having expell'd *Gisulphus* from *Salerno*, but seeing he had got Shelter in *Campania di Roma*, under *Gregory*, they resolv'd to pursue him even in that Place, and on that account to invade *Campania*; whereupon they immediately march'd their Army that way, and took Possession of a Part of *Marca d'Ancona* <sup>1</sup>. But as soon as the News reach'd *Rome*, that these Princes had enter'd upon the Lands of the Church, *Gregory*, who of all the Popes was the least capable to suffer such an Affront, and who wanted nothing more than such an Occasion for driving out his Enemies, call'd a Council in *Rome*, and with publick Ceremony and Solemnity excommunicated these two Princes and their Adherents <sup>2</sup>. But perceiving that they did not much mind these Thunderbolts, at the same Time he apply'd more effectual Means; he sent a good Army against them, which made them quickly retreat. The Duke and Prince, that they might not lose the Opportunity of making other Conquests elsewhere, came and besieg'd the Cities of *Benevento* and *Naples*. The Duke invested *Benevento*, and the Prince *Naples*.

THE City of *Benevento* was at this Time govern'd by *Landulphus VI.* This Prince, tho' he had been the Father of many Children, yet they had all died in his Life-time. *Pandulphus* whom he had made Partner in the Principality, had been kill'd in the Year 1074, by the *Normans* near *Monte Sarchio*; so that he surviving all his Sons, held the Principality till the Year 1077, but being full of Years and decay'd, after having reign'd 39 Years in *Benevento*, he ended his Days there in 1077, and leaving no Issue, the Succession of the Princes of *Benevento* fail'd in him. This is the Period of this Principality; such is the Instability of worldly Affairs. This Principality which above all others extended its Bounds the most, and in the Time of *Arcbis* comprehended almost all that which is now the Kingdom of

<sup>1</sup> Paul. Diacon. lib. 3. cap. 45.

<sup>2</sup> Baron. in fine lib. Epist. Gregorii VII. Celebravit Synodum Romæ, in qua excom-

municavit Robertum Guiscardum Ducem Apuliæ & Calabriæ, & Siciliæ cum omnibus fautoribus ejus.



*Naples*, at this Time was quite extinguisht, which Misfortune did not happen to the Principalities of *Capua* and *Salerno*; for tho' the *Longobard* Princes fail'd in them, yet the Principalities continu'd long under the *Normans*; and tho' *Roger* form'd these Provinces into a Kingdom, yet he did not extinguish these Principalities; for among other Titles he took likewise those of Prince of *Capua* and *Salerno*, with which he also adorn'd his Sons. But that of *Benevento* was quite extinguisht, for the City came under the Dominion of the Popes, and the other Lands and Cities of the Principality became subject to the *Normans*, which they added to the other Provinces they had conquer'd; wherefore in their Titles they did not retain that of Prince of *Benevento*, as being quite extinct.

THEREFORE on the Death of *Landulphus* VI. the last Prince of *Benevento* without Issue, *Gregory* laid Claim to the City as belonging to the Church of *Rome*. On the other hand *Robert*, who had made himself Master of many Towns of this Principality, resolv'd to reduce *Benevento* under his Dominion, as he had done those Towns which acknowledg'd it for their Head. Therefore committing the Charge of the Siege of *Naples* to *Richard* Prince of *Capua*, he took that of *Benevento* upon himself. But *Benevento*, by the Vigilance and Direction of *Gregory*, and *Naples* by the Bravery of its Citizens, who defended themselves gallantly, held out a long Time.

IN the mean time *Richard* was taken ill, and being reconcil'd to *Gregory*, and absolv'd from the Censures of the Church, died soon after. *Giordanus* his Son, who succeeded him, differing in Sentiments from his Father, immediately rais'd the Siege of *Naples*, and breaking the League his Father had made with *Robert*, join'd with the Pope. *Robert* likewise having left some Troops at the Siege of *Benevento*, had retir'd into *Calabria*; so that *Giordanus* taking Advantage of his Absence, in Confederacy with the Pope, push'd on Matters so far, that having receiv'd a great Sum of Money from the *Beneventans*, he immediately rais'd the Siege of their City, levell'd all their Works, and broke the Machines which *Robert* had prepar'd for reducing that City to his Obedience.

ROBERT was so much provok'd at this Behaviour of *Giordanus*, that he immediately return'd from *Calabria* into *Puglia*, where after the Reduction of *Ascoli*, *Monte Vico*, and *Ariano*, he march'd presently to the River *Sarno*, where he lay, in order to give him Battle; and they would actually have enagag'd if the Abbot *Desiderius* had not interpos'd, who manag'd Matters so effectually, and with so much Dexterity, that he pacified *Robert*, and got him to consent to a Peace, and made these two Princes as good Friends as formerly. *Desiderius* likewise reconcil'd *Robert* with the Pope, and was so much a Friend to both, that he went to *Rome* and got the Pope to absolve him from the Excommunication, and had the Glory to make Peace between these Princes, at the very Time, when by their Quarrels and Debates they were so exasperated against one another, that a bloody and cruel War seem'd unavoidable.

THUS the *Normans* being made Friends with the Pope, obtain'd Absolution from the Censure; and on the other hand *Robert* having reduc'd the Towns of *Monticulus*, *Carbonara*, *Pietrapalumbo*, *Monteverde*, *Genziano* and *Spinazzola* under his Obedience, had no mind to renew the Siege of *Benevento*, but left it intirely free to *Gregory*; from this Time this City began to be govern'd by the Church of *Rome*, which introduc'd a new Polity, and sent Governors to it, who, for the most Part were Cardinals.

THUS did the City of *Benevento* come under the Dominion of the Church of *Rome*, before these Provinces were united and form'd into a Kingdom; for which reason, the Popes in the Investitures they have ever since this Time given of the Kingdom of *Naples*, reserve to themselves the City of *Benevento*, as not comprehended therein, but independant on it, and subject to the Church of *Rome*; whence the *Beneventans* are reputed Foreigners, and not Natives of the Kingdom.

THUS we see how these our Provinces, that were subject to so many Princes, by Degrees came to be united in the Person of *Robert*, and at last under *Roger* Count of *Sicily*, were join'd and form'd into a Kingdom. Now there remain'd nothing for *Robert* to conquer but the small Dukedom of *Naples*. This Dukedom tho' it acknowledg'd the Emperors of the East for their Sovereigns, and it may be

<sup>1</sup> Per. Diacon. Aust. lib. 3. cap. 45.

<sup>2</sup> Anon. in Chr. Duc. & Princ. Ben. n. 15.

apud Pellegr. Post cujus principis obitum, restat est Civitas per Romanam Ecclesiam.

seen in the Writings of these last Times, that the Names of those Emperors were inserted in them, as may be observ'd in that quoted by *Summontes*, which we see is in the Name of *Alexius Comnenus*; nevertheless it maintain'd itself in the Form of a Republick, govern'd by its Dukes and Consuls, who by reason of the Declension of the *Greeks* in these Parts, had, in a Manner, thrown off all Dependence on the Emperors of the East. All the rest had been conquer'd by the *Normans*; by *Robert Guiscard*, *Puglia*, *Calabria*, the Principality of *Bari*, *Salerno*, *Amalphis*, *Sorrento* and the Lands of the Dukedom of *Benevento*: By *Richard*, the Principality of *Capua*, and the Dukedom of *Gaeta*, which City, though it had its particular Dukes, yet depended on the Prince of *Capua*.



## C H A P. V.

*The Debates which the Emperor Henry had with Pope Gregory, who had recourse to Duke Robert, and was by him reliev'd when besieg'd in Castle St. Angelo, by the Emperor's Army.*



THE Peace which *Desiderius* had manag'd between the Pope and Duke *Robert*, was so seasonable for them both, that many Advantages resulted to each of them from it; but especially to *Gregory*, who otherwise must have been involv'd in great and insuperable Difficulties; for without the Assistance of *Robert*, he had certainly been crush'd by *Henry*. The Discords between him and the Emperor were come to that Height, that they broke out

into an open Quarrel, and at last ended in Seditions, Wars and obstinate Schisms. The Emperor storm'd that the Pope had depriv'd him of the Right of Investiture, and that he had no Share in the Election of the Popes, and besides, was highly offended that the Countess *Matilda* had made over many Lands and Castles in *Liguria* and *Tuscany* to the Apostolick See<sup>1</sup>. *Gregory* on the other Hand, accus'd *Henry*, that for Money, and by his private Authority, he had invested Bishops and Abbots, and at first check'd him severely, but afterwards, in the Year 1076, he proceeded to Censures. *Henry* likewise offended at a saucy Embassy that *Gregory* had sent him, immediately call'd a Council in *Worms*, in which *Gregory* was accus'd of many Crimes and Enormities, and depos'd; afterwards he sent his Ambassadors to *Rome*, with contemptuous and reproachful Letters, commanding him to quit the Papacy. On the other hand, *Gregory* having call'd another Council in *Rome*, excommunicated all the Bishops who had consented to his Deposition in *Worms*; depos'd *Henry* from the Kingdoms of *Germany* and *Italy*, and absolv'd all his Subjects from the Oath of Fealty they had taken to him; forbidding them to pay him any more Obedience, and exhorting all Princes to rise in Arms against him. The Princes of *Germany* considering that it would be of dangerous Consequence to have any Quarrel with the Pope, now when he was engag'd in a War with the *Saxons*, persuaded the Emperor to make Peace with him, and at the same Time they solicited the Pope to come into *Germany*, that all Differences might be made up. *Gregory* pretended to be willing, but being arriv'd at *Vercelli*, he retir'd to *Canossa*, a Castle situated in the District of *Reggio*. *Henry* being hard put to it by the *Saxons*, de-

<sup>1</sup> Auctuar. P. Diac. in Officenf. lib. 3. cap. 49.

sign'd at any rate to make Peace with the Pope, so that quickly passing the *Alps*, he came to *Canossa* and begg'd his Pardon<sup>1</sup>. *Gregory* at first would not admit him, but after having made him attend Three Days bare-footed, at the Gate of the Castle, by the Intercession of the Pope's Creatures, and the Princes of the Empire, he at last granted him Pardon.

BUT *Gregory* knowing that *Henry*, on the account of the rough Usage he had met with, would be more irritated, and being appriz'd by *Mathilda*, that the Emperor was setting a Trap to catch him, immediately return'd to *Rome*, where in the Year 1080, with greater Solemnity he excommunicated him anew, depos'd him from the Empire, absolv'd his Vassals from their Oaths, and forbad all Christians to obey him, and gave the Kingdom of *Germany* to *Rodolphus* Duke of *Suevia*, and exhorted all the Princes of *Germany* to elect him Emperor. When *Henry* heard that the *Saxons* had elected *Rodolphus* Emperor, in opposition to him, he left *Italy*, went to *France* and engag'd in Battle with *Rodolphus*; they fought gallantly, and there was terrible Slaughter on both Sides; but Night coming on, the Decision was reserv'd till the next Day, when the Battle was begun afresh, and at last *Rodolphus's* Army giving way, *Henry* obtain'd a compleat Victory. *Rodolphus* was kill'd in this Battle, but before he died, held up his bleeding Hand, in presence of his Captains, and said<sup>2</sup>; *You see this Hand; with this I swore to my Lord Henry, not to attempt upon his Life and Honour; but the Pope forc'd me to break my Oaths, and usurp that Honour which did not belong to me. What End I have brought my self to, you now see; and they who put me upon this, will find the Fruits of it.*

AFTER *Henry* had vanquish'd his Rival, he return'd into *Italy*, to revenge the Affront put upon him by *Gregory*; and having call'd a Council of Bishops, first in *Mentz*, afterwards in *Breslaw*, he caus'd *Gregory* to be depos'd, and in his Room the Archbishop of *Ravenna* was elected Pope, who took the Name of *Clement III.* from thence marching to *Rome* with a powerful Army, he drove out *Gregory*, and plac'd *Clement* in that See<sup>3</sup>, and would have him to crown him Emperor. In the mean time, *Gregory*, with his Adherents, had retir'd into Castle *St. Angelo*, where he could get no Assistance from the *Romans*, and none else were willing to succour him, because the Emperor's Forces were too many for them; one may easily guess in what a Consternation his Holiness was in. And besides, *Giordanus* Prince of *Capua*, and his *Normans*, being afraid that *Henry*, at the Head of so formidable an Army, would expel them that Principality, join'd with him against *Gregory*<sup>4</sup>, so that the Pope was reduc'd to a lamentable Condition.

HE had no other Remedy, but to have recourse to the renown'd *Robert*. But he was at too great a Distance to give him Relief: This Prince a few Years before, had given in Marriage one of his Daughters, nam'd *Helena*, to *Constantine* the Son of the Emperor *Michael Ducas*, a Prince of such Comeliness, and so well dispos'd, that the Princess *Anna Comnena* did not scruple to say, That he was the Master-piece of God's Creation. This Princess could not bridle the Passion she had conceiv'd against the Emperor *Michael*, for having bestow'd so accomplish'd a Son on the Daughter of a Man such as *Robert* was, whom, according to the Vanity and Haughtiness of the *Greeks*, she call'd a pitiful Robber, and unworthy to be allied with the Emperors of the East; but this unhappy Princess *Helena*, a few Years after, had fallen into the utmost Misery, for *Nicephorus Botoniates* having driven *Michael* from the Empire of the East, had confin'd all his Family to a Monastery, and, with unheard-of Barbarity, had castrated *Constantine*, the Husband of Princess *Helena*. Such an outrageous Injury was an Affront done to Duke *Robert*, who could do no less than interest himself in the Affair, and besides, he look'd upon this Occasion of carrying his Arms into the East, with a secret Pleasure.

FOR which Cause, he receiv'd very graciously a *Greek*, who appear'd at his Court, and who gave out that he was the Emperor *Michael*, and to gain the more Credit, he gave a particular Account of his Escape from the Monastery, to which he said he had been confin'd, for contracting Alliance with the *Normans*. The Duke caus'd extraordinary Honour to be paid his Personage, as if he had really been the Emperor<sup>5</sup>. Nevertheless many Lords, who had been at *Constantinople*, and seen *Michael*, could not be perswaded that it was he, or if it was, he was very much

<sup>1</sup> Auftuar. P. Diac. lib. 3. cap. 49.

<sup>2</sup> Hemoldus Chronici Sclavorum lib. 1. c. 29.

<sup>3</sup> Auftuar. P. Diac. lib. 3. cap. 50 & 53.

<sup>4</sup> Auft. P. Diac. lib. 3. cap. 50.

<sup>5</sup> Malat. lib. 3. Anna Coma. lib. 4.

alter'd. But *Robert* did not care to enter into the detail of the Matter, whether he was the real or a counterfeit *Michael*; it was the same for his Purpose. He pretended only to reconduct him to *Constantinople*, at the Head of an Army, and to restore him to the Imperial Throne, perhaps with Intention to take Possession of it himself, if he should find that this Person was not the real *Michael*. In effect it was thought to be a very good Handle, whereby he might the more easily draw in the *Greeks*, and have a plausible Pretence to concern himself in the Affairs of the Empire of the East: Whoever the suppos'd *Michael* might be, whom *Anna Comnena* calls a *Greek Monk*, nam'd *Rector*, *Robert* did not neglect to take Advantage of the Character he took upon him.

BUT when the Duke had made ready every thing necessary for so important an Expedition, he had Advice, that there had been a new Revolution in *Constantinople*, and that the Princess *Helena* had been set at Liberty, from the miserable Prison she had been shut up in; for *Alexius Comnenus* a little before, having been proclaim'd Emperor in *Thrace* by the Legions, had depos'd *Nicephorus Botoniates*, and caus'd him to be shav'd, and had enter'd Triumphantly into *Constantinople*, where having taken the Princess *Helena* out of the Monastery, he treated her very honourably; by so doing, he design'd to gain over Duke *Robert* to his Interest, whom he much esteem'd, and much more fear'd, lest he should oppose him in the Infancy of his good Fortune.

BUT all this did not put a Stop to *Robert's* Designs, who having every thing in Readiness for that Expedition, lost no Time in setting about it; so that having gone to *Otranto*, where he was to embark his Army, he first provided for the Government of his Dominions in *Italy*, which he left to *Roger*, surnam'd *Bursa*, his second Son, whom he had by *Sigelgaita* his second Wife, and at the same time, in presence of the People, declar'd him Heir of the Dukedoms of *Puglia*, *Calabria* and *Sicily*<sup>1</sup>. This was a genteel and gallant Prince; he left him for Ministers, *Robert Count of Loritello* his Nephew, and Count *Gérard*, a Person of great Experience and known Integrity.

He embark'd with his Dutches *Sigelgaita*, who, like a Heroine, would follow her Husband at the Head of his Army. He likewise took along with him the valiant *Boemondus* his Son, whom he had by his first Wife *Adelgrita*, and some *Norman Barons*. In the Year 1081, being arriv'd at the Isle of *Corfu*, they landed and attack'd the Ports, in order to reduce that Island to their Obedience: *Alexius* being appriz'd of *Robert's* Motions, prepar'd an Army to suppress him; whence commenc'd so bloody a War, full of so great Events, that the Princess *Anna Comnena*, the Daughter of the Emperor *Alexius*, was induc'd to write the History of it, in which, though she strove to magnify the Actions of her Father, yet she could not mention *Robert*, without commending his extreme Valour and Magnanimity. My purpose obliging me to pass over so renown'd Adventures, I refer the Curious to the History of this Princess, and to what *Malaterra*, and *Gulielmus Pugliensis* have written of them. In short, after *Robert* had taken the City of *Durazzo*, he made himself Master of that Island, and aspiring to greater Matters, he carried his Conquests into *Bulgaria*, and made all that Country tremble at the Hearing of his Name, even to the Gates of *Constantinople*.

WHILST this illustrious Hero was engag'd in this War with *Alexius Comnenus*, he receiv'd pressing and earnest Letters from Pope *Gregory*<sup>2</sup>, who at the same time congratulated him upon his Victories in the East, and represented to him the urgent Occasion the Apostolick See had for his Assistance, and the lamentable Condition he himself was in by *Henry's* Army. The Duke, before he left *Otranto*, had been appriz'd of *Henry's* Attempts, who had sent him Ambassadors, in order to bring him over to his Party; but *Robert* dismiss'd the Ambassadors immediately, and advis'd the Pope of it in such obliging Terms, as even to declare, that if his Troops had not been already embark'd, he would have led them to *Rome* himself; but tho' the State of his Affairs call'd him necessarily elsewhere, yet he had not neglected to

<sup>1</sup> Gul. App. lib. 4.  
Advenit interea Conjunx, Comitesque rogati,  
Egregiam Sobolem multo spectante Rogerum.  
Accersit Populo, cunctisq; videntibus illum  
Hæredem Statuit, proponit & omnibus illum.

Jus proprium Latii totius, & Appula quoque,  
Cum Calabris, Siculisque loca Dux dat habenda  
Rogerio.

<sup>2</sup> Malater. lib. 3.

recommend the Interest of the Holy See to Count *Robert* his Nephew, and Count *Girard* his good Friend <sup>1</sup>.

BUT now that he was disingag'd from the Conquest of *Corfu*, and had carried his Victorious Arms into *Bulgaria*, hearing of the pressing Necessity, though he was successful in his Conquests, yet he left them off to go and give the Pope the Assistance he had promis'd him; and leaving the Command of the Army to his Son *Boemondus*, and the Count of *Brienna*, he embark'd for *Italy*, with a small Number of his People in Two Ships, and landed at *Otranto*.

HOWEVER desirous he was to march immediately to *Rome*, yet he could not do it so suddenly, but contented himself with sending a large Sum of Money to the Pope, while he should put an End to the Affairs of *Puglia*, that indispensably requir'd his Presence; for some Cities taking advantage of his Absence, had withdrawn themselves from his Obedience, and soon after his Departure from *Otranto*, the Inhabitants of *Troja* and *Ascoli*, had first of all begun to Mutiny, by refusing to pay the Tribute to his Son *Roger*, and some other Cities, and many Barons had follow'd their bad Example, and at the very Time that he landed in *Otranto*, *Goffredus* Count of *Conversano*, was going to besiege the City of *Oria*. But the Duke was no sooner arriv'd, than he dispers'd the Aggressors, who left the Attempt and took themselves to Flight. With the same Facility that he had prevented the Siege of *Oria*, he punish'd the City of *Canne*, by destroying it altogether, for being more obstinate in its Mutiny than the rest. These glorious Expeditions put an end to the seditious Commotions that just before had arisen.

NOTHING else would have stopp'd him from going to *Rome*, had it not been *Giordanus* Prince of *Capua*. This Prince, as we have said, having taken part with *Henry* against the Pope, Lorded it over *Campania* with his Troops, so that *Robert* was oblig'd to remove this Bar, in order to have free Passage to *Rome*: This valliant Champion not only drove away these Troops, but also laid Siege to *Aversa*, to get Possession of it. However *Giordanus* defended the Place gallantly; so that *Robert* seeing he could not expect to be Master of it so soon, and the Pope pressing for Relief, abandon'd the Siege, and march'd to *Rome*, where he found *Gregory* closely besieged in Castle St. *Angelo*, while the Emperor and his Anti-pope were enjoying themselves peaceably in the *Lateran* Palace. *Henry*, who had but a small Garrison with him in *Rome*, resolv'd to quit the City; on the other hand, *Robert* surrounded *Rome* with his Army, and early one Morning, drew near to the Gate of St. *Lorenzo*, which he observ'd to be worse guarded than the rest, and order'd Ladders to be apply'd to the Walls, and mounting thereon, immediately open'd the Gates to all the Army. He march'd through the Streets of *Rome* without any Obstacle, and coming to Castle St. *Angelo*, reliev'd the Pope, and conducted him honourably to the *Lateran* Palace <sup>2</sup>.

THE Romans of *Henry's* Faction were surpriz'd at so gallant an Action, and though afterwards they recover'd a little Courage, and had hatch'd a Conspiracy against the Normans, yet *Robert* immediately suppress'd it in such a Manner, that the Romans, terrified, resolv'd to beg Peace of the Pope, which he granted them.

THE renown'd *Guiscard* being disingag'd from so glorious an Expedition, and the Tumults quell'd, march'd his Troops out of *Rome* to return to *Puglia*; but *Gregory* not trusting as yet to the Romans, and afraid to expose himself another Time to their Insults, resolv'd to follow the Duke and his Norman Army. Therefore he left *Rome*, follow'd by the Cardinals and a great Number of Bishops, and after some Days stay in *Monte Cassino*, where they were splendidly entertain'd by the Abbot *Desiderius*, he retir'd into *Salerno*, without ever returning to *Rome*, whose Fidelity he always suspected.

<sup>1</sup> Gul. Appul. lib. 4.  
Roberto Comiti committitur, atque Girardo,  
Alter fratre Satus, fidiſſimus alter amicus.

<sup>2</sup> Auſt. P. Diac. lib. 3. c. 53.

## S E C T. I.

*Investiture given by Gregory VII. to Duke Robert.*

**I**N this Progress which the Pope made with Duke Robert, the Investiture which this Prince had got from Nicholas II. and Alexander his Predecessor, of the Dukedoms of *Puglia*, *Calabria* and *Sicily*, was renew'd by Gregory, as we read in the decretal Epistles<sup>1</sup> of this Pope, and is dated from *Capperano*, a Place famous afterwards, for the Treason hatch'd there by the Count of *Caserta* against King *Manfred*. At this Investiture, the Greatness of Soul and the Intrepidity of *Hildebrand* deserve Admiration, who, notwithstanding the very signal and recent Favours he had receiv'd from Robert, yet though he was surrounded by the *Norman* Army, he would not consent to include in the Investiture, the Principality of *Salerno*, the Dukedom of *Amalphis*, and a Part of *Marca Firmana*, which Robert had conquer'd since the Investiture of Pope Nicholas, and which he was then in Possession of; but would only invest him with what his Predecessors Nicholas and Alexander had done, leaving out these other Places.

**A**ND that from this Deed there might no Prejudice result to either Party, they both expressly reserv'd their Rights. Robert, by the Oath of Fealty he took to Gregory, promis'd to assist the Apostolick See, and to defend the Regalia, and the Lands of St. Peter against all Persons, and not to invade or seek to acquire them, expressly excepting *Salerno*, *Amalphis*, and part of the *Marca Firmana*, of which, as he says, *adhuc facta non est definitio*. On the other hand, Gregory declar'd in the Investiture, that he invested him only with what his Predecessors Nicholas and Alexander had granted him, adding, *de illa autem terra, quam iniuste tenes, sicut est Salernus, & Amalphia, & pars Marchiæ Firmanæ, nunc te patienter Substineo in confidentia Dei omnipotentis & tuæ bonitatis, ut tu postea exinde ad honorem Dei & Sancti Petri ita te habeas, sicut ut & te agere, & me suscipere decet, sine periculo animæ tuæ & meæ*. This shews how artful this Pope was, who at the same Time that he left Robert in suspense, would keep as it were, a Bridle in his Jaws, by making him depend upon himself and his Successors for the Investiture of these Places; and besides, would shew that it was the Prerogative of the Roman Pontiffs only, to take and give other Peoples Dominions, and to justify or disapprove of the Conquests of Princes at their Pleasure, by declaring them Just or Unjust as they thought fit; he likewise found out a very subtle Medium betwixt just and unjust Acquisitions, to wit, to support unjust Possessors *in confidentia Dei Omnipotentis*, that, according as they behav'd themselves towards the Church of Rome, so the Popes were to determine the Conquests to be just or unjust.

**T**HUS we see, to what Pitch the Authority of the Popes, and the Stupidity of secular Princes, by standing so much in Awe of the Censures, were arriv'd in these Days; for fear of being depos'd, and having their Vassels absolv'd from their Oaths, they were at their Beck, and acknowledg'd their unbounded Authority, to avoid Seditions and destructive Revolutions in their Dominions, being terrified at the fresh Instance of the Emperor Henry, who saw a cruel War kindled in Germany, only because Gregory was not in his Interest.

<sup>1</sup> Vol. 3. Epist. Decretal. Greg. VII.





## C H A P. VI.

*The Conquests of Duke Robert in the East. His Death, and that of Gregory VII. soon after.*



**W**HILST Robert was employing his Arms to so good Purpose in *Italy*, in the Service of the Apostolick See, he was amply rewarded by the prosperous Success which his renown'd Son *Boemondus* had in the East. This gallant Champion, at the same time that his Father had the Glory of driving the Emperor of the West from *Rome*, having ingag'd in Battle with *Alekis Comnenus*, had likewise the Glory to put the Emperor of the East to flight in *Bulgaria*.

THE News which Robert had of this Victory, gain'd by *Boemondus* over the Emperor *Alexius*, gave him an earnest Desire of returning to the East, to accomplish what his Son had so prosperously begun. After he had given the necessary Orders to his Officers for the Government of his Dominions in *Italy*, he put to Sea with a considerable Fleet, and taking with him his other Son *Roger*, and many principal Barons, and joyning the *Venetian* Fleet betwixt the Island of *Corfu* and *Cephalonia*, he went to fight that of the *Greeks*, not inferior in Strength to his own. After they ingag'd, the *Greeks* found themselves so hard press'd upon, that they were forc'd to fly. The *Normans* sunk many Gallies, dispers'd their Fleet, and taking more than 2500 Prisoners, triumph'd a second Time over their Enemies in the East. But the Corruption of the Air, which happen'd this horrid Winter, oblig'd the Troops to take some Rest, and such a contagious Distemper seiz'd the Army, that it destroy'd above Ten thousand of the best of it. And *Boemondus* catch'd it to that degree, that he was forc'd to return to *Italy* to breathe a better Air; and there are<sup>1</sup> who write, that this Sickness of *Boemondus*, was the Effect of the bad Arts of *Sigelgaita* his Step-mother, who had resolv'd to poison him, lest this Prince, after his Father's Death, should seize on the Dominions of *Puglia* and *Calabria*, in prejudice of her own Son *Roger*. Neither do they scruple to say, that when *Sigelgaita* was appriz'd that the Duke her Husband had made a Discovery of her malicious Designs, fearing he would take his Revenge, she resolv'd likewise to poison him, and that she actually did it the following Year, and fled with her Son and other Lords of her Party, and put *Roger* in Possession of the Dominions in *Italy*, in prejudice of *Boemondus*. However that may be, (for Authors who wrote at the same Time, and in the same Country where the *Normans* reign'd, report quite contrary Things of the Dutches's *Sigelgaita*) after *Boemondus* was gone, the Duke sent his second Son *Roger*, to besiege *Cephalonia*, which a little before had rebell'd against him.

BUT whilst this invincible Hero was altogether bent on this Expedition, in the Month of *July*, he was seiz'd with a violent Fever, and oblig'd to retire to *Casopolis*, a small Castle on the Promontory of the Island of *Corfu*, to be cur'd. *Sigelgaita* went immediately thither, but in the mean-time the Fever was become so violent, that it soon put an End to his Days, in the Sixtieth Year of his Age.

<sup>1</sup> Anna Comu. lib. 5.

<sup>2</sup> Oder. Vital. lib. 7.

THIS



THIS Year 1085, will always be remarkable for the unfortunate and much-to-be lamented Death of this Hero, and of other two great Personages of *Europe*. It was unluckily to the *Normans* for the sad Loss of *Robert Guiscard*. It was lamentable to the Church of *Rome*, for the Death of the famous *Hildebrand*. And it was deplorable to *England*, for the Loss of the renown'd *William the Conqueror*, Duke of *Normandy* and King of *England* <sup>1</sup>.

THE News of *Robert's* Death having reach'd the *Norman* Troops in the East, put the Army into such Consternation, that they did nothing but lament; and *Sigelgaita* and her Son *Robert*, in all haste, carried the Duke's Body into *Italy*. When they came to *Otranto*, they perceiv'd it was already begun to Putrify, which made them resolve to leave the Heart and Bowels there, and having imbalm'd the rest of the Body anew, they carried it to *Venosa*, the burying Place of all the other *Norman* Princes. The City of *Venosa*, as *William of Puglia* reports <sup>2</sup> (who here ends the Five Books of his *Latin* Poem) may be proud, above all the other Cities of *Puglia*, both for being the Place of *Horace's* Birth, and for preserving the Tombs of so many illustrious Captains. Here remain to this Day the Ashes of this Hero, whom we may deservedly surname the *Conqueror*. It was by his own Valour and Industry alone, that from a plain Gentleman, he rais'd himself to be a Sovereign, the most dreaded in *Europe*, capable not only to deal with the most powerful Princes of the World in his Time, but likewise to vanquish them, and give them Laws. His Virtues, and the Endowments both of his Body and Mind, were so admirable, that his greatest Enemies, such as the Princess *Anna Comnena*, who, though according to the *Greek* Vanity, she spoke despicably of his Birth, nevertheless did not fail to attribute to him all those eminent Qualities, which are requir'd in a *Conqueror*. And though these great Actions of his were accompanied with too great a Passion for Empire, which often led him to use Cruelty and Diffimulation; yet these are the ordinary Imperfections, which no *Conqueror* ever was, or can be free of. As for the rest, his Affection for the Christian Religion, with the great Assistance he gave the Church of *Rome*, the Bounty he bestow'd on many Churches, and particularly on the Monastery of *Cassino*, cover'd these Defects from the Eyes of the World, and besides, they were generally defended as Maxims of human Politicks.

*ROBERT* reign'd four Years with the Title of Count of *Puglia* and *Calabria*; Twelve with that of Duke, and Fourteen with that of Duke of *Puglia*, *Calabria*, *Sicily*, and Lord of *Palermo*. He liv'd in *Italy* from 1047 to 1085, Thirty-nine Years, and left Two Sons by as many Wives. Some report, that to prevent Disputes about the Succession to his Dominions, he left by his Will, *Sicily* to his Brother *Roger*, with which he had invested him in his Life-time, with the Title of Count. To his eldest Son *Boemondus*, all that he had conquer'd in the East; and to his second Son *Roger*, by *Sigelgaita*, the Dukedoms of *Puglia* and *Calabria*, the Principality of *Salerno*, and all that he possess'd in *Italy*. 'Tis likewise said, that though he had treated his second Son better than the Eldest, as well because *Sigelgaita* was present at making the Will, who got her own Son preferr'd to her Step-son, as because *Boemondus* being born of his first Wife, whom he did not reckon a lawful one, as being too near akin to him, he thought *Roger* more lawfully begotten than *Boemondus*, and therefore preferr'd the one to the other. But, either he did not make a Will, as is question'd by some, or these his Sons were not contented with it; for *Roger* and *Boemondus* both pretended to succeed, and each of them had considerable Factions. But by the Cunning of *Sigelgaita*, who got *Roger* Count of *Sicily*, to favour his Nephew her Son, his Faction grew the strongest; so that having succeeded to the Dukedoms of *Puglia* and *Calabria*, and all the other Dominions of *Italy*, conquer'd by *Guiscard*, he began to take upon him the Government of these Provinces <sup>3</sup>. And besides, *Roger* Count of *Sicily*, having kept a more strict Friendship with *Roger* than with *Boemondus*, for a further Testimony of his Kindness, had yielded many Places to him in *Calabria*, which Duke *Robert* had reserv'd for the Count of *Sicily*. Thus the Count having openly declar'd himself in *Roger's* Interest,

<sup>1</sup> Protospata, l'Anonymo di Bari, Orderico. La Cronica di Fossa nova, tom. 1. Ital. Sacr. Ughel. col. 46. la Cronica de Duchi di Benevento nell' historia Longob. del Pellegrino. La Cronica dell' Anonymo. Monaco di S. Sofia di Benevento. La Cronica Sarnitano nella cit. hist. Longob.

l'Anonymo, Sigonio, Paninvinio, Gordonio & Pirri: All these make the Death of *Guiscard* so have happen'd this Year 1085.

<sup>2</sup> Gul. App.

Urbs Venusina nitet tantis decorata sepulchris.

<sup>3</sup> Malater. lib. 3. cap. 42.

fought all Opportunities to support it against the Efforts of *Boemondus*, who often, but in vain, endeavour'd to disturb his Dominions.

THIS Year 1085 was likewise remarkable for the Death of the famous *Hildebrand* in *Salerno*, a Death very ominous and deplorable to the Church of *Rome*. She lost a Pope the most Daring and Intrepid of all that ever had possess'd that See; he did not stick at the most evident Dangers, where his Honour or Liberty were at Stake, in order to defend those Prerogatives and Pre-eminences which he reckon'd belong'd to the Apostolick See, against the greatest Kings and Monarchs of the Earth; and if he was perswaded that what he took in Hand was supported by just Pretensions, he became more bold and forward than the Princes themselves. It was he, who raising his Crozier above Scepters and Crowns, as if his being Head of the Universal Church, had intitled him to be Monarch of the World, and King of Kings, and Emperor of Emperors; treated Princes, yea, the very Emperors, with so much Disdain and Haughtiness, that he did not scruple to excommunicate them, depose them from their Dominions, which he transferr'd to other Nations, and absolve their Vassals from their Obedience.

BY his seeming to be convinc'd that he had Power to do all this, and by his great Zeal for Justice, and the Defence of the Apostolick See, he gain'd the Applause of many, who reckon'd him a Zealous, Pious, Religious, and Just Man, a learned Canonist, a good Divine, and a bold Defender of the Ecclesiastical Rights and Liberties. To which were added some other Virtues, wherewith he was adorn'd, such as an austere Life, and an unwearied Application to the Interest of that See; his Compassion towards the Poor, his defending the Oppressed, and protecting the Innocent, acquir'd him the Fame of a Saint; so that tho' some of his contemporary Writers have given him a different Character, some calling him an Innovator, Ambitious, Cruel, Perfidious, Haughty, a Disturber of Kingdoms and Provinces, Author of Seditions, Slaughter, and cruel Wars, and who had a Mind to establish an intolerable Authority in the Church, as well in Spirituals as Temporals; yet there are others, according as their Interest led them, who have given him the Character of a Pope altogether zealous for the Service of God, wise, pious, and merciful; yea, a Modern Author gives to him, no less than to *Gregory I.* the Surname of *Great*, because to a certain Greatness of Soul, and Intrepidity of Mind, he join'd a holy Life and Conversation, above all the Princes of his Time. But none has drawn the Picture of this Pope better, or so much to the Life, as that judicious Painter, who drew it in the Church of *St. Severino* in *Naples*. We see there the Image of this Pope, amongst those of the other Pontiffs of the Order of *St. Benedict*, having in his Left-Hand the Crozier with Fishes, in the Right-Hand, lifted up in a lashing Posture, a prodigious Scourge, and under his Feet, Scepters, Imperial and Royal Crowns. And after having shewn *Gregory* to have been the Terror and Scourge of Princes, and to have trampled on Scepters and Crowns; being likewise willing to shew, that all this was very consistent with a holy Life, and Purity of Manners, he has written above his Head, in Letters a Cubit long, these Words; *Sanctus Gregorius VII.*

Palavicin. hist. del. Conc. di Trent.



C H A P.



## C H A P. VII.

*Boemondus disturbs the Dominions of his Brother. Amalphis and Capua revolt. The Origine of the Crusades.*

**T**HE Death of Gregory occasion'd terrible Disorders in the Church of Rome, for the Romans being put to a puzzle about the Election of a Successor, by reason that Gilbert the Antipope had made himself Master of some Churches of Rome, and would have himself to be acknowledg'd for lawful Pope; at last, a Year after they determin'd to elect Desiderius the famous Abbot of Cassino, as Hildebrand himself had advis'd, that seeing it was necessary for the Good of the Church, to have a Pope of Weight and Influence with Secular Princes, they should not overlook Desiderius. But he oppos'd it, and stood out so obstinately, that in fine, by Force, and against his Will, they proclaim'd him Pope by the Name of Victor III. But he stubbornly persisting in his Refusal, it was thought necessary to call a Council in Capua, to which the Norman Princes were likewise invited, that they might use their Interest to get Desiderius to accept of the Papacy. Roger Duke of Puglia was at such Pains on this Occasion, that he brought him at last to accept of it; and having conducted him to Rome, turn'd Gilbert out of the Church of St. Peter by Force, and caus'd Victor to be ordain'd. Hugo Bishop of Die, Legate of Gregory VII. and promoted to the Archbishoprick of Lyons, pretended likewise to the Papacy; and he was one of those, who most of all oppos'd the Ordination of Victor. The Romans of Gilbert's Faction took Possession of the Church of St. Peter anew, and after many Acts of Hostility, Victor was oblig'd to retire to his Monastery of Monte Cassino, from whence in the Month of August he went to Benevento, in order to hold a Council, compos'd of the Bishops of Puglia and Calabria, in which he made an Harangue against Gilbert, and excommunicated him anew. He there also excommunicated the Archbishop of Lyons, and the Bishop of Marseilles, and renew'd the Prohibition against receiving the Investiture of the Benefices from the Hands of Laicks. But whilst Victor was holding this Council, he was taken ill, which made him in all haste return to Monte Cassino, where he died, the 16th of September, in the Year 1087, after having appointed Otbo Bishop of Ostia his Successor.

THE Church of Rome therefore by the Death of Victor, fell into fresh Troubles about the Election of a Successor; at last the Romans elected Otbo Pope, who was a Frenchman of Chatillon, in the Diocess of Rheims, and had been taken from the Monastery of Clugny to be a Cardinal, and had done signal Service to Gregory VII. who had sent him Legate into Germany against Henry. He was elected in a Meeting of Cardinals and Bishops held in Terracina, and nam'd Urban II.

THIS Urban, of all the Popes, had the greatest Love for the Normans; for observing that Boemondus took it in ill Part that Roger possess'd so many Dominions in Italy, and on his Return to Otranto commenc'd a War against his Brother, interpos'd, and made an Agreement betwixt them, on these Conditions, that Boemondus, besides what he possess'd, should have the Cities of Maida and Cosenza; but afterwards they exchang'd these Cities, and in place of Cosenza, Boemondus got Bari, and Cosenza continu'd to be Duke Roger's. This Year 1089, Pope Urban

went

went to *Melphis* <sup>1</sup> in order to celebrate a Council, wherein he open'd the Project of the grand Crusade, and the League against the Infidels was concluded; Duke Roger went thither to pay his Respects to *Urban*, who confirm'd his Investiture, as his Predecessors had done to *Robert* his Father <sup>2</sup>.

IN the mean time, *Cosenza* having rebell'd, the Duke had recourse to the Count of *Sicily* his Uncle, who immediately reduc'd it; and it was at this Time that Roger, as an Acknowledgment for the many Favours he had receiv'd from his Uncle, gave him the half of the City of *Palermo*, where the Count began to build a Castle, which is now call'd the *Royal Palace* <sup>3</sup>. Thus the one Roger reigning in *Sicily*, and the other in *Puglia*, in process of Time these came to be two distinct and separate Kingdoms, each of which was govern'd by its own Laws, Customs, and Officers.

COUNT Roger, who by the Death of his two Sons *Goffredus* and *Giordanus*, was very much afflicted, this Year 1093 had the Pleasure to have another Son born to him by the Countess *Adelaida* his last Wife, whom he call'd *Simon*; which put him in a Condition to go more deliberately to *Calabria* to suppress a new Disorder that had begun to break out in his Family.

DUKE Roger, his Nephew, had made an illustrious Alliance by marrying *Adala*, Niece of *Philip I.* King of *France*, and Daughter of *Robert* Marquis of *Flanders* <sup>4</sup>. He had by her two Sons, *William* and *Lewis*, who were to be his Successors. But the Duke falling grievously sick not long after in *Melphis*, a Rumour had pass'd that he was dead; *Boemondus* who then liv'd in *Calabria*, thinking this a fit Opportunity, immediately takes Arms, and invades his Brother's Dominions; protesting nevertheless, that he did it in Favour of the Duke's Sons, till they should be of Age fit to govern. The Count of *Sicily*, who suspected this Zeal, and was offended at his daring to proceed thus without his Consent, went thither with a powerful Army, and was no sooner got there, than *Boemondus* was oblig'd to retire. In the mean time the Duke being restor'd to perfect Health, contrary to all Expectation, *Boemondus* went presently to *Melphis* to congratulate him, and to restore him all he had made himself Master of, justifying his Conduct as well as possibly he could.

BUT the Commotions did not end here; another much more dangerous was discover'd in *Amalphis*. Duke Roger trusting too much to the *Longobards*, out of the Regard he had for his Mother *Sigelgaita*, who was of that Nation, and Sister to the last Prince of *Salerno*, had without any Scruple committed the Government of his fortified Places to the very *Longobards*, from whom his Father and himself had taken them; among the rest he had given the Government of *Amalphis* to some chief Officers of the *Longobards*, who, resolving to take Advantage of the Disorders that had a little before happen'd in *Cosenza*; for the Duke and the Count his Uncle were employ'd in suppressing the Rebellion of the *Cosentines*; drove all the Duke's Partisans out of *Amalphis*, openly revolted, and refus'd to receive himself. The Duke being highly provok'd at such Treachery, in order to reduce the City, resolv'd to gain his Brother *Boemondus* by kind Usage, begging his Assistance, which he gave with all the Forces he could draw together from *Puglia* and *Calabria*; the Duke likewise invited Roger Count of *Sicily* to his Assistance; who this Year 1096 came with Twenty thousand *Saracens*, and an infinite Number of other Nations, to lay Siege to *Amalphis* <sup>5</sup>. The Place was invested by these three Princes with all their Forces, and the Siege was so close, that had it not been thwarted by a very odd Conjunction, *Amalphis* had certainly surrender'd.

WHAT oblig'd them to raise the Siege, was a new Expedition that offer'd to *Boemondus* and his Soldiers, who remembering the Engagement they were under, in an instant left the Siege. This was the Publication of the first *Crusade*, the Contrivance of which is owing to *Urban II.* as first Author of it <sup>6</sup>. *Urban* in the Year 1095, having assembled a Council in *France*, in the City of *Clermont*, excited all the Princes of *Europe* to undertake an Expedition to the Holy-Land; and so great was the Zeal of those Princes, who were likewise animated by *Peter* the Hermit, that in making Preparation for so glorious an Undertaking, they put all *Europe* in Confusion; but of all the Nations of *Europe*, the *Italians* and *French* manifested their

<sup>1</sup> Pellegr. ad Lupum Prot. A. 1089.

<sup>2</sup> Romuald. Arc. Sal. apud Baron.

<sup>3</sup> Malat. lib. 4. cap. 17.

<sup>4</sup> Idem, lib. 4. cap. 19.

<sup>5</sup> Pellegr. ad Lup. A. 1096.

<sup>6</sup> Malater. lib. 4. cap. 2.

Zeal most to take the Cross, and arm themselves for this Expedition. The Great *Hugo*, Brother of *Philip I.* King of *France*, *Robert* Duke of *Normandy*, *Godfrey* of *Boulogne*, Duke of *Lorraine*, and the Counts of *Flanders* and *Toulouse*, took Arms. But of all our *Norman* Princes, *Boemondus*, with his Nephew *Tancred* the Son of Duke *Roger* and *Alberada* his first Wife, according to *Pirri* and *Summontes* (for *Ordericus Vitalis* <sup>1</sup>, and the Abbot of *Noce* <sup>2</sup> make *Tancred* to be the Son of a Sister of *Boemondus*) were the most forward. *Boemondus*, whether out of real Zeal, or Grief for his not being enough distinguish'd in *Italy*; or with a Design to go on in the Conquests which his Father and he had begun in the East, immediately left the Siege of *Amalphis*, put on a red Cross, got some purple Mantles, and with great Ceremony cut them into small Pieces, to provide his Soldiers with the like Crosses. His Example, and the great Pains he was at in promoting this his Devotion, made a great Number of People flock to him and *Tancred*, in order to follow them in this Expedition. But especially they were join'd by a great many *Puglians*, *Calabrians*, *Sicilians*, and those of other Provinces of *Italy*, so that they soon made up a great Army, and they all took an Oath in the Field, together with himself, that they should make no War against Christians, before they should have conquer'd the Country of the Infidels. Duke *Roger* seeing himself thus abandon'd before *Amalphis*, and that the new *Crusade* had robb'd him of the Flower of his Troops, was oblig'd to raise the Siege, notwithstanding it was so far advanc'd, which he pretended to do out of Zeal for the Christian Religion; though swell'd with Indignation and Resentment against *Boemondus*, who by no means could be persuaded to give him any further Assistance. Count *Roger* seeing himself likewise deserted by his Men, thinking it not proper to retard so specious an Expedition, had Patience, and return'd to *Sicily* very much vex'd <sup>3</sup>. On the other hand, *Boemondus* and *Tancred* having put themselves at the Head of their *Puglians* and *Calabrians*, and an infinite Number of other Nations, and embark'd at *Bari*, began their Voyage towards the East. Our incomparable *Torquatus*, by a Poetical Licence, makes *Tancred* Captain of Eight hundred Horsemen, which he supposes him to have brought with him out of *Campania Felix* near *Naples*; but at this Time this Province belong'd neither to *Boemondus* nor *Tancred*, so that he could not raise them there. *Campania Felix* at this Time was for the most Part subject to the Dukedom of *Naples*, and was govern'd by *Sergius* Duke and Consul under the Emperor *Alexius Comnenus*. *Aversa*, a new City, was in Possession of the *Normans*, who were of another Family, not of the Race of *Tancred* Count of *Hauteville*, of whom *Boemondus* and *Roger* were descended. And *Capua* had at this Time revolted from the *Norman* Princes; for tho' Prince *Giordanus*, who died in *Piperno* in the Year 1090, had left *Richard* his Son, an Infant, as Successor in the Principality <sup>4</sup>; yet the *Capuan Longobards*, as soon as they were appriz'd of the Death of *Giordanus*, enter'd into a Conspiracy against *Richard* and the Princess his Mother, and having taken Possession of the Forts of the City, drove all the *Normans* out of it; so that *Richard* and his Mother were forc'd to go to *Aversa* for Shelter, where they remain'd till they were assisted and restor'd to *Capua*, by the Duke of *Puglia*, and *Roger* Count of *Sicily*.

THIS famous Hero after he had rais'd the Siege of *Amalphis*, and return'd to *Sicily*, minded nothing but the firm Establishment of his Dominions in his own Family by illustrious Alliances. The greatest Princes of *Christendom* courted his Friendship and Alliance. *Philip I.* King of *France*, in the Year 1094 had sought his eldest Daughter, and the Year following the Second had been married to *Conrade* the Son of the Emperor *Henry III.* This Prince on account of the Jars betwixt *Henry* his Father and the Popes, had been persuaded by them to desert his Father; and he not only join'd the opposite Party, but carried Matters so far, that he did not scruple to take Arms against his Father; and being abetted by the Pope, he march'd to *Italy*, took Possession of many Places that depended on the Empire, and withdrew them from their Allegiance. Pope *Urban*, and the Countess *Mathilda* finding no better way to support him, procur'd a Marriage betwixt him and a Daughter of the Count of *Sicily*, who was able to defend him against the Power of *Henry* <sup>5</sup>.

<sup>1</sup> Orderic. Vital. lib. 9. hist. Norm. Tancredus Odonis Boni Marchisii filius, & Comes de Rossivolo cum suis fratribus.

<sup>2</sup> Ab. de Noce Chr. lib. 4. cap. 11.

<sup>3</sup> Malater. lib. 4. cap. 2. Dux in Apuliam secedit, Comes in Siciliam revertitur.

<sup>4</sup> Paul. Diac. lib. 4. cap. 10.

<sup>5</sup> Malater. loc. cit.

THE King of Hungary envying him on account of this Alliance, two Years after sent Ambassadors to demand another Daughter in Marriage for his Son *Alemannus*. Roger accepted of the Match, and with great Pomp and Solemnity in the Year 1096 the Princess was conducted to her Husband. This extraordinary good Fortune of Roger's Family, got him the Surname of *Great Count*, which he now began to assume among his other Titles.

*AUGUSTINUS INVEGES*, besides these Reasons, relates, that Roger was mov'd to call himself *Grand Count*, because he had created his Son *Simon* Count of *Butera*; and the Use of Fiefs and Counties being already introduc'd into *Sicily*, and the Sons, Nephews, and the Count's Vassals being likewise adorn'd with these Titles; in order to distinguish himself from these, he began to subscribe himself with this new Title, *Magnus Comes Calabriae & Siciliae*.

BUT what most of all made the Power of Roger the Great Count of *Sicily* conspicuous, was the Expedition of *Capua*. *Richard* the Son of *Giordanus* having been expell'd *Capua*, had retir'd to *Aversa*, and not able of himself to recover *Capua*, begg'd his Assistance and Protection, promising him, as an Acknowledgment for such important Aid, to become his Liege-man, and do him Homage for his Dominions<sup>1</sup>.

AND *Malaterra* adds<sup>2</sup>, that besides the Promise of doing him Homage, he had likewise offer'd him *Naples* as a Reward, which City was yet to be conquer'd. And *Inveges*, very much to the Purpose, observes, that it was not known how *Richard* came by this Right thus to dispose of *Naples*, which at this Time was govern'd by its own Dukes in the Form of a Republick. The Count overjoy'd at these Offers, immediately assembled an Army, and march'd towards *Capua*, where the Duke of *Puglia* his Nephew, and *Richard* had already join'd to besiege it: Before he began the Siege, he caus'd all the neighbouring *Campania* to be ravag'd; afterwards he invested the City, and threaten'd to ruin the Inhabitants if they did not surrender<sup>3</sup>. *Urban II.* having heard of the Danger the *Capuans* were in, came to the Camp where these Princes were, in order to make Peace, and prevent the Ruin of that City. These Princes receiv'd him magnificently, and consented to refer their Interests to him, provided the Rebels would do the same, but these would not agree to it. Nevertheless *Urban* still thinking to bring them to reason, enter'd the City, but tho' they promis'd to comply, yet when it came to the Push, they absolutely refus'd to surrender. The Pope, sorry that he had stirr'd in their Behalf, return'd, and was indifferent whether they were ruin'd or not. Whereupon the Place was more closely besieg'd, and at this Time God Almighty shew'd himself signally propitious to the Count of *Sicily*; for the Countess *Adelaide* his Spouse, who had follow'd him in this Expedition, prov'd with Child. She was deliver'd of a Son in *Melito*, a City of *Calabria*, in the Month of *December* in the Year 1097, or as others relate, in *February* of the following Year: he was baptized by St. *Bruno* the Founder of the Order of the *Carthusians*, with whom, because of this great Sanctity, the Count was in strict Friendship; and it was he, who first establish'd that rising Order in *Calabria*, of which he continu'd always to be the Protector.

THE Child was nam'd *Roger*, and by his famous Achievements was the first King of *Sicily*. *Pazollus* tells us that this Hero was born in *Salerno*; and *Pirri*, by anticipating his Birth two Years, says that he was born in *Sicily* in the Year 1095. The second Favour which Heaven bestow'd on *Roger* by the Intercession of St. *Bruno*, was his being deliver'd from a Conspiracy, which a *Greek*, nam'd *Sengius*, had hatch'd against him; for the Count having suppress'd this Conspiracy by the Death of the Conspirators, so terrified the Besieg'd, that the Place was immediately surrender'd, and restor'd to Prince *Richard*; who, by the Advice of the Count treated them with great Clemency, insomuch that he chose to reside in one of the Towers that was higher than the Citadel, into which he enter'd in Triumph; and being thus re-establish'd in the Principality of *Capua*, and owing this important Conquest to the two *Roger's*, in Token of his Gratitude, he did them all Honour, and as their Liege-man paid them Homage.

<sup>1</sup> Malater. lib. 4. cap. 26. Homo Apulie Ducis factus fuerat.

<sup>2</sup> Loc. cit. ad A. 1097. c. 5. Vite recompensa-

tionis Neapolim, quæ sibi similiter recalcitrabat, si prævalere posset, fideiialiter concedens.

<sup>3</sup> Petr. Diacon. lib. 4. cap. 10.



THESE two Princes having finish'd this Expedition, return'd together to Salerno, where they remain'd for some Time. The Duke of Puglia had a mind to make Choice of Salerno for his Royal Seat, before any other City in his Italian Dominions, as Robert Guiscard, when he conquer'd it, had resolv'd to make it a Metropolis City, in Imitation of Pope John XIII. who had made it such with regard to the Ecclesiastical Polity, therefore he made his longest stay in Salerno<sup>1</sup>, whose Example his Successors afterwards follow'd. Here he entertain'd his Uncle with the Counts and their young Son, who succeeded him in his Dominions.

<sup>1</sup> Gul. App. lib. 6.



## CHAP. VIII.

Urban II. makes Count Roger his Legate, whence the Monarchy of Sicily had its Rise.



URBAN II. came to Salerno to congratulate these Princes on the good Success of the Expedition to Capua; and being willing to shew his Gratitude for the many Services they had perform'd to the Apostolick See, he made Roger his Legate in Sicily. This Year 1098, and at this Congress, that Bull was made, the like of which is not recorded to have been granted to any other Prince of Christendom, by which Sicily boasts of her Monarchy, and pretends, that the Successors of Count Roger the Great, are

Sovereigns in their Dominions, as well in Spiritual as Temporal Matters.

THERE was a Custom introduc'd by the Roman Pontiffs of sending their Apostolical Legates into diverse Provinces of the Christian World; and they were of different Sorts. Some of them who were most eminent, and to whom more ample and special Privileges were granted, were call'd *Legates a Latere*, because they were chosen out of the Consistory and College of Cardinals, who sat at the Pope's Side; and therefore Ivo Carnuteus in a Letter which he wrote to Paschal II.<sup>1</sup>, calls them *Laterales*. Others were Bishops, or Deacons of the Church of Rome, and were sent by the Popes as their Legates to Emperors or Kings, who had no other Charge, but to manage the Affairs of the Apostolick See, and to take care of its Interest at the Courts of those Princes, and these by the Ancients were call'd *Apocrisarii*, or *Responsales*. But afterwards there was another Sort of Legates introduc'd, who were call'd *Provinciales*. These for the most Part were Bishops or Archbishops, to whom as Legates of the Apostolick See, there was great Authority and Jurisdiction given over the Provinces where their Sees were seated, and various Privileges granted which they could make use of with regard to their Provincials; and the Legation was often given to the See, and not to the Person. Thus the Archbishop of Arles was Primate and Legate of the Gallia, by Virtue of a most ancient Privilege granted to that See, and confirm'd afterwards by Hormisdas, and Gregory I. and the other Roman Pontiffs<sup>2</sup>. Thus likewise the Archbishop of Canterbury was Primate and Legate of all England, by a Privilege granted to Theobald Archbishop of that City, and his Successors, by Innocent II.; so that in England they were

<sup>1</sup> Ivo, Epist. 109.

<sup>2</sup> Altes. rer. Aquit. lib. 4. cap. 5.

call'd



call'd *Legati nati*, as *Polydore Virgil* witnesseth<sup>1</sup>; because such a Privilege was granted to the See, and not to the Person. In like manner the Bishop of *Pisa*, and his Successors, were declar'd Legates of the Holy See in the Island of *Corfica*, by *Gregory VII.*

THESE Legantine Powers were given in some Provinces of *Christendom* to the Persons, and not to the Sees, by the Pope's appointing certain Persons as Legates in different Places. Thus *Leo the Great*, appointed *Anastafius* Bishop of *Thessalonica*, Vicar of the Apostolick See over the East and in the Regions of *Africa*. *Gelasius I.* set *Acacius* over *Egypt*. *Hormisdas* appointed *Salustius* Bishop of *Sevil* over *Bætica*, and *Lusitania*; and the same Pope constituted *Remigius* of *Reims*, his Vicar over the *Gallia*, without derogating from the Privilege of the Archbishop of *Arles*: The same *Hormisdas* chose *John* a Bishop, his Legate, for all *Spain*. *Vigilius* made the Bishop of *Locrida* for *Illyricum*, as *Gregory I.* had also done. *Martin I.* appointed *John* Bishop of *Philadelphia*, his Legate in the East against the *Monothelites*. And above all the other Countries, *France* had most of these Legates in the Times of *Charles Martel*, and *Charles the Bald*, and more in the Time we are now treating of, under *Gregory VII.* and *Urban II.* insomuch that by the Frequency of these Legantine Powers, the Rights and Privileges of Legate and Primate, belonging to the Archbishop of *Arles*, were in a great measure extinct; and the Popes not only sent thither Legates for taking care of all *Gallia*, but likewise sent particular Legates to certain Provinces of it, such as *Aquitania*, of which *Alteferra*<sup>2</sup> gives us a great many.

LONG Experience hath shewn, that these Legates were an insupportable Grievance and Damage to the Provinces to which they were sent<sup>3</sup>, for besides that they lessen'd the Authority and Jurisdiction of the Bishops and Metropolitans, by drawing all Causes to themselves, and frequently inquiring into, and taking Cognizance of the Causes of the very Prelates, they by their Avarice and Pride, so oppress'd the Bishops and the whole Ecclesiastical State, that the People, unable to bear them, had recourse to their Kings for Redress. For which Cause the Princes of *Europe* resolv'd to receive none, but whom they thought fit. There was an Agreement made betwixt *Urban II.* and *William King of England*, by which it was stipulated, that no Legate should be receiv'd into that Kingdom, but such as pleas'd the King<sup>4</sup>. In *France*, they were so great a Grievance, that at last the Bishops resolv'd to supplicate the Pope, that he would be pleas'd to abolish them altogether for the Good of their Diocesses; and they actually obtain'd, that there should be no more sent, by which the Power of the Metropolitans and Primates of that Kingdom was restor'd, and Tranquillity establish'd. The Emperor *Frederick*, by an Edict, order'd, that they should not be received into *Germany* at any rate. In *Scotland*, there was a Law made in the Year 1188, which was approv'd of by the Popes *Clement III.* *Innocent III.* and *Honorius III.* prohibiting any Person whatever, to exercise the Legantine Power within that Kingdom, except *Scotsmen*; and we read of the like in *Spain*.

IN the Island of *Sicily*, the Popes were likewise wont to appoint these Legates, and we read<sup>5</sup>, that Pope *Gregory I.* made *Maximinianus* Bishop of *Syracuse*, Legate of *Sicily*, by granting that Power to his Person, and not to the See<sup>6</sup>. Neither were these our Provinces exempted, tho' so near to *Rome*; for we read in the Chronicle of *Leo Ostiensis*<sup>7</sup>, that *Nicholas II.* after having made *Desiderius*, the famous Abbot of *Cassino*, a Cardinal, he likewise made him his Legate in all *Campania*, the *Principato*, *Puglia* and *Calabria*, though his Authority was restricted with regard to all the Monasteries and Monks of these Provinces, as is clear from the Words of the Privilege, recorded by the Abbot of *Noce*.

BUT *Urban II.* being desirous at this time to renew the Custom of making a Legate in *Sicily*, as his Predecessors had formerly done, nam'd the Bishop of *Traina*.

<sup>1</sup> Polyd. lib. 3. rer. Anglic.

<sup>2</sup> Rer. Aquit. lib. 4. cap. 5.

<sup>3</sup> Jo. Salisburienfis lib. 15. cap. 16. & lib. 6. cap. 24. Sed nec Legati sedis Apostolicæ manus suas excutunt ab omni munere, quin interdum in Provinciis ita debaccantur ac Sathan ad Ecclesiam flagellandam a facie Domini. Provinciam diripiunt spolia ac si Thesauros Cræsi

studeant comparare.

<sup>4</sup> V. Hugo de Flavigni, & Eadmer. lib. 5. Hist.

<sup>5</sup> Gregor. lib. 2. Judit. 10. Epist. 7.

<sup>6</sup> Inveges lib. 3. Proinde supra cunctas Ecclesias Siciliæ te vice sedis Apostolicæ ministrare decernimus, quas non loco tribuimus, sed Personæ.

<sup>7</sup> Ostiens. lib. 3. cap. 13.

The *Sicilians* took this in ill part, and Count *Roger* was much more offended at it; who having greatly distinguish'd himself by the many signal Services he had done the Holy See, in having expell'd the Infidel *Saracens* out of that Island, withdrawn all the Churches from the See of *Constantinople*, and restor'd them to that of *Rome*, and assisted the Church in her greatest Afflictions, thought he did not deserve such a Return. In a Congress held in *Salerno*, he complain'd of it to the Pope, and gave him to understand very plainly, how much he was dissatisfied, and that he was resolv'd not to bear it.

*URBAN*, who was sensible of the great Obligations he lay under to this Prince, from whom he expected greater Advantage to the Apostolick See, looking upon him to be his greatest Support against the Emperor of the West, did not slip so fair an Opportunity of obliging him. He not only gave him all Satisfaction as to this Point, by annulling the Legantine Power, which he had given the Bishop of *Traina*; but likewise conferr'd on the Great Count himself, all that Authority, which he had given to that Bishop as his Legate, by creating him, and his lawful Heirs and Successors, *Legati Nati* of the Apostolick See in that Island, promising never to appoint another against his Will, and that whatever he had to do by a Legate, should be perform'd by him, and his Successors, a Thing without any Precedent; and immediately the Privilege was drawn up in *Salerno* by *John*, Deacon of the Church of *Rome*, dated in the Month of *July*, the Seventh of the Indiction, and Eleventh Year of the Pontificate of Pope *Urban II*.

*MALATERRA*, a grave Writer of these Times, relates this Event, and gives us *Urban's* Bull, and here ends the four Books of his *Latin History*, of whom *Odericus Vitalis*<sup>1</sup>; an antient Writer of *Norman Affairs*, writes thus; *De quorum (id est Ducis Roberti Guiscardi & Comitis Rogerii) probis actibus, & strenuis eventibus Gotifredus Monachus cognomento Malaterra, hortatu Rogerii Comitis Siciliae elegantem libellum nuper edidit.*

THIS so notable a Writ, deserv'd to have been related at full Length; but seeing it regards the Polity of that Kingdom, and not of ours, we have contented ourselves with having given a succinct Account of what it contains, the rather; because there are not wanting Writers<sup>2</sup>, who give it us intire, and it may be seen in the very Annals of *Baronius*.

THIS is the Foundation of the renown'd Kingdom of *Sicily*, by which the Successors of *Roger*, and especially the Kings of *Aragon*, to whom that Kingdom was subject for many Years, have kept Possession of so noble and eminent a Prerogative, in spite of all the Efforts and Disputes that have happen'd in process of Time concerning that Point. It was not thought an improper or strange Thing, to grant Legantine Powers to Princes, seeing the Popes themselves deem'd their Persons Sacred, because they were anointed with Holy Oyl, and reputed not simple Laicks; but also Sharers in the Priesthood; and if it was not thought incompatible with their Characters, to make them Canons of *St. Peter*, by admitting them into the Quire with Holy Vestments, and making them Partners in the other sacred Functions and Ceremonies; it ought not to seem strange, that they were vested with Prerogatives relating to Ecclesiastical Jurisdiction, and not to Orders.

ACCORDING to the Maxims of the Canon Law, and the Practice of the Court of *Rome*, we find in many Instances, that the Power of Jurisdiction is distinct from that of Orders; that this last is annex'd to the Priestly Office, and cannot be communicated to any who have not that Character. The Power of Ordination cannot be given to a Priest, nor that of Consecration or Absolution to a Deacon, because the Power of Ordination is inseparable from the episcopal Character, and that of Consecration, and Absolution from the Presbyterial; but as for the Power of Jurisdiction, it may be conferr'd on Persons who are not in Orders, and exercis'd over those who are in higher Orders than they to whom such Jurisdiction is granted. The Popes have not scrupled to practise this on many Occasions, by appointing simple Deacons to be their Legates and Judges in Matters of Faith, and Causes of Bishops; and likewise to represent them in Councils, and by giving Power to Abbots and Monks to exercise episcopal Jurisdiction; and, what is more surprising, Abbesses send dimissorial Letters, have their Archdeacons, and other Officers, and exercise whatever belongs to episcopal Jurisdiction; and in this our Kingdom we see at this

<sup>1</sup> Oder. vit. Hist. Norm. lib. 3. fol. 483.

<sup>2</sup> Fazzel. Rer. Sicul. Inveges lib. 3.

very Time, that the Abbess of the Monastery of *Conversano* exerciseth Jurisdiction over her Priests, and hath the Privilege of wearing the Mitre and Crozier, as the Bishops do. And *Charles II.* of *Anjou*, had his Place in the Quire of the Church of *St. Nicholas* in *Bari*, above all the other Canons, and was reckon'd one of their Body, and had Jurisdiction over all the Priests, as we shall relate in its Place.

'TIS not to our Purpose to enter into those Disputes that have arisen since, concerning this Point, nor into what hath been written by the *Spaniards*, and many other Authors, as Matters foreign to our Design. But I cannot forbear to say, that Cardinal *Baronius*, with much straining and little Argument, has the Assurance to impugn it in later Times, after that Kingdom had been in Possession of it for so many Ages. In the beginning of the Year 1605, he caus'd to be printed his XIth Tome of the Ecclesiastical Annals, and when he comes to relate this Fact, he inserts in his History, a very long Discourse against the Monarchy of *Sicily*, wherein with strain'd, and invidious Arguments, he leaves no Stone unturn'd, in order to overthrow it. But he is unpardonable, for having stuff'd his Discourse with so much Obloquy and Bitterness against many Kings of *Arragon* of glorious Memory, and especially *Ferdinand the Catholick*, counting them Tyrants, and who, under this Name of Monarchy, had resolv'd to introduce Tyranny into that Kingdom, which Book being brought to *Naples* and *Milan*, was suppress'd by the King's Ministers, and forbid to be sold, or kept, out of respect to *Philip III.* then reigning, whose Progenitors had been so unworthily treated by that Cardinal.

BUT *Baronius* resent'd this Prohibition of his Book so much, that being appriz'd of it, when, by the Death of *Clement VIII.* the See had become vacant, he immediately caus'd the College of Cardinals to be conven'd, and got them to make an Invektive against those Ministers, and not content to have thus offended that Prince, would touch him in another no less tender Point, with respect to his Royal Jurisdiction; for in that Invektive, those Ministers are plainly found fault with, as if by prohibiting his Book, they had incroach'd upon the Ecclesiastical Authority, as if it had not been lawful to Princes, for the Quiet of their Dominions, to prohibit such Writings. And after *Paul V.* had been elected Pope, on the 13th of *June* of the same Year, he caus'd a long Letter to be written to King *Philip*, full of heavy Complaints, that in Contempt of Ecclesiastical Authority, the King's Ministers in *Italy* had suppress'd his Book, which was a Privilege that solely belong'd to the Pope. Nevertheless, the Wisdom of that King was such, as to judge it better to answer with Facts, and allow the Prohibition publish'd by his Ministers to be in Force.

BUT the Cardinal could not forbear to insert in his XIIth Tome, which he caus'd to be printed in the Year 1607. a Discourse very little to the Purpose on the same Subject, inveighing with much Bitterness and Malice against Princes that took upon them to prohibit Books, not scrupling to say likewise, that they did it because the Books found fault with their Injustice. The Council of *Spain*, with their wonted Slowness and Irresolution, proceeded in this Affair leisurely; and were as little mov'd at this third Offence; but suffer'd other Three Years to go on, and in the Year 1610, the King made an Edict, condemning and prohibiting that Book in so severe a Manner, that it struck at *Baronius* as smartly, as he had struck at the Kings Progenitors. And in order to give it more Force and Credit, the Edict was publish'd in *Sicily*, with the Decree and Subscription of Cardinal *Doria*, and dispers'd Abroad in the World in Print. The Edict was sent to Count *Lemos*, at that Time Vice-Roy of *Naples*, who, on the 28th of *February* of the following Year, caus'd the Edict by which the Book was condemn'd, to be publish'd with great Solemnity. The Court of *Rome* was as much surpriz'd at this Edict, as at the Execution of it by the Cardinal, and the Proclamation with Sound of Trumpet in *Naples*. Nevertheless, they never minded that in *Spain*, and the Edict is in Force to this Day.

THIS Dispute was renewed very lately, in a much more violent Manner; for Pope *Clement XI.* seeing the Kingdom of *Sicily* fallen into the Hands of the Duke of *Savoy*, thought it a fit Opportunity to take Advantage of the Weakness of that Prince; and carried the Matter to such Extremity, that in the Year 1715, he did not stick to publish a Bull, by which he abolish'd the Monarchy, and by another, establish'd a new Ecclesiastical Hierarchy in that Kingdom; but all these Efforts came to nothing, for the Bulls took no Effect, neither was there any Change or Novelty

Novelty introduc'd into that Island; and much less when afterwards that Kingdom return'd to the most August *Austrian* Family.

ON this new Occasion, the celebrated Divine of *Paris*, *Lewis Ellies Dupin*, wrote in Defence of that Monarchy, wherein he not only shews the Inconsistency of what *Baronius* writes against it, but also that of the Pope's Bull. This Book was publish'd in the Year 1716, wherein he gives an exact Account of the Origine and Progress of this Dispute, and the Issue of this Quarrel, with so much Exactness and Learning, that I must give the Reader an account of what he has wrote on this Subject.

URBAN's Bull was directed to Count *Roger*, and his Successors, and comprehended only the Dominions which he possess'd at that Time, to wit, *Sicily*, and some Places he had in *Calabria*, whence he took the Title of *M. Comes Calabriae, & Siciliae*.

BUT Duke *Roger* had done as signal Service to the Apostolick See as the Count; so that it behov'd *Urban* to bestow his Favours on the Duke, who was present, whence we ought to believe, that at this Time, that Privilege, of which the ancient Canonical Gloss, and many of the most ancient Writers make mention, concerning the Collation of the Benefices of the Kingdom was granted.

THERE were frequent Councils conven'd at this Time, in order to deprive Secular Princes of the Power of Investiture, and at last in the *Roman* Council, celebrated by *Urban* in the Year 1099, a little before he died, all Abbots, Prelates and other Ecclesiasticks, were forbidden, under terrible Anathemas, to receive Benefices from Laick Hands. Notwithstanding which, the Princes still pretended, that they ought not to be reckon'd purely Laicks, nor could they be depriv'd of those Prerogatives, of which they had been for a long Time in Possession. That it was very reasonable, seeing they had founded and endow'd Churches out of their Patrimonies, they should have the Investiture of them; that as formerly the People had a Share in the Election of the Ministers of the Church, it ought not to seem strange, if Princes, to whom all Power was transferr'd, could do it of themselves<sup>1</sup>. That by so doing, they conferr'd no spiritual Power, their Grant being confin'd to the Temporality, though they follow'd the common Custom of using the Ring and Staff, when they granted Investitures; which our Dukes of *Puglia*, with more Reason pretended to, who had erected many Churches in these Provinces from the Foundation, and out of Love for the Christian Worship, had endow'd them with great Riches. And besides, they had vanquish'd the Infidel *Saracens*, and restor'd all the Churches to the See of *Rome*, which formerly had been usurp'd by the Patriarch of *Constantinople*.

THE Popes, to avoid having any Dispute about this Point, with those Princes who were their Friends and Well-wishers, whom they had a mind to gratify, without doing themselves Prejudice, were often wont to grant them, by way of Privilege, what in Justice they claim'd; and the Princes, minding only the present, and looking no further, accepted it. On the other hand, the Popes minded hereby to establish their Right, and according as Occasion should offer, to dispute or revoke these Privileges. The ancient Kings of *Sicily* gave Investiture of Ecclesiastical Benefices in all the Churches of the Kingdom of *Puglia*, as the antient Canonical Gloss<sup>2</sup> clearly witnesseth, which tho' it observes, that the Duke of *Puglia* gave Investiture of Benefices contrary to the Canon establish'd in many Councils, says, they did it by virtue of the Pope's Privilege, which he could bestow on Laicks; and all our most antient Writers likewise, such as *Marinus Caramanicus*, *Andrea d'Isernia*, and others<sup>3</sup>, vouch the same. And *Frederick II.* defended himself by this Privilege, when he was blam'd for giving Investiture of the Churches of these Provinces at his Pleasure<sup>4</sup>; and complain'd that the Popes, notwithstanding this Privilege, attempted to diminish the Right which the Kings of *Sicily* had of electing Prelates, which could not be lessen'd by what *Innocent III.* had done, when *Constantia* govern'd, during his Infancy. But we shall have a more fit Opportunity to speak of this, when we come to treat of the Ecclesiastical Polity.

<sup>1</sup> V. Duaren. de Sacr. Eccl. Min.

<sup>2</sup> Gloss. cap. placuit in prin. & in cap. nemini Regum. 16. qu. 1.

<sup>3</sup> Andr. de Isernia in proem. Constit. Regn.

<sup>4</sup> Nauclerus generat. 41.

## S E C T. I.

*Urban holds a Council in Bari; his Death, and soon after that of Count Roger, and other Princes.*

**I**N the mean<sup>4</sup> time *Urban*, after a Conference with these Princes in *Salerno*, went to *Bari*, where he had summon'd a Council of *Greek* and *Latin* Fathers, in order to determine the Point concerning the Proceſſion of the Holy Ghost, from the Father and the Son, in which the *Greeks* did not agree with the *Latin* Church<sup>1</sup>. There were present in this Council 185 Bishops; and *St. Anselm* Archbishop of *Canterbury* being then in *Italy* about the Affairs of his Church, likewise assisted in it. There were great Debates between the *Greek* and *Latin* Fathers about this Point; but *St. Anselm* convinc'd the *Greeks*, and it was determin'd according to the Belief of the *Latin* Church: Notwithstanding which the Schism did not end, but being maintain'd with great Heat by both Parties, the Division continu'd for a long Time between these two Churches, that it was not in the Power of Man to re-unite them.

*URBAN* having put an End to this Council went to *Rome*, and a few Months after the *Roman* Council lately mention'd, died there the same Year 1099. This Pope deserv'd to be reckon'd amongst the greatest that ever the Church of *Rome* had; he having held this See little less than twelve Years, did many noble Actions, and made himself famous over all the World by the Expedition to the Holy Land, of which he was the first Promoter. He of all the Popes had our *Norman* Princes in greatest Esteem, neither had he any Cause to complain of them, so that he lov'd them as a Father does his Children, and as much as in him lay stood up for their Interest. By his Death the Abbot *Rainerius* of *Tuscany* was elected Pope, who took the Name of *Paschal* II. and the same Year *Jerusalem* was taken, and the renown'd *Godfrey* of *Boulogne* elected King of it, and after his Death his Brother *Baldwin* succeeded him; in the mean time *Boemondus* having taken *Antioch*, made himself Prince thereof, which he transmitted to his Posterity.

**T**HE Death of *Urban* was soon follow'd by that of the Great Count *Roger*, he being much advanc'd in Years, made the City of *Melito* in *Calabria* famous by his Death, which fell out in that City in the Month of *July*, in the Year 1101<sup>2</sup>. He was much lamented by his Subjects, and a Monument was erected to him in the great Church of that City, which he had built, where his Bones are preserv'd to this Day. He liv'd Seventy Years, and reign'd Sixteen after the Death of his Brother *Guiscard*. He had many Wives, by whom he had had many Children, but only three Sons surviv'd him, which he had by his last Wife *Adelasia*, who with *Robert* of *Burgundy*, her Son-in-law, immediately took upon her the Government of the Dominions after her Husband's Death<sup>3</sup>. These three Sons were *Simon*, who dying soon after his Father, had not the good Fortune to succeed him in the County of *Sicily*<sup>4</sup>. *Godfrey*, surnam'd of *Ragusa*, of whom History makes no mention: Some<sup>5</sup> believe him to be the Son of the first Wife *Erimberga*, and both he and his Brother *Giordanus* died before their Father. *Roger* II. was he to whom he left his Dominions in so flourishing and happy a Condition, who shortly after possess'd them with the Title of King, and whom Fortune so much favour'd as to unite the two Crowns of *Puglia* and *Sicily*, and put them both on his Head, and who likewise with Royal Title govern'd these our Provinces, as shall shortly be related. Count *Roger* also left two Daughters, *Mathilda* and *Emma*; *Mathilda* was married to *Ranulphus* Count of *Avellino*. For which Cause, during the Jars which afterwards fell out between *Roger*, the Emperor *Lothaire* II. and Pope *Innocent* II. *Ranulphus* was made Duke of *Puglia*, in Opposition to *Roger* his Brother-in-law by *Innocent* in the

<sup>1</sup> V. Pellegr. ad Lup. A. 1099.

<sup>2</sup> Lup. Protosp. A. 1101. obiit Rogerius Comes Siciliae Mense Julii.

<sup>3</sup> Malater. lib. 4. cap. 19. Romuald. Salern.

<sup>4</sup> Aleff. Telef. lib. 1. cap. 2. & 3.

<sup>5</sup> Malater. lib. 3. cap. 10, 11, & 36. & lib. 4. cap. 14 & 18.

Year 1137. It was this *Matbilda* that persuaded *Alexander* Abbot of *Telesse* to write the History of her Brother *Roger*, which he declares in the first Book of it. *Emma* the other Daughter, was married to *Rodulphus Maccabeus*, Count of *Montescaglioso*; these Princes in those Days did not scruple to marry their Daughters or Sisters to their Barons, who for the most part were of the illustrious *Norman* or *Longobard* Blood, and were Masters of large Territories and rich Lordships. Those who make *Constantia* the Wife of the Emperor *Henry* to be the Daughter of this *Roger*, are greatly mistaken; she was Grandchild, and not Daughter of the Great Count *Roger*, being the Daughter of King *Roger* his Son, as shall be related.

THE Beginning of this twelfth Century, where we now are, was most lamentable, not only for the Death of the Great Count *Roger*, but of many other Princes that follow'd. Soon after, in the Month of *January* in the Year 1106, *Richard II.* Prince of *Capua* died, who leaving no Issue, *Robert* his Brother succeeded him in the Principality, and held it till the Year 1120, in which he died<sup>1</sup>. In the Year 1016, in the Month of *August*, the Emperor *Henry III.* likewise died, to whom *Henry IV.* his Son succeeded, who being as great an Enemy to the Popes as his Father had been, dealt more harshly by *Paschal II.* and his Successors, than his Father had done by *Gregory VII.* He having a Mind more vigorously to maintain the Rights of Investiture, threaten'd to march into *Italy* with a powerful Army against *Paschal*. This Pope, to prevent so great Danger, came to *Capua* to solicit Prince *Robert* and Duke *Roger* to assist him against *Henry*; but *Henry* with a mighty Army being come into *Italy*, and arriv'd at *Rome*, whither the Pope was return'd, and with the Clergy and People of *Rome* had gone to meet him, caus'd the Pope and all his Company to be carried Prisoners to his Quarters, where he extorted the Rights of Investiture by Force, and besides oblig'd him to crown him Emperor with the wonted Rites and Ceremonies<sup>2</sup>. But as soon as *Henry* had left *Italy*, *Paschal*, in a Council held in the *Lateran*, annul'd and rescind'd all these Acts, and had beforehand solicited the Duke of *Calabria*, the Prince of *Capua*, with other *Normans*, and even *Boemondus*, to join their Forces to assist the Church of *Rome* against the Persecution, which, he said, she suffer'd by *Henry*.

BUT the Death of these two Princes *Boemondus* and *Roger*, which happen'd on the Back of one another defeated all his Designs. *Boemondus* died this Year 1110 in *Antioch*, and his Body being brought to *Italy*, was buried in the Church of *St. Sabinus* in *Canosa*. He left a Son likewise nam'd *Boemondus*, who succeeded him in the Principality of *Antioch*, and his other Dominions. He also left a Daughter, and recommended them both to *Tancred* his Nephew.

BUT the Death of the renown'd Duke *Roger*<sup>4</sup> was yet more deplorable to these our Provinces, which fell out in the Month of *February* of the Year 1111 in *Salerno*. He was much lamented, and buried with great Pomp in the great Church of *Salerno*, which his Father Duke *Guiscard* had built: He left no other Issue-Male but *William*, by the Dutches's *Ala* his second Wife, who succeeded him in the Dukedom of *Puglia*, and his other Dominions.

DUKE *William* continu'd the same Friendship and Correspondence with the Pope, that his Father had done, neither did he fail to assist him in the Quarrels with *Henry*, which were carried on with greater Heat than ever. These Quarrels were become so imbitter'd, at this Time, that the Emperor *Alexius Comnenus* thinking to take Advantage of them, wrote to *Paschal II.* that if he would acknowledge him for Emperor of the West, he would send him powerful Assistance against *Henry*<sup>5</sup>. And in the mean while *William* having put his Dominions in a better Form, did not fail to require the Confirmation of the Investiture of the Dukedoms of *Puglia* and *Calabria*, as his Predecessors had receiv'd it. Neither was *Paschal* slack in granting it, which he did in the Year 1114, while he was celebrating a Council in *Cepperano*, whither *William* went to receive it<sup>6</sup>. But while this Pope was altogether bent on crushing the Power of *Henry*, being oppress'd with weighty and troublesome Cares, he fell sick, and on the 12th of *January* this Year 1118 ended his Days<sup>7</sup>.

<sup>1</sup> Pel. in Stem.

<sup>2</sup> Idem.

<sup>3</sup> Idem, in Castigat. ad Anonym. Cassin.

<sup>4</sup> Idem, in Stem.

<sup>5</sup> P. Diac. lib. 4. cap. 46.

<sup>6</sup> Idem, lib. 4. cap. 49. Investivit de Ducatu Apulie & Calabriae.

<sup>7</sup> Idem, lib. 4. cap. 64.



ALEXIUS Emperor of the East likewise died in the Month of *August* the same Year, to whom *Joannes Porphyrogenitus* his Son succeeded in the Empire. We shall be soon freed from the Trouble of taking notice of the Emperors of the East; for having lost all they possess'd in these our Provinces, with little Hopes of ever recovering it, they had no more occasion to mind or concern themselves in the Affairs of these Countries. They had nothing left but the Shadow of Sovereignty over the small Dukedom of *Naples*, which also will soon be subject to the renown'd *Roger I.* King of *Sicily* and *Puglia*. This Dukedom was as yet govern'd by its Dukes and Consuls in the Form of a Republick, and at this Time *John* was Duke, who dying not long after, while *Porphyrogenitus* reign'd in the East, was succeeded by *Sergius* the last Duke of *Naples*. For *Naples* being afterwards subjected by *Roger*, tho' he did not alter the Form of its Government, nevertheless he made the Dukes as he thought fit, which Character he bestow'd on *Anfusus* one of his own Sons, as shall be related in a more proper Place.



## CHAP. IX.

*Quarrels between the Emperor Henry IV. and Pope Gelasius II. Investitures given by this Pope to our Norman Princes; and a Schism between Callistus II. and Gregory VIII.*



IN the mean time, after the Death of *Paschal*, the Clergy and People of *Rome* elected *Joannes Gaetanus*, a Monk of *Cassino*, his Successor, who took the Name of *Gelasius II.*<sup>1</sup> As soon as the Emperor *Henry* heard of the Election, he march'd into *Italy*; mean while he sent Ambassadors to *Gelasius*, with a Message, that if he was dispos'd to grant him what *Paschal* had done before, concerning the Investitures, he was ready to acknowledge him for Pope, otherwise he would chuse another. But *Gelasius* being obstinate, and seeing that the Emperor was advancing towards *Rome* with a strong Army, left this City, and accompanied with many Bishops and Cardinals, the Prefect of *Rome*, and many *Roman* Nobles, went to *Gaeta*, the Place of his Birth; being as yet but Deacon, he was there ordain'd Priest, and by these Bishops and Cardinals that he had with him, and by the Archbishops of *Capua*, *Benevento*, *Salerno*, and *Naples*, in the Presence of many Princes and Abbots, he was consecrated Pope.

OUR Norman Princes, and especially *William* Duke of *Puglia*, *Robert* Prince of *Capua*, *Richard* of *Aquila*, and many other Barons of these Provinces, went all to *Gaeta*, and offer'd him their Assistance<sup>2</sup>. *William* and the Prince of *Capua* took the Oath of Fealty as Vassals of the Apostolick See, and got Confirmation of the Investitures in the same Manner their Predecessors had receiv'd them from other Popes. And 'tis to be observ'd, that the Princes of *Capua* paid Homage to the Pope in these Times, tho' they were Vassals to the Duke of *Puglia*.

BUT we must likewise observe, that *William*, not content with having had Investiture from *Paschal*, would also have it from *Gelasius*, from whom he could obtain no other but a Confirmation, still restricted to the Dukedoms of *Puglia* and

<sup>1</sup> P. Diac. lib. 4. cap. 64.

<sup>2</sup> Idem.



*Calabria*, the Pope carefully avoiding to extend it to the Principalities of *Salerno* and *Amalphis*, and all those other Dominions that had been subjected by the Dukes of *Puglia*. Thus we read it in the Copy of the Investiture, related by the Abbot of *Noce*<sup>1</sup>, which *Gelasius* gave to *William*: *Quemadmodum Gregorius Papa tradidit illam Roberto Guiscardo Avo tuo; Et sicut Urbanus Papa eam Rogerio Patri tuo prius, Et postea tibi tradidit; sic Et ego trado tibi eandem terram cum honore Ducatus per illud idem donum, Et consensum.* But the Error that we find in this Copy, and the want of the Name, *Paschalis*, after the Word *postea*, deserve to be taken Notice of; for *William* never receiv'd Investiture from *Urban*, who died before his Father *Roger*, and *William* succeeded his Father in the Pontificate of *Paschal*, from whom he receiv'd it, and not from *Urban*, as *Petrus Diaconus* relates.

IN the mean time the Quarrels between the Pope and the Emperor became more irreconcilable; as soon as *Henry* understood that *Gelasius* was gone from *Rome*, he made *Mauritius* Archbishop of *Prague* to be elected Pope, who call'd himself *Gregory VIII*. On the other hand, *Gelasius*, as he came to *Capua*, excommunicated the Emperor, the Antipope, and all their Accomplices; and got *Robert* Prince of *Capua* to assemble his Troops in order to oppose *Henry*, and conduct him back to *Rome*. *Robert* having gather'd together a considerable Army, marches towards the Monastery of *Cassino*, with a Design to go from thence to *Rome* with the Pope, as he had promis'd him; but hearing that the Emperor with a superior Force was not far off, he would not leave *Cassino*, where having receiv'd *Henry's* Ambassadors, who advis'd him to retire, he gave over the Expedition, and return'd to *Capua*. So that *Gelasius*, after various Turns of Fortune, being abandon'd by the *Normans*, and unable to resist such a superior Force, resolv'd, with some Bishops and Cardinals, to go to *France*; and being arriv'd at the Monastery of *Clugny*, at last, wearied with so many carking Cares, and the Incommodities he had suffer'd in so troublesome a Journey, fell sick, and died there the 29th of *January* in the Year 1119, after having held that See, with so many Difficulties and Sufferings, only a Year and five Days.

THE Cardinals being depriv'd of so great a Pope, and not in a Condition to oppose *Gregory*, if they did not immediately provide a Successor, in that very Monastery elected *Guido* Cardinal Archbishop of *Vienne*, of Royal Race, being the Son of the Count of *Burgundy*, and near of Kin to the Kings of *France*, who took the Name of *Callistus II*. and went presently to *Rome*, where, with great Marks of Esteem, he was receiv'd by the Clergy, the Senate, and People of *Rome*. The Antipope *Gregory* and his Adherents left *Rome*, and fortified themselves in *Sutrio*, a Castle of great Strength by reason of its Situation.

IN the mean time *Callistus*, in order to eradicate this Schism, thought he had no other Remedy but to have recourse to the *Norman* Princes for Assistance, therefore he came to *Benevento*, where he was visited by Duke *William*, *Robert*, and all the Barons of the Neighbourhood, who all offer'd their Troops to lay close Siege to *Sutrio*. Soon after this Castle was so closely besieg'd, that it was forc'd to surrender: *Mauritius* thus falling into the Hands of Pope *Callistus*, he confin'd him close Prisoner in a strong Fort. Thus ended this Schism, and the Church began to enjoy some Peace.

BUT in the Year 1120, the Death of *Robert* Prince of *Capua*, from whom *Callistus* had receiv'd signal Service, put a Damp upon this Peace. This Prince left only one Son nam'd *Richard III*. who succeeded him in the Principality, and govern'd it a few Days only; for he had scarcely been consecrated according to the Custom of the *Norman* Princes of *Capua*, who us'd to be anointed with Holy Oyl by the Hands of the Archbishop, when he ended his Days in *Capua*, and leaving no Issue, he was succeeded by *Giordanus II*. his Uncle, Brother of his Father *Robert*<sup>2</sup>.

*GIORDANUS* govern'd the Principality of *Capua* seven Years without Disturbance, to the Year 1127 in which he died. His Wife *Gaitelgrima* was Daughter of *Sergius* Lord of *Sorrento*, she had been married to him ever since the Year 1111, and had brought him *Nocera*, and many Places in the Neighbourhood subject to it, as her Portion. By this Wife he had *Robert II*. who succeeded him, and was the last Prince of *Capua* of the Race of *Ascettilinus*; for being expell'd his Principality by *Roger I*. King of *Sicily*, he had the Misfortune to see his Family lose that

<sup>1</sup> Ad Chronic. Cass. lib. 4. cap. 64.

<sup>2</sup> Pell. in Castigat. ad Anon. Cass. A. 1119.

Grandeur, which his Forefathers with so much Prudence and Valour had maintain'd in it, as shall be related when we come to the Reign of *Roger*.

IN the mean time Pope *Callistus*, having in some measure quieted the Discords, apply'd himself to put the Affairs of his See into the best Order he could; and above all, he endeavour'd to keep up the same Correspondence and Friendship with *William* Duke of *Puglia*, that his Predecessor had done. *William* shew'd the same Inclinations, for he desir'd to have the Investiture of the Dukedoms of *Puglia* and *Calabria* from *Callistus*, as his Predecessors had had it from *Gelasius* and *Paschal*, by making himself a Vassal of the Apostolick See, and receiving the Investiture with the Standard; and *Callistus* being come to *Troja*, he receiv'd him in that City with all Marks of Esteem and Respect<sup>1</sup>; and in the Year 1121, when he came to *Salerno*, where *Roger* Count of *Sicily* likewise was, he was entertain'd by these Princes with all the Honour and Respect imaginable<sup>2</sup>.

AFTERWARDS, in the Year 1123, he held a Council in the *Lateran* in order to redress many Disorders which had crept into his Church during the Quarrels with *Henry*, with whom he made Peace; and after having with much Prudence settled the Affairs of the Apostolick See, at last in the Year following 1124, he ended his Days in *Rome*<sup>3</sup>, where he was much lamented; and it was soon found what great Loss the Church of *Rome* had in him; for he was no sooner dead, than the Cardinals, divided into Factions, elected two Popes: Some of them chose *Lambertus* Bishop of *Ostia*, who took the Name of *Honorius* II. Others, *Theobaldus* Cardinal of *St. Anastasia*, who was call'd *Celestine* II. But this Schism, which was fear'd might for a long Time give Disturbance to the Church, was surprizingly extinguish'd in an instant; for *Celestine's* Party, as the Weakest, yielding to that of *Honorius*, join'd with him; so that the Disorders being at an End, *Honorius* was acknowledg'd and ador'd as true Pope,

<sup>1</sup> P. Diac. lib. 4. cap. 68.

<sup>2</sup> Pell. in Cast. ad Eal. Benev. 1121.

<sup>3</sup> P. Diac. lib. 4. cap. 83.



## CHAP. X.

*Lothaire Duke of Saxony, by the Death of Henry, succeeds in the Empire of the West. The Union of all these our Provinces in the Person of Roger Great Count of Sicily, by the Death of William Duke of Puglia.*



THE Quarrels, which in the Year 1125, fell out in *Germany* on the Death of *Henry* IV. gave great Disturbance to the State of the Affairs of *Italy*: This Prince having left no Male-Issue, there arose great Dissentions amongst the Princes of *Germany* about chusing a Successor; two especially, with great Application aspir'd to the Empire; *Conrade* the Nephew of *Henry*, and *Lothaire* Duke of *Saxony*<sup>1</sup>. The Princes of the Empire being conven'd in order to prevent the Confusions that might happen, were resolv'd to compromise this Election by the

<sup>1</sup> P. Diac. lib. 4. cap. 87.

Arbitrement of the Archbishop of *Mentz*, declaring, that the Person whom he should judge worthy of the *Roman Empire*, should certainly be elected. The Archbishop, who bore an implacable Hatred, not only against *Henry*, but against all his Family, without much deliberating, immediately excluded *Conrade*, and proposing *Lothaire* as a most consummate Captain, pious and prudent, judg'd him the most worthy and fit that could be rais'd to the Imperial Throne; the Election was approv'd of, and *Lothaire* was proclaim'd Emperor. Thus by the Means and Cunning of this Prelate, the Empire went from the *Germans*, who had held it so many Years, to the *Saxons*, in the Person of *Lothaire*, whom some call'd III. others, with more Truth, II.

*CONRADE*, impatient of this Rebuff, and not able to bear that any other but himself had succeeded his Uncle, having drawn many Princes of *Germany* to his Party, got himself to be crown'd King of *Germany*. Thus did the Quarrels between these Princes begin, which at the long Run occasion'd many Disorders, and great Confusion in the Empire; but *Lothaire*, as being elected by the Majority, and, what was most material, consecrated by the Pope, was acknowledg'd for Emperor all over the West.

BUT whilst *Honorius* govern'd the Apostolical See, and *Lothaire* the Empire; whilst by the Death of *Jordanus*, *Capua* was govern'd by *Robert* his Son, and whilst *Sergius* the last Duke govern'd the Dukedom of *Naples*, the Death of *William* Duke of *Puglia* happen'd in *Salerno* this Year 1127<sup>1</sup>; he had govern'd these Provinces, after the Death of his Father, the Space of sixteen Years<sup>2</sup>.

THE Death of this Prince occasion'd at last all these our Provinces to be united into the Form of a Kingdom in one Person, and consequently a new Polity, and a more stable and perfect Form of Government to be introduc'd. For this Prince having left no Children, the Progeny of *Robert Guiscard* was extinguish'd<sup>3</sup>. There was none other that could succeed to his Dominions, but *Roger* Count of *Sicily* his Uncle, who was the Son and Heir of *Roger* the Brother of *Guiscard*. Neither could there be found at this Time, any other Prince so powerful, and so near of Kin, so expert in War, courteous and prudent, as the Great Count of *Sicily*; and Fortune presenting so considerable an Inheritance, he eagerly embrac'd the Opportunity. That he might not be prevented by others, *Roger* lost no Time in claiming the Possession of so great an Inheritance. Having immediately embark'd in a Fleet at *Messina*, he arriv'd unexpectedly at *Salerno*, where, according to the Custom and wonted Ceremonies, he got himself to be consecrated Prince of *Salerno*<sup>4</sup>, by the Archbishop of *Capua*. He went immediately to *Reggio*, where he was proclaim'd Duke of *Puglia* and *Calabria*; and made a Progress through these Provinces, and was receiv'd with Acclamations in all the Cities as their Sovereign.

AS soon as Pope *Honorius* understood that *Roger*, in so great haste, without his Knowledge, or so much as having sought Investiture from him, had taken Possession not only of *Puglia* and *Calabria*, but likewise of the Principality of *Salerno*, *Amalphis*, and all the other Dominions, he was highly offended; and fearing that by so many Dominions being added to that of *Sicily*, the overgrown Power of *Roger* might at last come to oppress the Church of *Rome*, he began to withdraw his Affection from him, and to think of Means by which he might put a Stop to the Career of so great Prosperity. Whence his Successors, as we shall shew anon, finding that *Roger* had gloriously united the Crowns of *Puglia* and *Sicily* in his own Person, which the Dukes of *Puglia* his Predecessors could not accomplish, were always jealous of his Power, and turn'd over a new Leaf with him, and began to abhor him, and to put a thousand Rubs in his Way, in order to prevent his growing more powerful. But this Prince, by his Valour and Prudence, surmounted all Obstacles, and accomplish'd his Designs prosperously; for tho' the Princes of *Capua* were Vassals of the Dukes of *Puglia*, nevertheless that Principality was govern'd by *Robert II.* with full Liberty and Power. *Roger*, after having been invested with it by *Anacletus*, in the Year 1135, expell'd *Robert*, who was the last Prince, and usurp'd the Property of that great Principality to himself. The Dukedom of *Naples*, which was the last in

<sup>1</sup> Chron. Romualdi Arch. Salern. Falcon. Benevent. An. 1127.

<sup>2</sup> P. Diac. lib. 4. cap. 96. Pel. in Stem.

<sup>3</sup> Idem, loc. cit. Atque in ipso omnis Roberti Guiscardi Familia, quæ ex ipso descenderat finita est.

<sup>4</sup> Abb. Telefin. lib. i.

being subdu'd, and that for so many Ages had maintain'd its Liberty against the Power of the *Longobards* and *Normans*, at last in the Year 1139, was subjected to his Dominion: So that there remain'd nothing in these our Provinces that was not subject to *Roger*. And in this manner, having united all these Provinces in his own Person, and being arriv'd to such a Pitch of Greatness, he disdain'd the Titles of Count and Duke, and took that of King; and seeing he had appointed *Palermo* to be the chief City of *Sicily*, he fix'd his Royal Seat there. And having under his Dominion the Dukedoms of *Puglia* and *Calabria* (those Places also that had been left to Prince *Boemondus*) the Principalities of *Salerno* and *Capua*, the Dukedoms of *Amalphis*, *Naples*, and *Gaeta*, and the Principality of *Bari*, therefore in his publick Writs he took the following Titles: *Rex Siciliae, Ducatus Apuliae, & Principatus Capuae*. Which Titles were long made use of by his Successors, comprehending all these our Provinces, under the Title of *King of Puglia*, or of *Italy*.

BUT the famous Atchievements of *Roger I.* King of *Puglia* and *Sicily*; how by his Prudence and Valour he surmounted the many Obstacles, which the Popes, and the Emperor *Lothaire* threw in his Way, in order to stop his growing Greatness; how with new Laws and Statutes he establish'd this Realm, and gave it a more perfect Form, shall be treated of at large in the following Book: In the mean time, it will be proper to premise a short Account of the Form and Disposition in which *Roger* found these our Provinces when he came to inherit them, not only with respect to the Number of their Barons, and the Ecclesiastical Polity; but especially with respect to the Laws and Learning which in this Age flourish'd in them.



## C H A P. XI.

*The Longobard and Feudal Laws retain'd by the Normans.  
Learning restor'd in their Kingdom by the Monks of Cassino;  
and by the Arabs in Salerno:*



THE *Normans*, altho' by Right of Conquest, after they had subdu'd these our Provinces, they had it in their Power to impose what Laws and Form of Government on the conquer'd People and Places they thought fit; nevertheless allow'd the People to be govern'd by the same Laws and Institutes they formerly had; and even hitherto the *Normans* had imposed no new Laws upon them, as the *Longobards* did, but being well satisfied with the *Longobard* and *Roman* Laws, they not only allow'd their Subjects to retain their own Laws, but likewise conform'd themselves to them. The first who introduc'd new Laws, was King *Roger I.* as shall be shewn in the following Book.

THE *Feudal* Laws, which for the most part had their Rise from those of the *Longobards*, remain'd likewise intire as they were before, and the Laws of the Emperors which hitherto had been establish'd, were by the *Normans* no less regarded, and order'd to be observ'd. And the *Greeks* and *Saracens*, who knew nothing of Fiefs, having been expell'd *Puglia*, *Calabria*, and *Sicily*, the *Normans* introduc'd them into these Provinces, and that Island, as they had been in the rest of the Provinces that had continu'd longer under the Dominion of the *Longobards*. Whence the Number of Barons increas'd, and besides those that were in the Principalities of *Benevento*, *Salerno*, and *Capua*, the Counts of *Conversano*, *Trani*, *Lecce*,

*Lecce, Monopoli, Andria*<sup>1</sup>, and many others, likewise started up in *Puglia*, and in *Calabria*, those of *Catauzaro, Sinopoli, Squilace, Cosenza, Tarfia, Bisignano, Girace, Melito, Policastro*, and many others.

AND these two Provinces retaken by the *Greeks* from the *Longobards*, though for a long Time they had had Experience of the *Greek* Government; nevertheless when conquer'd by the *Normans*, had the *Longobard* Laws immediately introduc'd into them, and all their Cities were govern'd according to their Usages; and even *Bari*, that was the chief Seat, first of the Deputies, and afterwards of the *Catapani*, was more observant of the *Longobard* Laws than all the other Cities, and the Customs of this City, are deriv'd from none other but these Laws; for which Cause *Roger I.* King of *Sicily*, after he had taken this City, being about to establish good Laws in it, was requested by the *Baresians*, to allow them to retain their own Customs, and particular Constitutions, which were taken from the *Longobard* Laws, their City having been long under the *Longobards*, such as *Ajo, Melus, Meraldizus, Grimoaldus*, and other Princes of *Longobard* Extraction; and *Roger* having read and commended them, ordain'd them to be observ'd, and even to our Time, they are in Force<sup>2</sup>.

THE *Normans*, for very near a whole Century, from the Time they conquer'd *Puglia* to King *Roger I.* had so great a Regard for the *Longobard* Laws, and prefer'd them to all others, that they pass'd in these Provinces for the common Laws; and our Professors apply'd themselves to the Study of none other, for they had all Authority and Force in the Tribunals, and by them alone Causes were decided.

THE *Roman* Laws, as we have often observ'd, were only retain'd by way of Tradition; and they had remain'd amongst the common People (who are always last in laying aside the antient Usages) as old Customs, and not as written Laws. The *Roman* Jurisprudence, and the Books of *Justinian*, in which it was contain'd (like all other Learning) had been forgot, and were very little known in these Times, and these Parts; so far were they from being read.

BUT in this Place, we ought not to rob the Monks of *Cassino* of their deserved Praise, who were the first that endeavour'd to recover all sorts of Learning out of the Darkness wherein it had so long lain. The Care of the famous Abbot *Desiderius*, who being advanc'd to the Papacy, was nam'd *Victor III.* pav'd the Way to the Knowledge of some of *Justinian's* Books, and of others of different Professions. This renown'd Abbot, after having enlarg'd that Monastery with sumptuous Buildings, applied himself to find out many Books, in order to provide it with a well-stock'd Library; and the Art of Printing not being as yet brought into *Italy*, he with great Care, and much Expence, made a Collection, and caus'd them to be transcrib'd in a handsome Manner. Among other Books, there were *Justinian's* Institutions, and his *Novellæ*<sup>3</sup>: For these Books being very rare at this Time, were not in every Body's Hands, as now a Days, but, as Things very precious, were kept in some famous Library. The Church of *Rome* made most use of them, and also the Emperors of the East, sometimes, in making some of their Constitutions, referr'd to them. Although some Copies of this Emperor's Code, were to be found in *France* in these Times (which is clear from the Letters of *Ivo of Chartres*) and likewise in *Italy*, which is manifest from some Laws of the Emperors of the West, particularly of *Henry II.*<sup>4</sup>, and from the Decretals of some Popes, where some Laws of it are quoted; nevertheless few made use of it; even the very Professors neglected it, because it had not that Force and Authority in the Courts of Judicature, that it afterwards acquir'd.

THE Pandects had not as yet been discover'd in *Amalphis*, so that our Professors could have no Knowledge of them. Yet there were some Copies of them in *France*, which is clear from *Ivo's* Letters, in which some Laws of the Digests are frequently quoted<sup>5</sup>, for by reason of their famous Libraries, the Ignorance of these Books was not so great in *France*; and many Copies of the *Theodosian* Code, and its Compend, were likewise to be found there.

<sup>1</sup> Pellegr. in Castigat. ad An. Cass. A. 1132.

<sup>2</sup> Conluetud. Bar. in proemio. Romuald. Archiep. Saler. in Chron. Massilla. Beatil. hist. di Bari, lib. 2.

<sup>3</sup> Chron. Cassin. lib. 3. cap. 63. Instituta Justiniani, Novellam ejus.

<sup>4</sup> Constit. Henric. in LL. Longobard. lib. 2.

tit. 67. l. 11. where he refers to the L. 25. C. de Episc. which is *Martian's*; and to the L. 2. C. de jurejur. propter calumn which is *Justinian's*.

<sup>5</sup> Ivo Epist. 46. Unde & in lib. Pandectarum continetur, quoting the L. 7, 11 & 13. D. de sponsalib. And in the 69. Epist. the L. 11 & 14. D. eud. tit. de sponsalib. are quoted.

WITH us, the Institutions, and *Novellæ* of *Justinian*, were to be found only in the Library of *Cassino*, so that the Use of them in these Times, was not so frequent in the Tribunals of the Cities of these our Provinces, as it is now.

THE *Longobard* were the only prevailing Laws, and each Tribunal decided its Causes according to them, and Successions, Wills, Contracts, the Punishment of Crimes, Confiscations, and all other Judgments were regulated by them. We have yet remaining amongst our antient Records, some Vestiges, that the Judges in their Sentences, laid great Strefs on these Laws; and *Leo Ostiensis*<sup>1</sup> relates, that the Process which began in the Year 1017. betwixt the Monastery of *M. Cassino*, and the Duke of *Gaeta*, and the Count of *Trajetto*, was decided both by the *Roman* and *Longobard* Laws. *Camillus Pellegrinus*<sup>2</sup> quotes a Writ of *Richard II.* Prince of *Capua*, by which a Donation was made to the Church of *St. Michael the Archangel in Formis* of many Estates, and among others, of some that had fallen to his Grandfather by Confiscation, *secundum Longobardorum Legem*. And the same Writer<sup>3</sup> cites two Sentences, pronounc'd after these Times, the one in the Year 1149, in the Reign of King *Roger*, and the other in the Year 1171, in that of King *William*, which two Causes we see were decided by the *Longobard* Laws.

THE Judges in these Times, did not use so much Pomp and Ceremony in deciding Causes, as are observ'd now-a-days. Every City had its own Tribunal and Judges; and Processes were decided quickly, without much Noise: When there happen'd any Controversy concerning Marches, they went to the very Spot, and there decided the Cause immediately; the Parties were not allow'd to make Appeals to remote Tribunals, but to have their Controversies determin'd in their own Cities, and by their own Judges.

<sup>1</sup> Ostiens. lib. 2. cap. 35.

<sup>2</sup> Pellegr. in Stemm. Princ. Longob. pag. 288.

<sup>3</sup> Pellegr. Hist. Princ. Longob. pag. 251 & 256.

## S E C T. I.

### *The first Collections of the Longobard Laws; and their Glossators.*

THE *Longobard* Laws having acquir'd so much Authority in these Times, particularly in these Provinces, all our Professors apply'd themselves to the Study of them; but no Person hitherto having collected into one Volume, both the Laws of the *Longobards*, and those that had been to this Time publish'd by the Emperors of the West, as Kings of *Italy*, for the Use of the Courts of Justice, and the greater Ease and Conveniency, both of Advocates and Judges; at last about this Time, all these Laws were collected into one Volume.

THE first Collection that we can find of these Laws, is that which is yet preserv'd in the Archives of the Monastery of the *Trinity of the Cave*, where in one Parchment Volume written in *Longobard* Letters, are inserted all the Edicts of the Kings of *Italy*, beginning from *Rotaris*, who was the first that gave written Laws to the *Longobards*. After *Rotaris's* Edict, that of *Grimoaldus* follows; the Laws of *Luitprandus* follow next; then those of *Rachis*, and lastly those of *Astolphus*, who was the last *Longobard* King that made Laws; for, as we have said, *Desiderius* his Successor, and the last of the *Longobard* Kings, being engag'd in continual Wars, had not Time to think of Laws. But, notwithstanding that *Charles the Great* had expell'd *Desiderius*, and the Kingdom of *Italy* had been translated from the *Longobards* to the *French*, nevertheless, the Dominion of the *Longobards* continu'd in these our Provinces, in the Princes of *Benevento*, who, after the Example of the *Longobard* Kings, establish'd many Laws, which, for a long Time, were observ'd in the Principality of *Benevento*, which in these Times comprehended almost all the now Kingdom of *Naples*; therefore the foresaid Compiler, who undertook this Labour for the Benefit of our Countrymen, inserted likewise in this Volume the *Capitularia* of *Arechis*, first Prince of *Benevento*, and those of *Adeichis* his Successor; and after having inserted some small Pieces of his own, he adds a short Exposition of some of the Laws, for the Use of the *Beneventans*, but more especially for the *Capuans*,



*Capuans*, for whom he declares he had undergone that Trouble; so that on that account, and some other Conjectures, *Camillus Pellegrinus*<sup>1</sup> suspects the Author to have been a *Capuan*. In this Collection he likewise adds some small Law Treatises of his own, under these barbarous Titles. *Quantas causas debet esse Judicata sine Sacramentum. Item quantas causas fieri debet per pugna Judicata. Memoratorium pro quibus causis filii ab hereditate Patris exheredati fieri debet.* The *Capitularia* of *Charles the Great*, *Pepin*, *Lewis*, and of the other Emperors, who were Kings of *Italy*, after the *Longobards* were expell'd by *Charles the Great*, conclude the Book.

THIS is the most ancient Collection of the *Longobard* Laws that we have, made by a *Capuan*, whose Name we are ignorant of, which never being printed, is preserv'd in the Archives of the Monastery of the Cave. *Pellegrinus* supposes it to have been made in the Beginning of this eleventh Century, about the Year 1001, or soon after; for the Author inserts in it a List of the Dukes and Princes of *Benevento*, and of the Counts of *Capua*, and brings it down to the said Year, to *Adimarus* Prince of *Capua*. Besides he discovers that he knew *Pandolphus Capodiferro* Prince of *Capua*, who died in the Year 981. And this is both the first and most ancient Author that we can discover to have written Treatises on the Law adapted to these Times, in which all the Care and Study of our Professors were employ'd about the *Longobard* Laws.

THERE are different Sentiments concerning the Author of that other common Compilation divided into three Books, and distinguish'd into many Titles, which is now inserted in the authentick Volume. The Feudal Books, where many *Longobard* Laws contain'd in it are quoted, evince that it is ancient<sup>2</sup>. Some<sup>3</sup> believe it to have been made in the Time of the Emperor *Lothaire* III. or II. by *Petrus Diaconus* a Monk of *Cassino*, altho' for his own private Study, yet it was by the Persuasion of the same Emperor *Lothaire*; for 'tis evident, that *Petrus Diaconus* was his Lieutenant in *Italy*, and appointed Keeper of his Register, and Almoner of the Empire<sup>4</sup>. They infer it, from not seeing any Constitutions of the succeeding Emperors in this Compilation; for tho' in the last Editions of *Lindenbrogius* and the Vulgar, we read a Constitution of *Charles IV.* yet 'tis evident that was added afterwards, because it is not to be found in the Collection of *Melchior Goldastus*, which is more ancient than the Edition of *Lindenbrogius*; neither does that Constitution regard *Italy* in the least. *Struvius*<sup>5</sup> adds another Conjecture, from seeing that some Copies bear the Name of *Petrus Diaconus*.

OTHERS by opposite Arguments make it doubtful who the Author was. They think *Petrus Diaconus* was not, because in the Chronicle of the Monastery of *Cassino*<sup>6</sup> he gives a particular Account of all the Works he had compil'd after he became Monk, and makes such an exact Catalogue of them, that he sets down the Proems he had made to some Books that were not of his own composing, and relates two Hymns he had made to *St. Justa*, and some Sermons, and other small Pieces; but makes no mention of this Compilation; whereas if he had been Author of it, he would not have fail'd to tell it with great Ostentation, seeing, when he had occasion to mention his own Works, tho' of little Moment, he did it with a great deal of Complacency. Add to this, that *Carlo di Tocco*, our most ancient Civilian, in the Proem he made to the Glosses of these Books, speaking of the Compilers, says, that they were so ancient, that he had not been able to learn their Names; and he flourish'd very near the Time of *Lothaire*, for he was alive in the Reign of *William* King of *Sicily*, and would have known if *Petrus Diaconus* had been Author of this Compilation.

HOWEVER that may be, 'tis certain, that this second Collection divided into three Books, tho' poorly done, without Order of Time, and very confusedly, had better Fortune than the first, that was more Methodical, and in which, according to the Order of Time, all the Edicts of the *Longobard* Kings, and the *Capitularia* of the Emperors, who were Kings of *Italy*, were collected. This never having been printed, lies yet buried in the Archives of the Monastery of the Cave: On the contrary, that of which *Petrus Diaconus* is said to be the Author, has been often

<sup>1</sup> *Pellegr.* in Append. lib. 1. hist. Princ. Longob. pag. 300.

<sup>2</sup> Lib. 1. Feud. 10. & lib. 2, 21, & 28. Struv. hist. Jur. Gothic. & Longob. §. 2.

<sup>3</sup> *Conring.* de Orig. Juris cap. 23. Edit.

Collect. Const. Legum Imp. in Proleg. Struv. loc. cit.

<sup>4</sup> Chron. Cassin. lib. 4. cap. 125.

<sup>5</sup> Struv. loc. cit.

<sup>6</sup> Chron. lib. 4. cap. 66.

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printed, sometimes separately, and sometimes with the Authentick Volume; and *Basilius Joannes Eriold* caus'd them to be re-printed in *Basil* in the Year 1557, with the *Salick, German, Saxon, and British* Laws, and likewise those of other Nations. *Melchior Goldastus* caus'd another Edition to be printed; and *Frederick Lindenbrogius* made it to be re-printed anew, and added it to the Code of the ancient Laws.

THE Credit and Authority which our Forefathers gave to these Books, were such, that all Law Suits were decided in the Tribunals according to them; therefore our most ancient Professors employ'd themselves in commenting and making Notes upon them. *Carlo di Tocco*, was the first, who with very long Glosses illustrated these Books. He was born in the Village of *Tocco*, near *Benevento*, from which, according to the Custom of those Times, he took his Surname; and following the Example of his Forefathers, and being the Son, as he says, of a Doctor of Law, when a Youth he went to *Bologna* to learn the Civil Law; and he had the good Fortune to have *Placentius*<sup>1</sup>, *Joannes*<sup>2</sup>, *Otho Papiensis*<sup>3</sup>, and *Bagarotto*<sup>4</sup> for Masters, who had been Disciples of the famous *Irnerius*. Being return'd to the Kingdom, he was made a Judge in *Salerno*<sup>5</sup>; and while he was yet young, in the Year 1162, in the Reign of *William I.* was made Judge of the High-Court<sup>6</sup>. He was reputed the most famous Lawyer in his Time, and his Memory has been celebrated by his Successors.

THIS Lawyer had the same Reason to illustrate the *Longobards* Laws, as *Hermogenianus* and *Gregorius* had to compile their Codes. These two Lawyers perceiving, that the ancient Jurisprudence of the Heathen Romans was falling into Contempt by the new Laws of Christian Princes, resolv'd by their Codes to prevent this, and at least to preserve the Roman Law in Writings. So in the Reign of *William*, when the Pandects being already found in *Amalphis*, were begun to be taught in the Academies of *Italy*, the Lawyers of these Times, charm'd with the Elegancy of their Stile, were induc'd to study them, and by that means they began to look upon the *Longobard* Laws as barbarous and unpolite, so that the Study of them was neglected. *Irnerius, Bulgarus, Martinus, Jacobus, Hugo, Pileus, Rogerius*, and others had commented in their own Times on the whole Body of the Civil Law; and after their Example, all the rest left off the Study of the *Longobard* Laws. Wherefore *Carlo di Tocco*, to preserve the *Longobard* Laws from falling into Contempt, and to encourage the Study of them, after he had made himself Master of the Pandects, he made it his Business to explain and confirm the *Longobard* by the Roman Laws in his Glosses, which for the most part contain nothing but Quotations from the Roman Laws, in order to encourage the Professors to study them, and plead them with greater Advantage in the Courts of Justice, where the Pandects in his Time were of no Authority, as we shall shew in a more fit Place. This his Labour was so useful, and so much commended by Posterity, that it acquir'd Force and Authority little inferior to the Laws themselves; and *Andrea d' Isernia*, speaking of *Tocco's* Glosses on the *Longobard* Laws, says, *Plurimum in Regno approbatur*<sup>7</sup>. *Luca di Penna, Matteo d' Afflato*, and others give them the same Commendation.

FOR the same Reason, in the Time of the Emperor *Frederick II.* when the Roman Law was in such Request as to engage all Professors to study it, who to their own Detriment, had forgot the *Longobard* Laws, by which alone they could carry a Point in the Courts of Justice: *Andrea Bonello da Barletta* wrote his Commentaries upon the *Longobard* Laws; where he takes Notice of all the Differences betwixt the two Laws, that for the future the Advocates might have no occasion to mistake, by minding only the Roman, and neglecting the *Longobard* Laws; for in pleading the Roman only, they had been often oblig'd to submit, and quit the Field to Professors of inferior Degree and Learning. Thus he says it happen'd once to a great Advocate, who with a great many Flourishes in defending a Cause, had cited many Roman Laws for his Client; and after he had harangu'd himself out of Breath, there started up a Pettifogger on the other Side, with the *Longobard* Laws under his Gown, which he produc'd in Court; and reading those that made for his Purpose,

<sup>1</sup> Carol. de Tocco glos. in l. 1. Longob. de Scandal. l. si quis 6. de eo qui petul. lib. 1.

<sup>2</sup> L. Long. l. si quis puellam, de injur. mulier. l. si quis aliis, de Adulter.

<sup>3</sup> L. si quis 4. de his, quæ a viro.

<sup>4</sup> L. 4. de Ultim. volunt.

<sup>5</sup> L. si quis cum altero, de Testib.

<sup>6</sup> Ciarlant. lib. 4. cap. 13. Toppi de Orig. Trib. M. C. cap. 10.

<sup>7</sup> Andr. de Isern. De his qui Feud. dar. poss. §. & quia.

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obtain'd a Decree, to the great Shame of his Antagonist, who sneak'd off in Confusion.

*ANDREA* was Attorney-General under the Emperor *Frederick II.* and in great Esteem with this Prince, who by his Advice instituted the Court of *Capua*. He was a Lawyer of great Fame in his Time, and had in great Reputation by his Successors. *Andrea de Isernia*<sup>1</sup> calls him an *able Doctor*; *Matten d' Afflitto*<sup>2</sup>; a *great Professor of the Law*<sup>3</sup>; and others mention him with great Encomiums. Besides this most useful and necessary Work, for the Knowledge of the Difference betwixt the two Laws, he compos'd other Commentaries upon the *Roman Laws*, often quoted by *Napodanus* and *Afflitto*; for, excepting these Authors, we do not find them quoted by any other, which makes us believe they have been mix'd with the Works of others, as his Comments on our Constitutions, by the Carelessness of the Transcribers were confounded with those of *Marino di Caramanico*, so as they can be but ill distinguish'd at this Time.

*BIASE DA MARCONE*, who liv'd in the Time of King *Robert*, and was his Counsellor and Favourite, likewise wrote Commentaries on the *Longobard Laws*<sup>4</sup>. He compos'd a large Volume, and *Marino Freccia*, as he says in his Book of Sub-Fiefs, had the Manuscript. *Francesco Vivio*<sup>5</sup> calls him a Man of great Authority in the Kingdom, and especially for his Treatise of the Difference between the *Roman* and *Longobard Laws*; he was Contemporary with, and a Friend of *Luca di Penna*, and a Disciple of *Benevenuto di Milo* Bishop of *Caserta*, to whom he ow'd great Obligations for bringing him from Nothing to the Condition he was in. *Niccolo Boerio* likewise employ'd his Labour on these Laws. And in later Times, under the Emperor *Charles V.* *Giambattista Nenna di Bari*, a famous Lawyer of his Age, compos'd a Book upon these Laws, with an Alphabetical Explication of the abstruse *Longobard Words*, which he caus'd to be printed in *Venice* in the Year 1537. But in process of Time, the Force and Authority of these Laws declining, at last they came to be disus'd, so that our Professors minded them no more, and now they are quite laid aside.

<sup>1</sup> In Constitut. minorib. de Jure Balii.

<sup>2</sup> In eadem Constit. in princip.

<sup>3</sup> Ciarlant. del Sannio, lib. 4. cap. 26.

<sup>4</sup> Viv Decif. 162.

<sup>5</sup> Beatil. Hist. di Bari, lib. 4.

## S E C T. II.

*Learning reviv'd amongst us by the Means of the Monks of Cassinò.*

**I**N the Beginning of this Century Mens Spirits being rouz'd from the Lethargy in which they had been in the preceding, apply'd themselves to Learning; and the Differences between the Emperors of the West and the Popes, and between the *Greeks* and the *Latins*, incited Men to apply their Minds to study, and gave occasion to those who were attach'd to one of the Parties, and who had any Capacity, to employ their Pens, and to shew their Parts. The Schism, which at this Time divided the *Greek* and *Latin Churches*, and particularly the Dispute about the Opinion concerning the Procession of the Holy Ghost, likewise excited Men of Learning to a more than ordinary Study, both of the Scriptures and Theological Writings. Some imitated the Ancients very near both in Style and Manner of Writing; but for the most part being ignorant of Languages and History, they savour'd of the Barbarism and Harshness of the preceding Century; and some fell into the dry and barren Dialectick Way. The Study of Divinity and other Sciences, which had been neglected in the foregoing Century, was reviv'd among us by the Monks, but especially by those of *Monte Cassinò*. At the first every one was satisfied to follow the ancient Method, and to quote the Explication of the Fathers upon the Holy Scriptures; and did not treat of Points of Doctrine but slightly and casually. But towards the latter End of this Century, Lectures of Divinity on Points of Religion came in use; and sundry mysterious Questions were propos'd, and solv'd by way of Reasoning, in a Logical manner. The Books of *Aristotle* began to be known among the *Arabs*, who brought them to us; and our Divines thought they would be useful in

in the Disputes against the *Jews*, and the *Arabs* themselves, therefore they adapted them to our Religion, the Doctrine and Morals of which they explain'd according to the Principles of this Philosopher, and treated of the Doctrine of the Scriptures and Fathers after the Order and Rules of Logick and Metaphysics taken from his Writings. This was the Rise of *Scholastic Divinity*, which soon after became the Principal, and almost the only Study of our Monks and Schools.

THE Monks of *Cassino* distinguish'd themselves in this Age among us above all others; they applied themselves to these Studies, and with great Care kept up the *Scholæ Sacrae* amongst us, wherein the Catechism was carefully explain'd by able Divines, of which in these Times there was a great Number. Besides the famous Abbot *Desiderius* so remarkable in History, there was *Alfano*, who from Monk of *Cassino*, was afterwards made Bishop of *Salerno*, and compos'd many Works, of which *Petrus Diaconus*, and *Giovanna Baptista Maro* give us the Catalogue <sup>1</sup>. There was *Alberico di Settefrati*, a Village situated in the Dukedom of *Avito*, a Monk of *Cassino*, who likewise signaliz'd himself both by his Piety, and many Works which he wrote <sup>2</sup>. *Orderisio* descended of the Counts of *Marfi*, whose Works *Petrus Diaconus* and *Maro* relate. *Pandolfo Capuano*, who flourish'd in *Cassino* under the Abbot *Desiderius* in the Year 1060, and who distinguish'd himself above the rest both in Sacred and Profane Learning, as may be seen by the Catalogue of his Works, which *Petrus Diaconus* has left us <sup>3</sup>. The Monk *Amato*, *Giovanni* Abbot of *Capua*, of whom *Diaconus* and *Maro* discourse at large. *Petrus Diaconus* himself, and many others, who by their Works have left shining Monuments of their Worth.

THE Monks of *Cassino* not only signaliz'd themselves in these Studies, which in a manner was peculiar to them, but likewise distinguish'd themselves by good Literature; for the little Share of it that was amongst us in these Times, was confin'd to them, and whatever Knowledge there was of it in our Provinces was owing to them. For we observe in the Chronicle <sup>4</sup> of that Monastery, that *Alberico* compos'd a Book of *Musick*, and another of *Logic*. *Pandolfo Capuano* wrote *de Calculatione*, & *de Luna*; and others upon the like Subjects, as may be seen in *Petrus Diaconus* <sup>5</sup>, and by the Catalogues of their Works which he compos'd; and others employ'd their Labour in seeking after Books of various Erudition and Sciences, and in transcribing them, as *Desiderius* did, who besides the Books belonging to Sacred and Ecclesiastical Affairs, caus'd to be transcrib'd, the History of the *Romans* and the *Goths*, written by *Jornandes*; the History of the *Longobards*, *Goths* and *Vandals*; the History of *Gregory of Tours*; that of *Josephus* the *Jew de Bello Judaico*; that of *Cornelius Tacitus*, and *Homer*. The History of *Erchempertus Cresconius de Bellis Lybicis*, *Cicero de Natura Deorum*, *Terence* and *Horace*. *Ovid's Fasti*, *Seneca*, *Virgil*, with the Eclogues of *Theocritus*, *Donatus*, and other Authors. Neither was the Care and Diligence of *P. Diaconus* less afterwards, who, besides his own Works, collected the Astronomy of the most ancient Books. He gave us a Compend of *Vitruvius de Architectura*; a Book *de generibus Lapidum pretiosorum*, and many others, of which he made a long Catalogue.

<sup>1</sup> V. Toppi & Nicod. in Bibliot. Neap.

<sup>2</sup> V. Ciarlant. del. San. lib. 3. cap. 34.

<sup>3</sup> P. Diac. de Viris illustr. cap. 26.

<sup>4</sup> Chron. lib. 3. cap. 35.

<sup>5</sup> De Viris illustr. Monac. Cassin.

### S E C T. III.

*Of the Schola Salerni, famous in these Times for the Study of Philosophy and Physic brought hither by the Arabs.*

WE are not to think that the *Arabs* have always profess'd Ignorance, as is commonly believ'd, because they were *Mahometans*; there were amongst them Men of notable Knowledge, whose Writings would fill the greatest Libraries. More than Three hundred Years before this eleventh Century, they studied with great Application; and their Application was never greater than in these Times, when Learning was at the lowest Ebb with us, to wit, in the ninth and tenth Centuries.

Centuries. In whatever Country, by their so many Conquests they establish'd themselves, they cultivated the Study of two Things; the one peculiar to them, regarded their Religion, or the *Alcoran*, and the Traditions which they ascribe to *Mabomet*, and to his first Disciples and Interpreters, from whom sprung the four Sects mention'd in the sixth Book of this History; the other regarded that Learning which they had taken from the *Greeks*, which was but new, with respect to that of the *Mussulmans*, which was as old as their Religion.

THIS People, as we have related elsewhere, having subdu'd many Countries of the Roman Empire, and ravag'd many Provinces of *Asia*, amongst the Spoils and Booty they had made in *Greece*, by chance found some Books, and apply'd themselves with extraordinary Eagerness to the Study of Learning; and they were so keen, that about the Year 820, they made the Calif *Almanon* demand of the Emperor of *Constantinople*, the best Greek Books, which when they had got, they caus'd them all to be translated into *Arabick*. But they made no use of the Poetical Works that were amongst those Books, because besides that they were written in a foreign Language, and of a quite different Taste from theirs, they had such Regard for their own Religion, as made them abhor Idolatry, and reckon it unlawful to read them, and defile themselves with so many Names of false Gods, and so many Fables, with which they were stuff'd. The same Superstition made them detest the Books of History, because they despis'd what was more antient than their Prophet *Mabomet*. As for Political Books, they certainly could have no use for them, because the Form of their Government was quite different from that of more free Nations: They liv'd under an Empire altogether Despotick, where they had no occasion to open their Mouths, but in order to flatter their Prince; and could pretend to nothing, but to obey their Sovereign.

THEREFORE they found no other Books fit for their Use, but those that treated of Mathematicks, Physick, and Philosophy. But as they were neither seeking Politicks nor Eloquence; so *Plato's* Lessons were of no Use to them; because in order to understand him well, the Knowledge of the Poets, who treat of the Religion and History of the *Greeks* was necessary. Therefore having found the Works of *Aristotle*, *Hippocrates* and *Galen*, they studied them with great Application. *Aristotle's* Logicks and Metaphysicks pleas'd them wonderfully, which they studied with great Ardour and incredible Assiduity. They likewise apply'd themselves to his Natural Philosophy, particularly the Eight Books, which contain it only in general, whereas the special Physicks, which requir'd Experience and Observations, they did not reckon so necessary.

THEY had a particular Regard for Physick, and studied the Books of *Hippocrates* and *Galen*; but they founded it chiefly on general Discourses on the four Qualities of the Temperature of the four Humours, and on traditional Remedies, without examining nicely into them, but mixing them with an infinite Number of Superstitions; and no ways improv'd the Anatomy, imperfect as it was, which they had receiv'd from the *Greeks*. But as for Chymistry, if they were not the Inventors, at least they were the Improvers of it; but they blended it with so many Extravagancies, that to this Day it has been no easy Matter to purge it; they stuff'd it with so many vain Pretensions, idle Discourses, and superstitious Operations, as afterwards produc'd Quacks and Mountebanks. From the Study of Chymistry, they were easily led to that of Magick, and all Sorts of Divination, to which Men are naturally addicted, when they are ignorant of Natural Philosophy, History and true Religion. What much promoted these Delusions, was Astrology, which was their chief Aim in studying Mathematicks. In a Word, they cultivated this pretended Science under the Empire of the *Mussulmans*, with so much Eagerness, that it has always been the Delight of their Princes, who build their greatest Enterprizes on this weak Foundation. The same Calif *Almanon*, took in hand to calculate the famous Astronomical Tables, and it must be confess'd, that by his Observations, and the other useful Parts of Mathematicks, such as Geometry and Arithmetick, they are become very serviceable. Algebra, and the numerical Figures, are owing to them; whereby Arithmetick is since become so easy. As for Astronomy, they had the same Encouragement, that induc'd the ancient *Egyptians* and *Chaldeans* to apply themselves to it, because they inhabited the same Countries, and besides, had all the Observations of the Antients, together with those of the *Greeks*.

These People, making Incurfions into the Provinces of *Europe*, in the most barbarous and unciviliz'd Times, when Ignorance and Stupidity were at their Height ; either by the Names of the famous Masters, under whom they had studied, or on account of the long Voyages they had made, or for the Singularity of their Opinions, gain'd great Credit and Respect in the Countries they came to ; they made it their Business to distinguish themselves by some new Logical or Metaphysical Subtleties, and dwelt only on what was marvellous, rare and difficult, and neglected what was pleasant, convenient and useful. Therefore they were admir'd in *Europe*, and their learn'd Men had in great Esteem. The Books of *Mesues*, *Avicenna* and *Averroes*, the great Commentator *Rafis*, and many others, were in great Esteem and Reputation among us. And *Charles the Great* caus'd their *Arabick* Books to be translated into *Latin*, as also some *Greek* Authors, that had been translated by them into *Arabick*, in order to diffuse their Learning through all the Provinces of his Empire. Whence the *French* and other *Latin* Christians, learn'd from the *Arabs*, what the *Arabs* themselves had learn'd from the *Greeks*, to wit, *Aristotle's* Philosophy, Physick and the Mathematicks, but slighted their Language, History and Poetry, as the *Arabs* had slighted those of the *Greeks*. And we receiv'd this kind of Learning, thus corrupted by the *Arabs* : Their Philosophy was empty and useless, because widely different from true Natural Philosophy, which requir'd Experience and Observations : Their Astrology full of Delusion, and foolish Divinations ; but above all, their Physick was stuff'd with Impertinence and Superstition.

THE first Books then on these Subjects, that were read and studied, were those of the *Arabs*, and on Physick, among others, those of *Mesues* and *Avicenna* ; and the first that studied them, were the Clergy and Monks, for Learning was confin'd to them ; and in these Times, they were the only Philosophers and Physicians. Whence we read, that in *France*, *Fulbert*, Bishop of *Chartres*, and the *Magister Sententiarum*, were Physicians : *Obizus*, a Religious of *St. Victor*, was Physician to *Lewis the Gross* ; *Richard*, a Monk of *St. Denis*, who wrote the Life of *Philip Augustus*, was likewise one. And in these our Provinces, the greatest Prelates, and the most famous Monks of *Cassino*, were the best Physicians, as we shall see ; and this Profession was so ingross'd by the Ecclesiastical Order, that a Council held in the *Lateran* in the Year 1139, under *Innocent II.* look'd upon it as an inveterate Grievance, that the Monks and regular Canons, in order to enrich themselves, were profess'd Advocates and Physicians ; and because the Council took only Notice of those religious Orders, Physick continu'd to be practis'd by the Clergy, for the Space of Three-hundred Years more.

IN the preceding Books of this History, we have shewn how many Occasions the Inhabitants of our Provinces had of corresponding with these *Arabs*, whereby they had Opportunities of learning these Sciences, especially when the *Saracens* were settled in *Garigliano*, *Puglia*, *Monte Gargano*, *Bari*, *Salerno*, *Pozzuolo*, and many other Places ; so that in our common Language, there are many of their Words which continue to this Day, as was observ'd elsewhere ; and there are yet preserv'd in *Pozzuolo*, four Marbles with Inscriptions in Relievo, of Oriental *Saracenic* Letters. Besides in these Times, there was great Communication with the *Arabs*, who were in Possession of more than the Half of *Spain* ; and we had continual Intercourse with them by our frequent Voyages in these Times to the East, on account of the *Crusades*.

BUT as their Learning, and especially their Physick, took so deep Root in the City of *Salerno*, that this City above all others of our Provinces, was renown'd for the famous School founded there, yet, for any thing I know, none of our Writers has hitherto clear'd that Part of our History. Those, who believe the *Schola Salerni* to have been instituted, together with that of *Paris* and *Bologna*, by *Charles the Great*, are widely mistaken ; for it has been demonstrated in this History, that *Charles* could not found an Academy in this City, because it was never subject to him : And when the Schools of *Paris* and *Bologna* are said to have been founded by *Charles the Great*, there were such obstinate Wars between him and Prince *Arcbis*, that it was not possible to put an End to them, and *Arcbis* had so well fortified *Salerno*, that it was look'd upon as the most secure Retreat of the *Longabard* Princes against the Power of *Charles* and his Sons.

T H E R E-

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THEREFORE this School must be of a later Date, nor was it at first authorized by the Laws of any Prince, nor had it the Name of an Academy, College or University, but that of a simple School. It began to be establish'd in *Salerno*, because the *Oriental* and *African* People had frequent Occasions of landing in this Maritime City. The *Saracens* visited it often in the Time of the last *Longobard* Princes, so that the *Arabs* had occasion to make long and frequent Stays in it. We have shewn in the preceding Book, that sometimes from *Africa*, and often from the neighbouring *Sicily*, they came on the Coast, and terrified the *Salernitans*, who, to prevent the Ruin of their City, their Fields and neighbouring Castles, not having Force of their own sufficient to repel them, often purchased their Peace with Sums of Money. And while the Officers appointed by the Prince collected the Contributions among his Vassals, the *Saracens* landed and convers'd familiarly with the *Salernitans*. Hence the *Salernitans* had an Opportunity to learn their Philosophy, but they apply'd themselves mostly to the Study of Physick, in which they became eminent; and it was not till the Time of *Guaimarus the Elder*, that the *Salernitans* were, by the gallant *Normans*, freed from being thus plagu'd by the *Saracens*.

BUT among others that made the *Schola Salerni* famous, *Constantinus Africanus* was one. He was born in *Carthage*, and by his Travels in many Parts of *Asia* and *Africa*, had learn'd amongst these Nations various Sciences; but above all, had applied himself to Physick and Philosophy. He had travel'd to *Babylon*, where he learn'd Grammar, Logick, Geometry, Arithmetick, Mathematicks, Astronomy, and the Physick of the *Chaldeans*, *Arabs*, *Persians*, *Saracens*, *Egyptians* and *Indians*; and after 39 Years Study in those Parts, he return'd to *Africa*. But the *Africans*, who could not bear to be eclips'd by his great Learning, resolv'd to murder him; of which *Constantine* being appriz'd, he embark'd in the Night-time, and arriv'd in *Salerno*, where he remain'd privately in the Disguise of a Beggar<sup>1</sup>.

THE City of *Salerno*, as we have said elsewhere, being frequented by People of all these Nations, the King of *Babylon's* Brother, much about this Time, arriv'd in it; perhaps led by Curiosity to see this City, which *Robert Guiscard* had made a Metropolis, and the Seat of his Residence, and now, by the continual Traffick and Resort of all Nations to its Ports, it had become the Mart of the West. *Constantine* was discover'd by this Prince, who so extoll'd his excellent Endowments, that Duke *Robert* receiv'd him with all Respect imaginable, and did him all the Honour which was due to his Merit. Therefore he staid long in *Salerno*, where he had Leisure to promote the Study of Philosophy, and especially that of Physick, which was more cultivated there than any other Science: After having remain'd many Years in *Salerno*, he retir'd to *M. Cassino*, where he became Monk; and spent all the Time he was in that Monastery, in translating Books from different Languages, and composing many Treatises of Physick, of which *Petrus Diaconus*<sup>2</sup> gives us a Catalogue.

THUS the Reputation of the *Schola Salerni* increas'd, which in a great measure was owing to the Monks of *Cassino*, who much improv'd the Study of Physick. These Monks had apply'd themselves to this Study, from the Time of Pope *John VIII.* and *Bassacio* their Abbot, a most knowing Physician, compos'd some Books<sup>3</sup>, wherein he treats of the Qualities and Use of many Medicines, for it was not look'd upon in these Times, as unbecoming the Clergy and Monks to profess Physick: And in the City of *Salerno*, and elsewhere, the most remarkable and noble Personages were not asham'd to profess it. *Leo Ostiensis*<sup>4</sup> relates, that *Alfano* Archbishop of *Salerno* was most expert in Physick, and that he made it his chief Business to cure the Sick. *Romualdus Guarva*, likewise Archbishop of that City, did not think it below him to profess it, as all the Noble *Salernitans* reckon'd it their greatest Honour to be learn'd in it, and to practise it, and this Custom continu'd in *Salerno* for many Years after; but some of a modern Taste, and unacquainted with the Customs of elder Times, think that the noble *Salernitan Giovanni di Procida*, the famous Promoter of the *Sicilian Vespers*, was not *Giovanni* the celebrated Physician, because forsooth, in their Opinion, it derogates from Nobility to profess Physick.

<sup>1</sup> Chron. Cass. lib. 3. cap. 35.

<sup>2</sup> Chron. Cass. lib. 3. cap. 35. V. Marum in notis ad P. Diac. de Vir. illustr.

<sup>3</sup> V. P. Diac. de Vir. illustr. cap. 13. & ibi

Marum. V. Ab. de Nuce ad Chron. Cas. lib. 1. cap. 23.

<sup>4</sup> Chron. lib. 3. cap. 7.

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THUS the *Schola Salerni* was of greater Reputation than any School in *Europe*; recourse was had to the Physicians thereof, and Persons of greatest Distinction when taken ill, were carried thither to be cur'd; as was the celebrated Abbot *Desiderius*, as *Leo Ostiensis* relates, to be cur'd of an Infirmary occasion'd by much Watching and Abstinence. And 'tis likewise said, that some time after, *William the Wicked*, having fallen sick in *Palermo*, and the Disease still increasing, sent for *Romualdus Guarva*, Archbishop of *Salerno*, very knowing in Physick, to cure him; and tho' he order'd him very good Remedies proper for the Disease, yet he made use of none of them, but what he thought fit; for which cause his Death soon follow'd. We likewise read that the best Drugs were prepar'd in *Salerno*; and 'tis said, that *Sigelgaita* sent to *Salerno* for the Poison to poison her Son-in-Law, and *Robert* her Husband.

BUT what crown'd the Reputation of this School, was a Performance of *Giovanni di Milano*, a famous *Salernitan* Physician, which was approv'd of by the whole *Salernitan* School, and in their Name dedicated to the King of *England*, about the Time we are now treating of. Some perhaps may wonder why the *Salernitan* Physicians should be at the Pains to collect the Rules of Health in *Leonine Verse*, and dedicate the Work to a King at so great a Distance, and with whom they had no Communication.

BUT they will cease wondering when they recollect what has been related in the preceding Book of this History, concerning the Coming of the *Normans*, and the Sons of *Tancred* into these our Provinces, who were all descended of *Robert Duke of Normandy*; and consider, that when our *Normans* conquer'd *Puglia* and *Calabria*, and afterwards the Principality of *Salerno*, the other *Normans*, who had remain'd in *Neustria*, invaded *England* under *William Duke of Normandy*, and after a great many Victories about the Year 1070 subjected that Kingdom to the said *William*, who was therefore surnam'd the Conqueror. Thus Princes of the same Blood, and all of them descended of *Rollo* first Duke of *Neustria*, reigning in *Salerno* and *England*, it was very natural that there should be a Friendship and good Correspondence, both betwixt them and their Subjects.

HERE it will be proper to shew, to what King of *England*, and on what Occasion, the Physicians of *Salerno* in these Times, dedicated that Book. *William Duke of Normandy*, after having conquer'd the Kingdom of *England*, left three Sons, *William Rufus*, *Robert* and *Henry*. To *William* the Eldest \*, he left the Kingdom of *England*; but he died without Children, when *Godfrey of Boulogne* and *Robert* were in the Holy Land. *Robert* whom the Father had appointed Duke of *Normandy*, after having given the Kingdom of *England* to *William Rufus*, resolving to accompany *Godfrey* in this Expedition, on his way to *Palestine*, came into *Puglia* in the boisterous Winter Season, and pass'd all that Winter of the Year 1096, with the *Norman* Princes of *Puglia* and *Calabria*, his Kinsmen, by whom he was entertain'd and caress'd with all Marks of Affection. The Spring coming on, he embark'd with the famous *Godfrey* for the Holy Land. *Jerusalem* was at last taken, but the Joy of this Victory was much abated by the sad News *Robert* had of the Death of his Brother *William*, without Children, to whom he ought to succeed, The Kingdom of *Jerusalem* was offer'd to him, but he refus'd it, resolving to return to *England*, to take Possession of that Kingdom, of which he was nearest Heir. In his Return he took these Provinces in his Way, and was receiv'd in *Salerno* by the Prince his Kinsman, with great Honour and Respect. And seeing he had receiv'd a Wound in his Right Arm at the Siege of *Jerusalem*, which by being ill cured, had turn'd to a Fistula, he consulted the Physicians of *Salerno* about the Cure of it. The Physicians observing that the Wound had been made by a poison'd Arrow, told him, that there was no other way to cure it, but by having the Poison suck'd out of it †. The pious Prince would not consent to that for fear of endangering the Person that should suck it; but the Princess his Wife, by a rare Instance of Love, did not scruple to expose herself to that Danger, and while *Robert* was asleep, suck'd out the Poison, and cur'd him. *Robert* afterwards would have these Physicians to prescribe him a Rule and a Diet for preserving the Health they had restor'd him; and for this End the Book was compos'd, which, tho' one of

\* Capecelatr. hist. lib. 2. pag. 109.

\* Here the Author is mistaken.

† Here again the Author is mistaken as to the Person, Time, and the Place. V. the Eng. Hist. the



the Physicians was the sole Author, bears the Name of the whole School in the Title Page, as the Philosophical Works of the *Schola Conimbricensis* are attributed to that School. It was dedicated to *Robert*, whom they call King of *England*; not that this Prince was ever King of that Kingdom, but that in his Return from *Palestine*, in order to take Possession of it, as his Right, they made no Difficulty to call him King thereof. But his Brother *Henry* being in *England* when *William Rufus* died, took Advantage of *Robert's* Absence, invaded the Kingdom, and took Possession of it; and tho' *Robert* went thither with a great Army in order to recover it, yet he was defeated by *Henry*, and lost the Kingdom. In order to make this Book the more agreeable to that Prince, and that he might the more easily commit the Precepts of it to his Memory, it was compos'd in *Leonine Verse*, which was the best sort of Poetry of that Age; and besides, the *Norman* Princes took so much Delight in the Clink of such Verse, that all their memorable Actions were celebrated in that Rhime. All the Encomiums, Marbles, and Epitaphs that were made on these Princes were in this kind of Rhime; the Epitaph of their first Duke *Rollo* was such; as also all the others made on our *Norman* Princes. This famous Work was publish'd in the Year 1100, which being spread over all *Europe*, gain'd incredible Glory and Reputation to the Physicians of *Salerno*. It had many Commentators, and the most ancient was *Arnaldo di Villanova*, the famous Physician of *Charles II.* of *Anjou*. The two *James's Curius* and *Crellius* bestow'd likewise their Labours on it; and last of all *Renatus Moreau*, and *Zacharias Silvius*, explain'd it with their Notes. So that for many Ages, the *Schola Salerni* above all others was the most famous in the West.

THUS the first School, that after the Decay of the *Roman* Empire, and the Declension of the Academy of *Rome*, was instituted in these our Provinces, was that of *Salerno*; but with this Difference, that as in the Academy of *Rome* Physick was not much regarded, so in the *Schola Salerni*, by the Ignorance of the Age, all other Professions being neglected, Physick, which cannot be separated from Philosophy, was the principal Study; for those who first introduc'd it here, had no Taste for other Sciences, so that Physick and Philosophy were their chief Study. And because they learn'd it from the *Arabs*, who had the Books of *Hippocrates*, *Aristotle*, and *Galen*, in high Esteem; *Galen* for Physick was preferr'd to all others; and *Aristotle* for Philosophy, who with us for many Ages was reputed the Prince of Philosophers.

BUT in these Times this was only a plain School, because it was not founded by any Prince, neither for a long Time did the Princes make any Laws, that could intitle it to be an Academy, College, or University. The first that gave it Laws, was *Roger I.* King of *Sicily*, who among others made one, by which he forbid any Person to practise Physick, until first examined and approved of by the Magistrates and Judges. But this School was more favour'd by *Frederick II.* who ordain'd, that none should presume to take the Title of Physician, or dare to profess Physick, before he was approved of by the Physicians of *Salerno* or *Naples*, and had obtain'd their Licence. And in later Times, the other Kings Successors of *Frederick*, and particularly King *Robert*, Queen *Joan I.* King *Ladislaus*, *Joan II.* and King *Ferdinand I.* conferr'd other Honours and Privileges on this School, and at last it was rais'd to be an Academy, and had the Privilege of conferring the Degree of Doctor, particularly that of Physick, in which it was most eminent, tho' afterwards other Sciences were taught there.

<sup>1</sup> Constit. Regn. l. 18. de probabili experient. Medicor.





## C H A P. XII.

*Of the Ecclesiastical Polity of these our Provinces during the whole eleventh Century, to the Reign of Roger I. King of Sicily.*



THE Popes in this Century made a greater Figure than ever, and their Power, both in Temporal and Spiritual Things was come to a prodigious Height; they were no less dreaded by the People, than suspected by the Princes. The Deposition of the Emperor *Henry*, the Excommunications of Crown'd Heads, the Expeditions to the Holy Land, the Crusades, and the Disputes with Secular Princes about Investitures, made them more rich and powerful than the greatest Kings of the Earth; for by extending their Spiritual Authority over all the Churches of the West, their Power was almost become absolute in these Times, particularly during the Pontificate of *Gregory VII.* They sent Legates *a Latere* into all the Provinces of *Europe*, they sent Vicars from *Rome*, and call'd Bishops to *Rome* in order to give account of their Conduct; they confirm'd or disapprov'd their Elections; receiv'd Appeals from their Sentences, and Complaints from their Diocesans; and either decided them in *Rome*, or appointed Judges on the Spot. In short, they enter'd into the Detail of whatever pass'd in their Diocesses. They either drew all Causes to *Rome*, or appointed Delegates in the Places, who acted by their Authority.

THEY found means to introduce new Maxims and Notions of the Papacy, and to establish it as an Article of Faith, that the Pope had it in his Power to depose Kings and Princes from their Kingdoms and Dominions, and to absolve their Vassals from their Allegiance, if they (the Princes) did not obey their Commands; that the Pope was no less Prince and Monarch in Temporals than in Spirituals; and that all the Ecclesiastical State was intirely exempted from all Power and Jurisdiction of Secular Princes, as well in Temporal as Spiritual Things, and that not by Human, but Divine Right. And seeing in these Times, the Ecclesiasticks and Monks alone, and especially those of the Order of *St. Benedict*, ingross'd all the Learning to themselves, and the People were in profound Ignorance, therefore whatever the Monks and Priests put into their Heads, was receiv'd as an Oracle; so that, as *John Gerson* relates, the Pope was reputed a God, who had all Power in Heaven and Earth.

THE *Greek Church*, which did not agree in this with the *Latin*, and look'd upon the Pope, not as a Bishop, but an Emperor, proceeded to a more open Rupture, by separating herself altogether from the *Latin*; but because all our Churches, that had formerly been subject to the See of *Constantinople*, were by the *Normans* restor'd to that of *Rome*, that Church had no more Concern in our Affairs. Therefore henceforth we shall have no more occasion to mention the Patriarch of *Constantinople*, whose Authority, as well as the *Greek Empire*, was daily dwindling away. Our gallant *Normans* having expell'd the *Greeks* altogether out of *Sicily*, and these our Provinces, restor'd all the Churches to the Pope; and to make it evident what our Princes had done for the Church of *Rome*, *Nilus Doxopatrius*, who was then *Archimandrite* in *Sicily*, wrote a Treatise of the five Patriarchal Sees, and dedicated it to *Roger I. King of Sicily*, wherein, as we have related in the sixth Book of this

this History, he reckons up the Churches, that had been taken from the See of *Constantinople*, and restor'd to that of *Rome* by the *Normans*.

FOR these Reasons, and other signal Services done by the *Normans* to the Church of *Rome*, besides the Monarchy of *Sicily*, the Rights of Investiture were preserv'd intire in the Kingdom of *Puglia* to our Princes; and no Prelate, tho' elected by the Clergy and People, could be ordain'd without their Assent. Whence the Canonical Gloss says <sup>1</sup>, that this was practis'd in the Kingdom of *Puglia*, by a Power, which the Kings had from the Apostolick See. Whether it was for this Reason, or for many others related by us elsewhere on other Occasions, 'tis clear, that during the Reign of the *Normans*, in the Ordination of all Bishops and Prelates of these our Provinces, the Consent of the King was look'd upon as necessary, and without which all Elections were void. So we have seen, that Duke *Roger*, when he took the Church of *Rossano* from the See of *Constantinople*, and restor'd it to that of *Rome*, nam'd the Bishop that was to succeed to the Deceas'd; but because this Bishop was of the *Latin* Church, the People of *Rossano*, who were of the *Greek*, refus'd to submit to the Duke, if he did not give them a Bishop of their own Church, which he agreed to. And in the Election of *Elias* Archbishop of *Bari*, which was in the Year 1089, this same Prince gave his Consent, after which he was consecrated in *Bari* by Pope *Urban II.* <sup>2</sup>, which was likewise practis'd in the Election of the Bishop of *Avellino* in the Time of King *Roger*, when *Robert*, Great Chancellor of *Sicily*, consented to it in the Name of the King <sup>3</sup>. And there are some <sup>4</sup> who have written, that among other Reasons which King *Roger* had to be disgusted at Pope *Innocent II.* and adhere to *Anaclet*, one was, that *Innocent* had been offended with him, because he made an ill use of that Share which he had in the Elections of Bishops and Abbots, by incroaching upon the Freedom of them; and Cardinal *Baronius* <sup>5</sup> likewise gives an account of the bad Use that *Roger* made of this Power; and that at one and the same Time he had given the Church of *Avellino* for Money, to three different Persons, according as they offer'd for it, and afterwards gave it to a fourth, who did not pretend to it; but *Baronius* was not well inform'd of this Fact, because it was not the King, but *Robert* his Great Chancellor, that excluded the three as guilty of *Simony*; for resolving to expose their Villainy, he made an Agreement with all the Three separately, and after he had receiv'd the Money, fairly bit them, and caus'd a poor Monk, of a good and holy Life, and who was not in the least seeking after it, to be chosen Bishop, as *John* of *Salisbury* Bishop of *Chartres* <sup>6</sup> relates. Not only our *Norman* Kings, but likewise the *Suevi* kept up this Privilege; whence, while *Frederick II.* was under the Guardianship of *Innocent III.* this Pope gave his Consent in all Elections, but it was *Vice Regia*, and as Guardian of the young Prince; as we shall shew in the following Books.

OUR *Norman* Princes likewise kept Possession of the *Regalia* in our Churches, in the same manner as they did in *France*; for after the Death of a Bishop, until a Successor was elected, all the Churches of the Kingdom, and particularly those that wanted Pastors, being in the King's Power, he dispos'd of their Revenues; and therefore it became a Custom, that as soon as the Bishop died, the King's Bailiffs took the Charge and Management of the Rents till the Church was provided, as the same King *Roger I.* declares in one of his Constitutions <sup>7</sup>.

<sup>1</sup> Gloss. cap. placuit, in princ. & in cap. nemini Regum 16. qu. 17.

<sup>2</sup> Archid. Barenf. apud Baron. ad ann. 1091. Eleto Elia in Archiepiscopum Bari, voluntate, atq; consensu Duc. Rogerii, filii Duc. Roberti. Pellegr. in Lup. Protisp. ann. 1089.

<sup>3</sup> Jo. Sarisbur. de Nugis Curialium. Cape-

celatr. hist. lib. 1. pag. 61.

<sup>4</sup> Azorius Institut. mor. p. 2. l. 5. cap. 44. §. Innoc.

<sup>5</sup> Baron. ad ann. 1097. tom. 11. fol. 694.

<sup>6</sup> Jo. Sarisb. loc. cit. Capecelatr. loc. cit.

<sup>7</sup> Constit. Regn. tit. de Administr. rerum Eccl. post mortem Prælat.

## S E C T. I.

*Monks and Temporalities.*

OUR Norman Princes extended their Authority and Protection, not only to the Churches, but likewise to the Monasteries, which were daily erected under new Rules and Reforms. For seeing the Monastick Order had been greatly increas'd and enrich'd by the Piety of these Princes, it was reasonable that they should continue under their Care and Protection. The vast Riches and Privileges of the Order of St. *Benedict*, occasion'd a great Looseness of Manners among the Monks; the Reputation of their Sanctity was sunk, their Discipline intirely lost, and their Rules utterly neglected; for they intermeddled in the Affairs of State and War, frequented Courts, and concern'd themselves very much in all the Enterprizes of the Popes against Princes. Such Remissness stirr'd up many to imbrace a more austere Life, whence sprung the Establishment of new Orders, all which made Profession of following the Rule of St. *Benedict*, tho' they had some particular Customs and Usages.

IN the beginning of this Century, in *Italy*, *Romualdo* being resolv'd to lead a solitary Life, retir'd to the Solitudes of *Arezzo*, where he liv'd in the House of a certain Man, nam'd *Maldo*, and instituted a Congregation of Monks, who, from the first Place they liv'd in, were call'd *Camaldolese*'. The Monasteries of this Order increas'd to a great Number all over *Italy*, and likewise got footing in these our Provinces. *Peter Damian* likewise instituted a Congregation of the like Kind; and *Giovann Gualberto* of *Florence*, having left his Monastery, in order to lead a more austere and regular Life, retir'd to *Vallombrosa*, and there laid the Foundation of a new Society.

BUT the *Cartusians*, instituted by St. *Bruno* in the Year 1086, made the greatest Progress among us. *Bruno* was a Native of *Cologne*, who while a Canon of *Rheims*, retir'd with Six of his Companions to the Solitude of *Chartouse*, which *Hugo* Bishop of *Grenoble* assign'd them. In the Year 1090, *Urban II.* invited him to come into *Italy*, where he retir'd to a Solitude in *Calabria*, call'd *la Torre*. The great Fame of his Sanctity, mov'd *Roger* great Count of *Sicily*, to contract a strict Friendship with him; and the Countess *Adelaide* his Wife, being deliver'd of a Son in *Melito*, he caus'd *Bruno* to baptize him: By his Intercession, *Roger* receiv'd signal Favours from Heaven, especially Deliverance from a Conspiracy, which *Sergius* the Greek had contriv'd; whereupon this Order was first establish'd among us in *Calabria*, and the Norman Princes bestow'd great Privileges and Riches upon them. The Kings of the House of *Anjou*, afterwards enrich'd a Monastery of theirs, founded on the Mount of St. *Anselm* in *Naples*, under the Name of St. *Martin*, from a little Church, which stood formerly there, dedicated to this Saint; and in process of Time, they arriv'd at the Height we now see them.

IN these Times, there were other Reforms under different Rules made in *France*, whence they afterwards reach'd us. Two Gentlemen of *Vienne*, *Gaston* and *Gironde*, who had dedicated their Persons and Estates for the Relief of those that were troubled with St. *Anthony's* Fire, and resorted thither to implore the Intercession of St. *Anthony*, gave Rise to the Order of St. *Anthony*, at first compos'd of some Laicks, and afterwards of Religious, who profess'd the Rule of St. *Augustin*. In the Year 1098, *Robert* Abbot of *Molefme*, retir'd to *Cistelle* in the Diocess of *Chalon* on the *Saone*, with some Religious, to the Number of Twenty-one; and founded a Monastery there, and left some Religious in it, when he return'd to *Molefme*. This Reform was approv'd of by the Pope in the Year 1100; and *Stephen Harding*, in the same Year 1100, was the first that brought this Order to perfection, and it became most flourishing.

\* Sigon. de Reg. Ital. lib. 8. ann. 1009.

BUT  
†

BUT with us in the beginning of the following Century, about the Year 1134, under Roger I. King of *Sicily*, a new and a more remarkable Reform of the *Benedictins* began, the Author of which was *Gulielmo de Vercelli*, who was likewise the Founder of the Order of the Friars of *Monte Virgine*, and for the Fame of his holy Life, was much belov'd by King Roger, and *George of Antioch* his High Admiral, and was esteem'd a Saint by many at Court, whither he frequently resorted about the Affairs of his Monks. Roger much favour'd his Order, and greatly enrich'd the Monastery newly founded by him in *Monte Virgine*, not far from *Naples*. *Giovanni di Nusco*, a Monk of his Order, who liv'd in his Time, and wrote this Saint's Life, which, as *Francisco Capecelatro*<sup>1</sup> testifies, is written on Parchment, and preserv'd in the Archives of the Monastery of *Monte Virgine*, got a special Grant from King Roger, engross'd in *Palermo* the 8th of *December*, in the Year 1140, in which the King, for the Welfare of the Souls of Count Roger his Father, of Queen *Adelaida* his Mother, and *Albiria* his Wife, gives to the Monks of *Monte Virgine*, the Church St. *Maria di Buffiana*, and likewise confirms by the same Writ, all the Possessions and Revenues which they possess'd at that Time, and all those, that for the Time to come should be granted them; which Grant is subscrib'd by Prince *William*, in the Name of his Father. In process of Time, the Order increas'd, and in the City of *Naples*, in the Street of the *Seggio di Nilo*, there was a new Monastery and a Church erected, which was afterwards enlarg'd by the famous Lawyer *Bartolomeo di Capua*, and where the Bones of *Matteo degli Afflicti*, another of our renown'd Lawyers, lie.

BUT 'tis worthy of Observation, that these Reforms of the Order of St. *Benedict*, sprung from the Looseness of Discipline and Manners, occasion'd by so great Riches, which corrupted all good Customs. But who would have believ'd that these very Reforms, chiefly founded on the Contempt of worldly Riches, would have been the Occasion of acquiring greater temporal Possessions to the Monastick State? Their credulous Votaries, edified by the austere Lives of the first Founders, and taken with their Sanctity, and the miraculous Stories they told them, did not fail very quickly, to heap Riches upon them, by making large Donations to the Churches, and new Monasteries that were daily erected; insomuch that in process of Time, they became as rich as those before the Reform; so that the Reforms wanted to be reform'd; for besides their old, they were still making new Acquisitions. And in the following Ages, it was astonishing to see new Orders start up, founded so much on the Contempt of worldly Riches, that on this very Account, they took the Name of *Mendicants*, and to the three Vows, added a Fourth, of living by Begging and Alms; but they no sooner found that the People, mov'd by the Austerity of their Lives, were inclin'd to enrich them, than Ways and Means were found to reconcile the Inclinations of the People with their Vows; so that in process of Time, the *Mendicant* Orders grew so Rich, as occasion'd Remissness, and new Reforms were thought on. But to what Purpose? The reform'd *Dominicans* kept to it for some Time; but afterwards they return'd to their former Ways. Among the *Carmelites* in the later Centuries, there was a more austere Reform made of Bare-footed *Carmelites*, who, at their first Institution, professed nothing but Poverty, and a total Abhorrence of worldly Riches; but afterwards, Means were contriv'd to make them capable of Succession, Inheritances, and all manner of Purchase, insomuch that among us, their Riches have amounted to what we now see. But what passes all Belief is, that in the Time of Pope *Paul IV.* there started up a new Order of regular Clergy, now call'd *Theatins*, who, by their Institution, were bound, not only to live a poor and mendicant Life, but to exceed all the other *Mendicants* in Austerity, by being forbidden, even to go about to ask Alms: And as the Lillies of the Field, and the Birds of the Air are cloath'd and fed, without Spinning, or any kind of Labour, so were they to rely on divine Providence; yet all that has avail'd nothing; because some have been so taken with them, as, in spite of their Teeth, to heap Riches upon them by large Donations and Inheritances; but they bore those Outrages patiently, and refus'd nothing; and there have likewise been Ways fallen upon, to make them capable of Legacies and Successions, and their Riches are increas'd to such a Pitch, that among us, they have rear'd up so magnificent and

<sup>1</sup> Istor. di Napoli lib. 1. pag. 52.

surprizing Edifices, as look more like Palaces than Monasteries, and surpass the stateliest Buildings of the most famous Cities in the World.

T H E R E were in this and the following Century, many other Opportunities, whereby the Ecclesiastical State made great Acquisitions. The chief was the Holy War; it was a surprizing thing to see, how passionately the Minds, not only of Princes, but of the common People, were bent on these Expeditions: The Devotion they had for those holy Places, but especially for *Jerusalem*, was so great, that, overlooking all Hardships, they expos'd themselves to the Dangers of very long Voyages, to Ambuscades and Robbers; the Inclemency and Rigour of the Seasons, Hunger and Thirst, and the want of all the Necessaries of Life, with Pleasure and Satisfaction; we are told<sup>1</sup>, that *Fulk* Count of *Anjou*, went to *Jerusalem*, to be there lash'd by two of his Servants, with a Rope about his Neck, before the Sepulchre of our Saviour. From this we may easily imagine, how intent they were on going thither, and contributing to rescue those holy Places, out of the Hands of the Infidels. They did not value their Estates, Wives or Children; but Husbands and Fathers forsook every thing, sold what they had, enlisted themselves in this War, and cross'd the Seas; among us those of *Puglia* and *Calabria* distinguish'd themselves above all others, and who quitting their Houses, follow'd *Boemondus* and *Tancred*; even the very Women, without regard to their Children, sold what Goods were left them, for carrying on this War. The Popes and Bishops, by their Briefs, took under their Protection the Houses and Affairs of those, who, as Soldiers of Christ, had mark'd themselves with the Cross, and this brought that Increase of Riches to their Churches, which commonly attends Tutors and Guardians of Widows, Orphans and Minors; the secular Magistrates durst not pretend to protect any of them, for fear of Excommunications, which in these Days were fulminated unmercifully. Add to this, that *Eugenius* III. ordain'd, that any Person for this holy Expedition, had also Power to alienate Fiefs; and if the Lord of the Manor would not consent, the Churches, even in spite of him, could accept of them, which open'd a Door to vast Acquisitions.

T H E Popes likewise made use of the Forces rais'd for the Holy Land, to whatever Purpose they pleas'd, whereby they much increas'd the temporal Power of the Church of *Rome*; and even the Pope's Legates, and the Bishops of the Places where such Armies rendezvous'd, imploy'd them for augmenting the Temporalities of their Churches. But what enrich'd them most, was a Custom then introduc'd, that whoever could not go in Person to the Holy War, pay'd the Expences of the Voyage, for which he was not only absolv'd from the Vow, but likewise obtain'd Indulgences, and other Privileges, and this was look'd upon to be as good as if he had gone in Person. The Offerings and Contributions which were made by the Faithful, and especially Ladies, and others, that were unfit to serve in Person, came to a vast Sum. All this Money was not expended on the War; without doubt each Chieftain had his Share, and a considerable Part of it stuck to the Fingers of the Prelates, which much increas'd the Ecclesiastical Riches.

H E N C E started up a new Sort of regular Orders, call'd *Military Orders*; these, though instituted for the Effusion of Blood, were so mightily encourag'd, that their Numbers, as well as their Weakh, became very great in a short Time. The first was that of *St. John of Jerusalem*, or *Hospitalers*, appointed for the Entertainment of Pilgrims, that travell'd to that City. The second was that of the *Templars*, instituted in the Year 1118; their Business was to provide for the Security of Pilgrims, and to fight those that offer'd to molest them. The last was the *Teutonic Order*, who profess'd to perform both these Offices: What immense Riches these Orders amass'd, especially the *Hospitalers* and the *Teutonicks*, is notorious to every Body.

I N imitation of these, those of *St. James*, and of *Calatrava* started up, which were instituted in *Spain* for the Benefit of those who went in Pilgrimage to *St. James* in *Galicia*; and for the like Reasons, other Orders were instituted in other Countries. This so fervent Zeal for these upstart Holy Places, very much cool'd the Devotion, which formerly was so very great, for those of *Monte Cassino*, and *Monte Gargano*; but inflam'd that for *St. Nicholas of Bari*, which was more frequented than any other, because of its Novelty.

<sup>1</sup> See Montagne's Essay, l. 1. c. 4.



IN these Times there were likewise other Means fallen upon, that very much contributed to the Increase of the Ecclesiastical Riches. The looking narrowly into the Matter of *Tythes*; the establishing the *First-fruits*, and the Privilege of *Sepulture*; and accepting every thing from every Body. The *Tythes* from voluntary, became now obligatory, and if they were not pay'd, they were exacted with great Severity, by the means of Censures; and it was establish'd, that not only the *Predial* should be pay'd out of the Fruits of the Earth, but likewise the *Mixt* of the Fruits of living Creatures; and also *Personal* of Man's Industry and Labour. And in process of Time, Pope *Alexander III.* about the Year 1170, determin'd, that Excommunication should be made use of for getting compleat Payment of the *Tythes* of Mills, Fishings, Hay, Wool and Bees; and that the *Tythes* should be paid before the Charges of gathering in the Fruits were deducted; and Pope *Celestine III.* in the Year 1195, appointed, that the *Tythes* not only of Wine, Grain, the Fruits of Trees, Sheep, Gardens and Merchandize; but likewise those of Soldiers Pay, Game and Wind-Mills, should be paid under Pain of Excommunication; for this, see the Decretals of the Popes. But all this did not serve the Canonists, they carried the Matter further, and taught, that the Poor were oblig'd to pay the *Tythes* of what they got by Begging; that Whores were bound to pay the *Tythe* of what they earn'd by Whoring, and other such Things that were impossible to be put in Practice.

TO the *Tythes*, were added the *First-fruits*, which were first instituted by *Alexander II.* in imitation of the *Mosaical Law*, by which they were impos'd on the *Israelites*: *Moses* did not appoint the Quantity, but left it to the Discretion of the Offerer. The Rabbins afterwards, as *St. Hierom* testifies, determin'd that it should not be less than the Sixtieth Part, nor more than the Fortieth; which has been well imitated by our Clergy in the most advantageous Manner, who having appointed the Fortieth Part, call'd it afterwards the *Fourth Part*.

The Emoluments accruing from burying the Dead, and other holy Offices, were very great: Formerly *Tythes* were settled on the Curates for administering the Sacraments, burying the Dead, and other Functions, and nothing else was paid for these Offices; but when afterwards some pious, rich Persons, thought fit to give something for burying their Friends, at last the Courtesy was turn'd into a Custom, and the *Quantum* was settled. Afterwards, when this came to be disputed, and the Laicks refus'd to pay any thing, because the *Tythes* were pay'd on that Account, the Clergy deny'd to perform the Functions, if they got not what was used to be paid. *Innocent III.* afterwards in the Year 1200, appointed that the Ecclesiasticks should perform the Functions, but the Laicks should be forc'd by Censures, to observe the laudable Custom of paying what was wont to be paid.

T H E R E was also another Novelty brought in, contrary to the antient Canons, which was of great Service in acquiring more Riches: It was forbid by the Canons, to receive any thing by way of Donation, or Testament from publick Sinners, sacrilegious Persons, those who were at Variance with their Brethren, Whores, and other such Persons; all these Impediments were remov'd, and every thing was accepted of from every Person, and even the greatest and most frequent Legacies and Donations, were left to the Churches by Whores, and Persons that bore their Relations a Grudge. In such manner did the Popes fall upon all Means to augment and preserve their Acquisitions; and the Clergy, for their own Interest, not only consented to this, but promoted it both by their Pens and Preachings.









THE  
CIVIL HISTORY  
Of the KINGDOM of  
N A P L E S.

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B O O K   X I.

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ROGER, whom we shall shortly call I. King of *Sicily* and *Puglia*, having with so much speed, and without requiring Investiture from the Pope, taken Possession of these our Provinces, to which, by the Death of *William* without Children, he had succeeded, exasperated Pope *Honorius* in such a Manner, that it was not possible to pacify him, either by Embassies, or the Offer he made him of the City of *Troja* ; neither in fine, was the Fear of losing *Benevento*, able to move him. He excommunicated *Roger* Thrice<sup>1</sup> ; but finding these Thunder-bolts were thrown in vain, he had recourse to temporal Arms ; and in order to hasten the Expedition which he intended against this Prince, immediately went to *Benevento*, where he encourag'd many to take Arms and revenge the Affront, which he reckon'd he had receiv'd ; and when he got some Forces together, he march'd with all possible haste towards *Puglia*, where *Roger* with his Army was incamp'd. But this cunning Prince considering, that the Pope's Army compos'd of Troops, which some rebellious Barons had furnish'd him, could not continue long together, thought fit to forbear Hostilities, and let the Summer pass without coming to an Engagement. On the Approach of Winter, the Army dispers'd, and the

<sup>1</sup> Ab. Telefin.

Pope was left without Troops ; so that giving over the Enterprize, he return'd to *Benevento*. Roger unwilling to keep up the Quarrel, apply'd anew to him for Peace, and both meeting upon a Bridge made on purpose over the River *Calor*, in the Year 1128<sup>1</sup>, they agreed on these Conditions, that Roger, as his Predecessors had done, should swear Fealty to the Pope, and promise to pay the usual Quit-Rent ; and on the other hand, that *Honorius* should give the Investiture of the Dukedoms of *Puglia* and *Calabria*, in the same manner as formerly ; all which were perform'd<sup>2</sup>. This Peace was of such Advantage to the Church of *Rome*, that soon after the *Beneventans* rebelling, Roger, who was then in *Puglia* with a good Army, march'd thither immediately, and reduc'd that City to the Obedience of the Church.

THIS Prince having settled the Affairs of these Provinces so much to his own Glory, and gain'd Pope *Honorius's* Friendship, retir'd to *Palermo* ; and by his great Prosperity seeing himself Master of so many Provinces, he look'd upon the Titles of Great Count of *Sicily* and Duke of *Puglia*, as too low, and that he ought to assume that of a King, to which his Mother *Adelaida* push'd him most, who having been Wife of *Baldwin* King of *Jerusalem*, tho' afterwards repudiated, retain'd the Royal Title, and instigated her Son Roger to undertake the Conquest of that Kingdom ; add to this likewise, his considering that those who anciently had govern'd *Sicily*, had the Title of Kings<sup>3</sup>, therefore he resolv'd to take this Title ; and having made *Palermo* the Metropolis of the Kingdom, he would be call'd King of *Sicily*, of the Dukedoms of *Puglia* and *Calabria*, and the Principality of *Capua* ; and in this manner he was proclaim'd King by his Subjects : In his Charters and publick Writs, these were the Titles he took, *Rex Siciliae, Ducatus Apuliae, Principatus Capuae*. And seeing it was the Custom at this Time, for Kings to be crown'd and anointed by their Archbishops, he made himself to be crown'd King of *Sicily* and of *Puglia* by four Archbishops, to wit, those of *Palermo, Benevento, Capua*, and *Salerno*, in presence of the Chief Barons, many Bishops and Abbots, and all the Nobility and People ; which Ceremony could not be perform'd more lawfully, prudently, and with greater Pomp ; for Roger was become so great a Prince, that he could lawfully take the Title of King. Besides he had the good Will and Inclination of the People, which before the Custom of Kings being anointed by Bishops was brought in, was thought sufficient. And we have elsewhere observ'd, that *Theodorick the Ostrogoth* was thus proclaim'd King of *Italy*, and the *Longobard* Kings in the same manner. The Rites and Ceremonies were always different, as were the Nations, some us'd to raise the Elected upon a Shield, others made use of a Spear, and others had different manners of performing it<sup>4</sup>.

BUT it being the Custom at this Time, that this Solemnity was to be perform'd by Bishops, who put the Crown on the Head of the Elected, and anointed him with sacred Oyl, Roger did not fail to have it thus done ; for having been proclaim'd King, not only of *Sicily*, but also of the Dukedoms of *Puglia* and *Calabria*, and of the Principalities of *Capua* and *Salerno*, which comprehended these our Provinces, he would have the four Archbishops, to whom by ancient Custom, it belong'd to anoint and crown their Princes, to perform the Ceremony ; they by the Provinces, of which they were Metropolitans, representing *Sicily*, and all *Italy* on this Side of the *Tyber*, crown'd him in a manner with four Crowns at the same Time, to wit, the Archbishop of *Palermo* for *Sicily*, and our three Archbishops for all these Provinces, which anciently were comprehended in the Principalities of *Benevento, Capua*, and *Salerno* ; which was not without a Precedent, for they could observe, that other Kings were wont to be crown'd with as many Crowns as they had Kingdoms ; therefore they were not crown'd by one single Bishop, but by more, as *Hincmare* Bishop of *Rheims* writes of the Coronation of *Charles the Bald*, which was perform'd in *Metz* in the Year 869.

THEREFORE the Coronation of Roger could not be more legally perform'd, neither had any Person cause to complain, that he thought this enough. But the Popes, as we have observ'd elsewhere, among their other bold Attempts, by which they sought to enlarge their Authority, had begun to pretend, that no

<sup>1</sup> Falco Benev.

<sup>2</sup> P. Diac. lib. 4. cap. 96.

<sup>3</sup> Ab. Telef. Quia olim sub Priscis temporibus super hanc ipsam Provinciam Reges nonnullos habuisse traditur. And in the Bull or In-

vestiture of Innocent II. 'tis said, Regnum Siciliae quod utique prout in antiquis refertur historiis, Regnum fuisse, non dubium est.

<sup>4</sup> V. Patric. de Marce Gallico.

Christian Prince could take upon him the Title of King without their Grant and Permission. And they were so much the more obstinate in this Claim, as they arrogated to themselves the very same Authority in the Election of the Emperors of the West, pretending, that without their Consent none could be rais'd to that Dignity, and they did not blush to say that the Empire, as well as all other Kingdoms, depended upon them, as *Clement V.* and *Adrian* believ'd. Yea, one of them writing to the Emperor *Frederick* himself, did not stick to say, that the Empire was a Gift (*Beneficium*) of the Popes, which *Frederick* resented in the manner that every Body knows, by obliging that Pope, in order to make him recant his Insolence, like a Pedant to explain the Word *Beneficium*, and in what Sense he had taken it. The Popes claim'd this Power as Vicars of Him *per quem Reges regnant*; and Princes even believ'd it, and persuaded themselves, that as the Kings of *Israel* were with great Solemnity anointed by the Prophets, so they ought to be anointed and crown'd by the Popes. Whence many Princes of *Christendom* did not scruple to pay Tribute, and become Feudatories to the Church of *Rome*. Thus *Ethelwolf* King of *England*, in the Year 846 went to *Rome*, and got his Title of King confirm'd by Pope *Leo IV.* and made his Kingdom Tributary to the Apostolick See, by paying a Penny *Sterling* yearly for each Family; and this Tribute, which was call'd *St. Peter's Pence*, continu'd to be paid until the Time of *Henry VIII.* And in succeeding Times, when Ignorance and Stupidity were at a greater height, other Princes follow'd this Example, and paid Tribute. In the Year 1178, *Alphonfus* Duke of *Portugal*, having got the Title of King from *Alexander III.* for his gallant Achievements against the *Moors* of *Spain*, promis'd to pay Tribute. *Stephen* Duke of *Hungary*, the Dukes of *Poland*, *Arragon*, and other Princes did the same; insomuch that *Bodinus* himself<sup>a</sup> did not scruple to say, that the Kings of *Jerusalem*, *England*, *Ireland*, *Naples*, *Sicily*, *Arragon*, *Sardinia*, *Corfica*, *Granada*, *Hungary*, and the *Canary Islands*, were all Feudatories of the Church of *Rome*. And the cunning Popes, to preserve this Sovereignty over these Princes, tho' they were real Kings, and own'd as such by the People, and recogniz'd by the other Princes of *Europe*, when they found that they were indifferent whether they gave them these Titles or not, very easily bestow'd them, and they as easily accepted of them, without diving into the Secret that was hid under this Generosity; thus in later Times our *Neapolitan* Pope *Paul IV.* took it in his Head to erect *Ireland* into a Kingdom, and tho' *Henry VIII.* had made it one before, and the Title had been continu'd in *Edward*, *Mary* and her Husband, nevertheless the Pope, dissembling his Knowledge of what *Henry* had done, would have it to be thought that he had erected that Island into a Kingdom, that so the World might believe, that the Popes alone had Power to make and unmake Kingdoms; and that the Queen's Title was purely owing to the Pope, and not deriv'd from her Father. Our Forefathers saw the same practis'd with respect to the Duke of *Tuscany*, who got the Title of Great Duke from the Pope. And were this Power claim'd by the Popes only, perhaps it might be born with, but even the Archbishops of *Milan* assum'd the Authority of making the Kings of *Italy*, as we have shewn in the preceding Books of this History.

BUT on the other hand, it was no less strange to see the Emperors of the West set up their Claim, that they only had Power to make Kings, and erect States into Kingdoms; their Claim was founded on the Empire of the West's being restor'd in the Person of *Charles the Great*, and that they as Successors of this renown'd Emperor, had a Right to all the West; for if the *Roman* Senate took upon them in the popular State to make Kings, they thought they could much more do so. Above all others the Emperor *Frederick I.* had this Notion; he sent the Sword and the Royal Crown to *Peter* King of *Denmark*, giving him the Name of King as a Title of Honour only, reserving expressly (as *Trithemius*<sup>b</sup> relates it) the Sovereignty of his Country to the Empire, which was detrimental to the Empire itself; for on that account the Kings of *Denmark* took occasion by Degrees to withdraw themselves from their Obedience to the Empire, and in consequence of the Title of Kings, have made themselves absolute Sovereigns. The same Emperor gave the Title of King to the Duke of *Austria*; but his Fate was quite the Reverse of that of the King of *Denmark*, for he no sooner got this Title, with the same Reservation of Sovereignty, than he set up for himself, refus'd all Obedience to his Sovereign, and twelve Years

<sup>a</sup> V. Bodin. de Rep. cap. 6.<sup>b</sup> Trithem. cap. 17.

after

after was depriv'd of the Title of King, and forc'd to call himself only Archduke. This same Emperor likewise gave the Title of King to the Duke of *Bobemia*, with the like Reserve of Sovereignty ; in which there has been no Alteration since, as well by reason of the Smallness of the Kingdom in the Neighbourhood of the Imperial Seat, as because this King is an Elector.

WE have elsewhere observ'd, that *Cujacius* <sup>1</sup> and some others believ'd, that *England* once acknowledg'd itself Feudatory to the Emperor, but that *France* never did. But the *English* give him the Lye ; and *Arthur Duck* <sup>2</sup> says, that *Cujacius* wrote this without any Ground, for in the same Century that *France* shook off the Yoke of the Empire, *England* did the same, and the *Britons* are as independant of the Empire as the *French*.

THUS both the Pope and the Emperor claiming a Power to make Kings, and pretending that all Dominion depended on them, there arose an obstinate Dispute amongst our Doctors, according to their different Factions, some maintain'd the Opinions of *Clement* and *Adrian*, that the Empire, and all Kingdoms depended on the Pope ; others sided with the Emperor ; and *Bartolus* <sup>3</sup> a Stickler for the Rights of the Empire, was so stiff in his Opinion, and run into such Excess, that he did not scruple to pronounce him to be a Heretick, that would not own the Emperor for Lord of all the World ; for which he was check'd by *Covarruvias* <sup>4</sup>, and other Writers, who look'd upon such a Proposition with Scorn.

BUT amidst this Variety of Opinions, while some maintain'd the one, and some the other Side of the Question ; they all agreed that the Sovereignty of the Christian World, depended either on the Pope or the Emperor. A Proposition as false, as repugnant to good Sense, and to what we observe in other Kingdoms and Monarchies ; for Sovereignty proceeds from nothing else, but either from Conquest, or the Submission of the People ; neither has the Pope, as may be observ'd in many Places of this History, as Successor to *St. Peter*, or as Vicar of Christ, any Right to pretend to it ; for the Power given to *St. Peter*, by him who declar'd that his Kingdom was not of this World, had no relation to an Earthly and Temporal, but to a Spiritual and Eternal Kingdom in Heaven, as we have fully demonstrated in the first Book, when we had occasion to treat of the Ecclesiastical Polity. And tho' now a-Days we see him Lord of so many States, and in Possession of many notable Prerogatives in the Dominions of other Princes, yet all is owing either to the Concession and Toleration of Princes, or to Custom, which by length of Time, and their exquisite Management and Cunning, has taken such deep Root, that in many Countries 'tis not possible to eradicate it, whereof our Kingdom is a very flagrant Instance, which became a Fief of the Church, by the voluntary Concession and Connivance of its Princes, who permitted the Popes to make many Incroachments, as we shall see in the Course of this History.

MUCH less can the Emperors of *Germany* pretend to this Power ; for the Kingdoms not conquer'd by *Charles the Great*, such as *Spain*, and many others, certainly continu'd real Monarchies, and independent of the Empire. Neither can the Empire of the West's being restor'd in the Person of this Prince, import any thing else, but that partly by Succession, and partly by Conquest, he made himself Master of so many Kingdoms and Provinces, that he could justly take the Title of Emperor ; and afterwards the many Kingdoms and Provinces, such as *France*, &c. which were lost by his Successors, return'd to the State they had been in before *Charles the Great* assum'd that Title ; and either by Conquest, or the Submission of the People, came under the Dominion of other Princes, and these, as real Monarchs and Kings, possess'd them independently ; but the *French* pretend, that *France* was so far from being a part of the Empire, that the Empire was rather a part of the *French* Monarchy.

THUS *Roger*, with respect to *Sicily*, which had never been conquer'd by *Charles the Great*, nor ever subjected to the Empire of the West, but rather to that of the East, had no occasion to have recourse to the Empire of the West, when he resolv'd to erect it into a Kingdom, as it anciently had been. And tho' the Emperors of the West were Sovereigns of the Provinces comprehended in the Dukedom of *Benevento*, when it was at its greatest Height, and were acknowledg'd as

<sup>1</sup> Cuj. l. 1. de Feud. tit. 2. §. & quia vidimus.

<sup>2</sup> Arth. de Auth. Jur. Rom. lib. 2. de Angl. num. 1.

<sup>3</sup> Bartol. in l. hostes, de Captivis.

<sup>4</sup> Covar. pract. quæst. 1. num. 2.

such by the *Longobard* Princes; yet the *Normans* afterwards lodg'd off that Dukedom from the Empire of the West, as they did *Puglia* and *Calabria*, from that of the East, and govern'd them as independent of both these Empires. And tho' at first they had receiv'd the Investiture of *Puglia* from the Emperors of the East, yet, as we have seen, that was not regarded, because the *Normans* afterwards chose rather to be Feudatories of the Apostolick See, than of the Empire: Neither did the Emperors of the East mind it much. However, 'tis true, that both *Lothaire* and his Successors, when Occasions offer'd, did not fail to keep up their Pretensions to Sovereignty: Thus *Lothaire*, when *Rainulphus* wanted to be invest'd with the Dukedom of *Puglia* and *Calabria*, in Opposition to our *Roger*, pretended to invest him; and on the other hand, Pope *Innocent II.* pretended it belong'd to him to give the Investiture: In order to prevent Quarrels betwixt them, of which *Roger* the common Enemy would have taken Advantage; it was agreed that both should give Investiture, which they both perform'd with the Standard. And there was a Dispute betwixt *Innocent II.* and the same *Lothaire*, about the Principalities of *Salerno* and *Amalphis*, of which the Popes had not as yet given any Investiture; *Lothaire* pretended to give it, which the Popes strenuously oppos'd, upon which arose those Disputes, which our *Roger* made the best of to his own Advantage. And on account of the same Pretensions, in Times less remote from us, *Henry VII.* the first Emperor of the House of *Luxemburg*, summon'd *Robert* King of *Naples*, and Count of *Provence*, before his Tribunal at *Pisa*, because he pretended that the Kingdom of *Naples* was a Fief of the Empire; and having put him under the Ban of the Empire, and depos'd him, he invest'd *Frederick* King of *Sicily* with the Kingdom, who came into *Calabria* in order to conquer it, and took *Reggio* and many other Cities on that Coast. But *Henry* died soon after, so that the Expedition turn'd to no account, and *Frederick* being thus disappointed, return'd to *Sicily*.

BUT the Empire being now confin'd to *Germany*, the Emperors are look'd upon at this Time as simple Princes, who cannot so much as pretend to be Sovereigns even there; the Sovereignty being lodg'd in the Empire, as *Bodinus* has clearly prov'd; and other Princes being establish'd in their Kingdoms and Dominions, by a long Tract of Years, and altogether independent on the Empire, on good Grounds boast, that their States are true Monarchies, as doth our Kingdom of *Naples*, notwithstanding the Investiture which our Princes receive from the Popes, which Investitures do not in the least derogate from the Independency, Sovereignty, and Supreme Royalties, with which they are adorn'd, and by which they are reputed, as they really are, true Monarchs, as we shall shew in the Course of this History.

BUT let us return to the Coronation of our *Roger*: Tho' in those Times the Emperors of the West pretended to the Sovereignty of these our Provinces; yet the Popes had actually excluded them, and they had nothing left them but the bare Claim. The *Norman* Princes therefore did not think fit to take Investiture from them; neither had they any Thoughts about it. But on the contrary, the Authority of the Popes was so great in these Times, that Princes did not think they could assume the Royal, nor any other Title, without their Consent; the *Norman* Princes, especially *Roger*, seem'd to be persuaded of this.

AND there even are not wanting good Authors, who write, that *Roger* never took it upon him to be crown'd King, and to assume that Title, without the Permission and good liking of the Popes; and that he was not twice crown'd, first by his own Authority, in the Year 1129, and next by *Anaclet*, in the Year 1130; for which we desire no better Voucher than the most accurate *Pellegrinus*\*, who, from the Authority of *Falcon* of *Benevento*, and the Abbot of *Telesse*, maintains, that *Roger* made himself to be crown'd only once, and that by the Authority of *Anaclet*; for, by the Death of *Honorius*, which fell out in February in the Year 1130, a Schism having arisen betwixt *Innocent II.* and *Anaclet II.* both of them being elected Popes the same Day, by opposite Factions; *Roger* was pleas'd to side with *Anaclet*, who, looking upon it as the most lucky Thing that could have happen'd to him, because being supported by so powerful a Prince, he should be able to withstand *Innocent's* Faction, deny'd him nothing that he could demand; so that *Anaclet* came to *Avellino* in the Month of *October* of the same Year, and appointed the Time and Place of the Coronation, and the same Month return'd to *Benevento*,

\* P. Diac. lib. 4. cap. 17.

\* Pellegr. in Castigat. ad Falc. Ben. A. 1130.

where he caus'd the Bull to be drawn up, as we read it in *Baronius*; and sent one of his Cardinals to *Sicily*, in order to crown him, which was accordingly perform'd in *Palermo*, in the Month of *December* of the same Year on a *Sunday*, being the Nativity of our Saviour, with great Solemnity and Pomp, which is describ'd by the Abbot of *Telese*, a contemporary Writer, and Eye-witness, and one of *Roger's* Favourites. *Falcon of Benevento*, *Petrus Diaconus*<sup>1</sup>, all the Antients, and especially the Abbot of *Telese*<sup>2</sup>, mention this as the only Coronation of *Roger*, without taking Notice of any other. And to tell the Truth, if there had been any, surely the Abbot of *Telese*, who wrote the Actions of this Prince so particularly, and those wherein *Anaclet* was concern'd, with so much Exactness, had no Motives to pass over the first in Silence, and conceal it out of favour to *Roger*. Neither would he have neglected to give an Account of the great Solemnity and Pomp, and the Consent of so many eminent Prelates and Lords, which are said to have been present at this first Coronation, celebrated at a Time, when there was no Schism in the Church; but when *Honorius*, by the Peace made with *Roger*, was in the most strict Friendship with him.

THE first we find that mentions this Coronation, so solemnly perform'd by four Archbishops, is *Fazzellus*<sup>3</sup>, from whom 'tis probable *Sigonius* had it. But these jumble many Things together with so little Coherence, that they deserve as little Credit. Others, in order to get this Story to be believ'd, alledge a Chronicle<sup>4</sup> not as yet printed, of a certain *Maraldo*, a *Carthusian* Monk; but they don't tell how old it is; and *Maraldo* mentions only one Coronation. By these Arguments, and because all the Antients are silent, and make not the least mention of it, *Pellegrinus* is of Opinion, that *Roger* was only once crown'd, and that by the Authority of Pope *Anaclet*, whom, during that Schism, not only he and his Kingdoms look'd upon as true Pope; but a great Part of *Italy*, and the *Romans* themselves, as having been elected by the Majority of the Cardinals, tho' *Innocent* had been elected before him, but by the Minority. I know that *Imveges*, not satisfied with these Arguments of *Pellegrinus*, is of the contrary Opinion; he says, that *Roger* having been crown'd by his own Authority, as soon as *Innocent* was elected, he intreated him to confirm this Coronation by his Bull; but not being able to persuade *Innocent* to confirm it, he deserted *Innocent*, and had recourse to *Anaclet*, who gladly complied with his Request. However that may be, whether this was the first or second Coronation of *Roger*, 'tis certain, that this Prince thought he could neither securely nor lawfully assume that Title, nor erect his Dominions into Kingdoms, without the Permission or Confirmation of *Anaclet*, whom he look'd upon as true Pope, to whom he had made his Dominions Tributary, and from whom his Predecessors had receiv'd Investiture.

<sup>1</sup> Chr. Cass. lib. 4. cap. 7.

<sup>2</sup> Ab. Telefin. lib. 2. cap. 1.

<sup>3</sup> V. Faz. Decad. 2. lib. 7.

<sup>4</sup> Chron. M. S. di S. Stephano del Bosco.

## S E C T. I.

### *The Investiture given by Pope Anaclet to Roger I. King of Sicily.*

NOW when *Anaclet* had so great need of the Alliance and Friendship of *Roger*, he not only made him King, and order'd all the Bishops and Abbots of his Dominions to acknowledge him as such, and to take the Oath of Fidelity to him, but granted him a more ample Investiture, than ever his Predecessors Dukes of *Puglia* had been able to obtain; for besides investing him with *Sicily*, *Puglia* and *Calabria*, he likewise gave him the Investiture of the Principality of *Capua*, and

<sup>1</sup> Anaclet's Bull, Coronam Regni Siciliæ, & Calabriæ, & Apuliæ, &c. Et Siciliam Caput Regni constituimus, &c. Donamus etiam, & autorizamus tibi, & tuis hæredibus Principa-

tum Capuanum cum omnibus tenementis suis, quemadmodum Principes Capuanorum tam in presenti, quam in preterito tenuerunt. Honorem quoque Neapolis, ejusque pertinentiarum, &c.

which



which will appear strange, of the Dukedom of *Naples* also, as the Words of the Bull bear, and as *Petrus Diaconus* likewise relates them <sup>1</sup>.

THOUGH it was even very strange to see *Anaclet* give the Investiture of the Principality of *Capua* to *Roger*, when *Robert* its own Prince was in peaceable Possession of it; yet he could justify it, and it was excusable, because the Printes of *Capua* his Predecessors, had receiv'd the Investiture of that Principality from the Popes, and were reckon'd Feudatories of the Apostolick Sec, in the same Manner as the Dukes of *Puglia* and *Calabria* were, and seeing Prince *Robert* adher'd to *Innocent* his Enemy, he might well colour the Fact with such a specious Pretence. But as for the Dukedom of *Naples*, which depended on the Empire of the East, and was govern'd by its own Duke *Sergius*, in the Form of a Republick, under what Pretence *Anaclet* could do it, cannot truly be conceiv'd; and if even the *Neapolitans*, as is alledg'd, did side with *Innocent*, that gave him no Title to dispose of that Dukedom, to which he had not the least Claim. But the Popes in these Times got easily over these Considerations, when their Grandeur was at Stake; they were already accusom'd to give Investiture of other People's Countries, to which they had no Right, as they did of *Sicily*, and these our Provinces.

IT was not *Roger's* Business to examine narrowly into such Rights; he wanted but the Shadow of a Pretence, to conquer with his Arms, what the Pope gave him by Word and Writ; which he thought was sufficient to justify his Conquests, and which soon after he put in Practice; for he drove *Robert* out of that Principality, and made War upon the *Neapolitans*, and thus made himself Master of both these Dominions.

BUT perhaps it may be thought strange why *Roger* on this Occasion, was not likewise invested with the Principality of *Salerno*. The Reason was, because the Popes pretended that that Principality belong'd intirely to the Church of *Rome*, though it was not known by what particular Right. For which Cause *Gregory VII.* and all his Successors, always excepted it in the Investitures, as we have observ'd. And when *Lothaire* took it from *Roger*, and was resolv'd to appropriate it to himself, *Innocent* was offended, and complain'd sadly, that he should offer to claim as his own, what belong'd to the Church of *Rome*, which occasion'd Quarrels betwixt the Pope and *Lothaire*, as *Petrus Diaconus* relates <sup>2</sup>. The Investiture was given to *Roger*, his Children and their Heirs, *jure perpetuo*. And the Quit-rent agreed upon, was Six hundred *Schifati* yearly <sup>3</sup>.

<sup>1</sup> P. Diac. lib. 4. c. 97. Petrus præterea Cardinalis Rogerio Duci Apuliæ coronam tribuens, & per privilegium Capuanum Principatum, & Ducatum Neapolitanum cum Apulia, Calabria, & Sicilia illi confirmans, Regemque constituens, ad suam partem attraxit.

<sup>2</sup> P. Diac. lib. 4. c. 117.

<sup>3</sup> Bulla *Anaclet*. Concedimus igitur, donamus,

& autorizamus tibi, & filio tuo Rogerio, & aliis filiis tuis secundum tuam ordinationem in Regnum substituendis, & hæredibus suis coronam Regni Siciliæ, & Calabriæ, & Apuliæ, &c. Tu autem censum, & hæredes tui, videlicet Sexcentos Schifatos, quos annis singulis Romanæ Ecclesiæ persolvere debes, &c.





## C H A P. I.

*Pope Innocent II. in Confederacy with the Emperor Lothaire, makes War upon King Roger. The Prince of Capua, and the Duke of Naples joyn Lothaire, and are defeated, and Roger takes Possession of their Dominions.*



IN the mean Time *Innocent*, seeing that *Anaclet's* Faction, which *Roger* had joyn'd, was the most powerful, and that as he was the Son of *Petrus Leo*, a rich and potent Roman Citizen, he could not dispute the See with him in Rome, had privately, with some Cardinals that had elected him Pope, retir'd from Rome to *Pisa*, where he was receiv'd by the *Pisans*, with all the Marks of Esteem and Veneration as true Pope. *Pisa* in these Times was remarkable amongst all the Cities of *Italy*, for the Wealth and Bravery of its Citizens, and much more for its Power at Sea; here *Innocent* soon after imbarc'd in their Gallies, and went to *France*, in order to persuade King *Lewis* to take him under his Protection, against the Power of his Rival. Being arriv'd in *France*, he call'd a Council in *Reims*, where he excommunicated *Anaclet*, and all his Faction; but perceiving that the King of *France* could not give him that Assistance, which he then stood in need of, he got the Emperor *Lothaire* to espouse his Interest, in whom he found a greater Disposition and Readiness, than in *Lewis*. *Lothaire* had a mind to recover these Provinces, which he thought *Roger* had usurp'd from him; and laid hold of this Opportunity to induce the Pope to grant him the so much contraverted Investitures. And which, as *Petrus Diaconus*<sup>1</sup>, a contemporary Author writes, he immediately got. *Baronius* gives this Writer the Lye, and says, That *Lothaire* did pretend to them, but was oppos'd by the Abbot of *Charavalle*, who advis'd *Innocent* not to give his Consent, and accordingly *Innocent* did refuse to give the Investitures, and *Baronius's* Voucher is the Writer of the Life of this Saint, which was *Barnardus de Bonavalle*, a much later Author.

HOWEVER that may be, *Innocent* got the Emperor to come presently into *Italy* with him, where they found *Anaclet* in Possession of St. *Peter's* Church; *Innocent* went to lodge in the *Lateran* Palace, and the Emperor with his Soldiers, took up his Quarters in the Church of St. *Paul*. In the mean time many Barons of *Puglia* that were disgusted at *Roger*, joyn'd *Innocent's* Faction. The most remarkable amongst them, were *Rainulphus* Count of *Airola* and *Avellino*; *Robert* Prince of *Capua*, and *Sergius* Duke of *Naples*. *Rainulphus*, though he was the King's Brother-in-Law, by having married *Matilda* his Sister, yet bore him a Grudge, because when he us'd his Sister ill, King *Roger* took her back, and sent her to *Sicily*, together with her Son *Robert*; at the same time he declar'd War against the Count, took *Avellino* and *Mercogliano*, and besides, *Richard* the Brother of *Rainulphus*, who had spoken indiscreetly of him, falling into his Hands, he order'd his Eyes to be put out, and his Nose to be cut off. To *Rainulphus*, *Robert* Prince of *Capua* joyn'd, as not well pleas'd with the King's Proceedings, who avowedly resolv'd to take his

<sup>1</sup> Chron. Cass. lib. 4. cap. 97.

Principality from him, of which he got *Anaclet* to give him the Investiture, though *Robert* was in Possession of it. *Sergius* Duke of *Naples*, for the same Reasons, entertain'd the same Jealousy, who, though while the King was in *Salerno*, after the Victory he had obtain'd over the *Amalpbians* (if we can give Credit to the Abbot of *Telesse*, for the Archbishop *Romualdus*, and *Falcon* of *Benevento*, mention no such thing at this Time) terrified at his Power, and great Bravery, came and subjected the City of *Naples* to his Dominion; nevertheless this Submission, if there was any such, took no Effect, for afterwards he resolv'd with all his Might, to maintain the Freedom of his City, and was a bitter Enemy to *Roger*, and associated himself with *Robert* and *Rainulphus* in the Interest of *Innocent*; and these Three, not content with having entered into this League, likewise stirr'd up many Cities of *Puglia* to revolt, and drew in with them many Barons, who took up Arms against their own Sovereign, and put every thing in Confusion on this side of the *Fare*. And the Boldness of these Conspirators increas'd, when they understood that *Lothaire* and *Innocent* this Year 1133, had enter'd *Italy* and were come to *Rome*, upon which they made ready for a new, and more vigorous Expedition against *Roger*; and to facilitate the Undertaking, Prince *Robert*, Count *Rainulphus*, and many other Barons of these Provinces, and a Multitude of other People went to *Rome* to drive *Roger* quite out of *Puglia*.

*LOTHAIRE* was crown'd at *Rome* by *Innocent*, in the Month of *June* in the Year 1133, with great Pomp, at which Solemnity many Dukes, Marquisses and other Barons of *Italy* were present, at whose Desire *Lothaire*, as his Predecessors were wont to do in *Roncaglia*, establish'd some Feudal Laws, and after *Conrad the Salick*, was the second that publish'd written Laws concerning Fiefs; and at this Time he confirm'd the famous Law of *Conrad*, about the Succession of Nephews and Brothers, of which we have made mention in the preceding Books, and exactly as we see it registred in the second Book of Fiefs<sup>1</sup>, which was falsely attributed to *Lothaire I.* by *Molineus* and *Pelligrinus*, and what gave occasion to the Mistake, was the Carelessness of the Printers, who in place of *Innocent's* Name, had put that of *Eugen*, which the wise *Cujacius* observ'd. The most accurate *Pellegrinus* ought not to have question'd, that this Constitution was *Lothaire's*, for the Inscription is thus read; *Constitutiones Feudales Domini Lotarii Imperatoris, quas ante Januam B. Petri in Civitate Romana condidit*; as if *Lothaire* could not have establish'd this Law *ante januam B. Petri*, because *Otho Frisingensis*<sup>2</sup> writes, that the Palace of *St. Peter* was then in the Possession of *Anaclet*; for, either the Inscription may have been vitiated, and the Word *Eugen* put for *Innocent*, or even 'tis not improbable, that *Anaclet* may have permitted *Lothaire* to do it, since it was a Matter indifferent; and the rather, that we read in grave Writers<sup>3</sup>, that *Lothaire* was no sooner come to *Rome*, than he sent some prudent and religious Men to treat with *Anaclet*, in order to remove so grievous a Schism, during which Time he might well perform this Solemnity before the Gate of *St. Peter's* Palace.

*ANDREA D'ISERNIA* was no less mistaken in this Matter, who, on good Grounds, finding that these Constitutions could not bind these our Provinces, which had been intirely dismember'd from the Empire by *Roger*, could not imagine that among the Deputies of the other Cities of *Italy*, such as of *Milan*, *Pavia*, *Cremona*, *Mantua*, *Verona*, *Triviggi*, *Padua*, *Vicenza*, *Parma*, *Lucca* and *Pisa*, those also of the City of *Siponto* were present, as we read in that Constitution; for that City was then subject to *Roger*; so that he conjectur'd, either that the Place had been vitiated, and instead of *Syponti*, it ought to be read *Senarum*, or (which ought to be pardon'd in that rude Age in which he wrote) that there was another City in *Lombardy* or *Tuscany* nam'd *Siponto*. For it was no strange Thing for the Deputies of *Siponto* to be present, though this Meeting was held after these Provinces were separated from the Empire by *Roger*, who being now forc'd by the Rebellion of his Barons, to abandon *Puglia*, and retire to *Sicily*, in order to assemble his Troops, and suppress the Rebellion; could not hinder the *Sipontines*, who were Rebels among the rest, from going to *Rome*, especially when they heard *Lothaire* was on his Way to joyn them: Neither is it any Reproach to *Roger*, that his Vassals were forc'd to submit to a Constitution of his Enemy, as shall be related on another Occasion.

<sup>1</sup> Lib. 2. de Feud. tit. 19.

<sup>2</sup> Frising. lib. 7. cap. 18.

<sup>3</sup> Capec. Latr. lib. 1. p. 14.

BUT all these warlike Preparations, and so many Enemies of Roger's joyn'd together, were not able to daunt this invincible Prince in the least; for returning from *Sicily* with a powerful Army, after alternate Fortune, sometimes losing, sometimes gaining, at last he dispers'd his Enemies: forc'd *Lothaire* to return to *Germany* without Success, oblig'd *Innocent* to retire, anew, to *Pisa*, where he celebrated another Council; crush'd the Pride of *Rainulphus* and *Robert*, suppress'd the Rebellion of the Barons of *Puglia*, and made the Province to submit: And all this Kingdom was now under his Dominion, except *Naples*, *Benevento* and *Capua*, and the Dominions of Count *Rainulphus*; he stay'd a little in *Salerno*, resolving to conquer these Cities, especially *Naples* and *Capua*, in order to which he return'd to *Sicily* to recruit his Army.

PRINCE *Robert*, who foresaw the Mischief that threaten'd him, left no Stone unturn'd to prevent it; he went to *Pisa*, and made a League with the *Pisans*, from whom he got a powerful Supply of Ships and Soldiers<sup>1</sup>. He likewise brought over the *Genoese* and *Venetians* to joyn the *Pisans*; thence he return'd to the Principality of *Capua*, and from thence to *Naples*, where he was cheerfully receiv'd by *Sergius*, and Count *Rainulphus*, who had retir'd to this City. He laid before them the League, which he had newly concluded at *Pisa*, in the Presence of *Innocent*, with the *Pisans*, *Genoese* and *Venetians*, by which he had oblig'd himself to pay the *Pisans* Three thousand Pounds of Silver. This News was so very acceptable to *Sergius* and his Confederates, that immediately without delay, they took the very Plate out of the Churches of *Naples* and *Capua*, made up the Sum, and sent it presently to the *Pisans*.

BUT while they were thus strengthening their Confederacy, *Roger* with Sixty Gallies, return'd from *Sicily*, landed at *Salerno*, and immediately laid Siege to *Naples*; but this City defending itself with the utmost Bravery, he rais'd the Siege, and march'd towards *Capua*; and having taking *Nocera*, and many Castles in that Neighbourhood, he attack'd *Capua*, which immediately surrender'd<sup>2</sup>. The King enter'd the City, and was honourably receiv'd, and with little Opposition, having conquer'd the other Places of that Principality, he return'd anew, and laid close Siege to *Naples*.

THUS in this Year 1135, *Roger*, after various Turns of Fortune, to his other Dominions, added the Principality of *Capua*, of which he had already got the Investiture from *Anaclet*. He soon after invested his Son *Anphus* with it, by giving him the Standard with his own Hand, which was then the Ceremony us'd in giving Investiture, therefore the *Capuans* proclaim'd *Anphus* their Prince, and swore Fealty to him. But 'tis well worthy of Observation, that the *Capuans* swore Fealty to *Anphus*, *Salva tamen Regis, & filii ejus Rogerii (Ducis Apuliæ) fidelitate, qui ei in Regnum successurus erat*, as the Abbot of *Telesse* relates; for *Roger* having united the Principality of *Capua* to his Kingdom, though he had invested *Anphus* with it, yet he would not suffer him to govern it independently of the Crown, himself, and his Son *Roger* Duke of *Puglia*, who had been declar'd his Successor in the Kingdom.

ROGER, by his first Wife *Alberia*, Daughter of *Alphonfus* King of *Spain*, had five Sons. The first, who was to succeed in the Kingdom, and whom therefore his Father had made Duke of *Puglia*, was nam'd *Roger*<sup>3</sup>; but he dying before his Father in the Year 1148, made room for his younger Brothers. 'Tis said that *Tancred*, who succeeded in the Kingdom of *Sicily*, was the Bastard Son of this *Roger*, as shall be told hereafter. The second was *Tancred*, to whom the Father had assign'd the Principality of *Bari*, or rather *Taranto*, because he had not then acquir'd the Principality of *Capua*, and he also died before his Father, or any of his Brothers in 1144.

THE third was this *Anphus*, or as others call him *Alphus*, whence *Hieronymus Zurita* supposes, he was call'd so from the Name of *Alphonfus* King of *Spain*, his Grandfather by his Mother; but *Wolfgangus Latius*<sup>4</sup> is of Opinion, that 'tis a *Gothish* Name, deriv'd from *Idelfonsus*, and this from *Hildedrunzus* a *Gothish* Word, *a favore scilicet & amore fæderis*. This *Anphus* was created Prince of *Capua* by

<sup>1</sup> Falco. Benev.

<sup>2</sup> Abb. Telefin. lib. 3. cap. 27. P. Diac. lib.

4. cap. 97.

<sup>3</sup> Pell. in Stemm.

<sup>4</sup> Wolf. Lat. de migrat. gent. lib. 10.

*Roger* this Year 1135, who soon after, in 1139, having got *Naples* added to his Dominion, likewise made him Duke of *Naples*, according to *Pellegrinus*; but he had the same Fate with his other Brothers, for in the Year 1144 he died likewise before his Father.

THE fourth was *William I.* who, after the Death of *Anphus*, was by his Father created Prince of *Capua*, and Duke of *Naples*; and his other Brother *Roger* dying afterwards, he was made Duke of *Puglia* in his Place; at last in the Year 1151, his Father made him his Colleague in the Kingdom, and he was crown'd and declar'd Successor; and accordingly on his Father's Death he succeeded, and for many Years held the Kingdoms of *Sicily* and *Puglia*; for *Henry* another Brother died young in his Father's Life-time, before *Roger* his elder Brother.

*ROGER* had other Wives, *Sibylla* a Sister of the Duke of *Burgundy*, by whom he had no Children, that can be found in the best Writers; *Beatrix*, by whom he had *Constantia*, who being design'd for great Things, after various Turns of Fortune became Wife of the Emperor *Henry IV.* and brought him the famous *Frederick II.* whose Achievements shall be the Subject of a part of this History. And there are some who to these three Wives of *Roger* add a fourth, who they say was N. Sister of *Anaclet*, of the Family of *Pier Leone*; and likewise a fifth nam'd *Ariolda*, a Daughter of the Count of *Marfi*.

BUT whilst *Roger* kept *Naples* besieg'd, and attack'd it by Sea, perceiving by the extraordinary Bravery of the Citizens, that it would not easily surrender, he left the Care of the Siege to his Captains, and return'd to *Salerno*, where he embark'd in his Fleet, and went to *Sicily*, in order to return the following Spring to attack it with a greater Army, as *Alexander* Abbot of *St. Salvatore della Valle Telesia* relates, who here ends the four Books of his *Norman Latin History*.

IN the mean time *Robert* Prince of *Capua* had gone to *Pisa* for Assistance; but he was too late, for at his Return he found *Capua* was already taken, and all his Efforts to regain it afterwards were in vain; so that seeing himself in a desperate Condition, he return'd anew to *Pisa*. *Sergius* Duke of *Naples*, likewise seeing his City in such Distress, and afraid he should be undone if he got not immediate Relief, embark'd also for *Pisa*, in order to get Assistance; but not able to obtain any, return'd to *Naples* much afflicted.

BUT Prince *Robert* having found Pope *Innocent* in *Pisa*, was spurr'd on by him to go into *Germany*, in his own and the Pope's Name to beg Assistance of the Emperor *Lothaire*. Being arriv'd in *Germany*, he was courteously receiv'd by the Emperor, who sent him presently back to *Pisa*, and assur'd him that he would come into *Italy* the Year following, to rid the Church of *Rome* of the Schism, and to restore *Robert* to his Principality. In these Times *Bernard* Abbot of *Claravalle*, both on account of his Learning and good Life, had acquir'd a great Fame of Sanctity over all *Europe*; so that he was in no less Esteem with the Emperor, than with Pope *Innocent*, and his Advice was of great Weight; and *Innocent* during this Schism had taken care to get him on his Side against *Anaclet*: 'Tis not to be doubted but he was one of the most powerful and effectual Instruments in favour of *Innocent*, and who taking his Part with Ardour, did him great Service. He did not fail in these Conjunctions to write moving and pressing Letters to the Emperor *Lothaire*, that both as Defender and Advocate of the Church, he would go into *Italy* to crush the Pride of the Schismatics, and take Revenge of *Roger*. And his Zeal carried him so far, that in one Letter which he wrote to *Lothaire*, he did not stick to call *Roger* an Usurper, and that he had unjustly usurp'd the Crown of *Sicily*, as *Anaclet* had the See of *St. Peter*: *Cæsaris est, said he to Lothaire, propriam vindicare Coronam ab Usurpatore Siculo. Ut etiam constat Judaicam sobolem sedem Petri in Christi occupasse injuriam; sic procul dubio omnis, qui in Sicilia Regem se facit, contradicit Cæsari*; as if *Roger* had taken *Sicily* from the Empire of the West, and *Lothaire* was to look upon himself as another *Octavianus Augustus*, with regard to all the Provinces of the World.

HOWEVER these Invitations were so powerful, that at last *Lothaire* was persuaded to go a second time into *Italy* with a greater Army, resolving to suppress the Schism, and drive *Roger* out of these Provinces; therefore he wrote to *Innocent*, that on the Festival of *St. James* this Year 1136, he would leave *Germany*<sup>2</sup>. Pope *Innocent* sent this News immediately to *Sergius* Duke of *Naples*; and Prince *Robert*

<sup>1</sup> Orderic. Vital. Carol. Dufresne in Stem. ad hist. Comnen.

<sup>2</sup> Falc. Benev.

with

with five Ships loaded with Provisions went to relieve *Naples*, which was suffering a dreadful Famine, being so closely block'd up, that Provisions could not enter at any Part by Land. Prince *Robert* having assur'd *Sergius* and the *Neapolitans* of the Emperor's coming, return'd immediately to *Pisa*, and from thence he went to meet *Lothaire*, whom he found already on this Side of the *Alps*, on his way to *Cremona*.

## S E C T. I.

*Lothaire comes a second Time into Italy, and defeats Roger's Army.*

**I**T was in the Month of *November* of this Year 1136, that the Emperor came to *Roncaglia* (which as we have formerly said, is situated upon the *Po*, not far from *Placentia*<sup>1</sup>) and according to the Custom of his Predecessors, call'd an Assembly of all the States, as well the Ecclesiastick, such as Archbishops and Bishops, as that of the Nobles, such as Dukes, Marquises, Counts, and other Barons, and likewise the Magistrates of the Cities of *Italy*; where at their Request, by a Constitution, he establish'd some other Feodal Laws, which chiefly regard the Prohibition of alienating Fiefs. We have this Constitution in the second Book of Fiefs<sup>2</sup>; and also in the third Book of the *Longobard Laws*<sup>3</sup>. Neither can *Pellegrinus*<sup>4</sup> himself deny it to be this *Lothaire's*, which is a convincing Argument, that the Compiler of the *Longobard Laws*, join'd thereto the Constitutions of the Emperors as Kings of *Italy*, beginning from *Charles the Great*, down to this last *Lothaire* (for that of *Charles IV.* was added a long time after this Compilation) because the other Emperors who held the Empire of the West after *Lothaire*, and who frequently came into *Italy*, establish'd other Laws at *Roncaglia* concerning Fiefs; the Compilers of the Feodal Customs in the Time of *Frederick I.* did not add them to the *Longobard Laws*, but to the Body of Feodal Customs, whence arose a new Body of Laws call'd *Feodal*, which at last was by *Cujacius* divided into five Books, as we shall shew in its proper Place.

*ROGER* had never been so furiously attack'd as now when *Lothaire* came the second Time into *Italy*; in the twinkling of an Eye he lost the finest Provinces of his Kingdom, such as those on this Side of the *Fare*; at the coming of *Lothaire* the Hopes of his Enemies increas'd, and the Malecontents grew bolder, and broke out into open Rebellion; for at first *Lothaire* being appriz'd of the Straits to which the City of *Naples* was reduc'd, and that the Citizens were dying in their Houses and in the Streets of Famine, did not fail to send Letters and Ambassadors to *Sergius* and the *Neapolitans*, encouraging them to continue to defend themselves for a short time, and that he would come to their Relief. And indeed it was not long before he march'd towards *Puglia*, and being come to the River *Pescara*, he pass'd it, and subdu'd *Fermoli*, with many Places of that Province; and being arriv'd in *Puglia*, took the City of *Siponto*, and so terrified the People of *Puglia*, and put them into such a Consternation, that all the Cities as far as *Bari*, where-ever *Lothaire* went, submitted to him.

**I**N the mean time *Innocent* had now left *Pisa*, and gone to *Viterbo* to meet the Emperor, who, hearing of the Pope's being in that City, immediately sent *Henry* his Son-in-Law, with three thousand Soldiers, to bid him endeavour to conquer the Strong-holds of *Campagna di Romana*, and to restore the Principality of *Capua* to *Robert*, because he was to march another way, in order to conquer the other Provinces of *Puglia* from *Roger*; whereupon *Innocent* with another Army came to *St. Germano*, which immediately yielded to him. From thence having march'd to *Capua*, and there being none to resist him, he presently made himself Master of that City, and restor'd both it and the Principality to *Robert*<sup>5</sup>. And afterwards he march'd to *Benevento*, where, after a short Dispute, the *Beneventans* surrender'd to him. From thence he went into *Puglia* in quest of *Lothaire*, who had already taken

<sup>1</sup> Otho Frising. in Trid. lib. 2. cap. 12. Gunther, lib. 2.

<sup>2</sup> L. 2. tit. 52. prohib. Feud. alien. per Loth.

<sup>3</sup> LL. Longob. tit. ult. lib. 3.

<sup>4</sup> Pelleg. ad Anonym. Cassin. A. 1135.

<sup>5</sup> P. Diac. lib. 4. cap. 105.

*Bari*, and only wanted to take its strong Castle, which *Roger* had built, and provided with a strong and brave Garrison; but at last it being taken, the Emperor and *Innocent* march'd against *Melpbis* of *Puglia*, and having besieg'd it for some Time, at last they became Masters of it.

IT was this Year 1137, that *Lothaire*, after taking *Puglia* from *Roger*, had a mind to create a new Duke of it, and for that end caus'd a Parliament to be conven'd in *Melpbis*, to which he invited all the Barons of that Province, wherein he propos'd the Creation of this new Duke; and in the mean time sent his Armies to besiege *Salerno*. On this Occasion there arose terrible Disputes about this Creation<sup>1</sup>; *Innocent* pretended, that as his Predecessors had invested the *Normans* with the Dukedom of *Puglia*, so now when it was taken from them, he had a Right to invest others<sup>2</sup>. On the other hand, *Lothaire* pretended that these Provinces depending on the Empire of the West, the Emperor had a Right to give the Investiture of them<sup>3</sup>, as the Emperor *Henry* had actually invested the *Normans* with them. The Dispute came to such a height, that had it not been for fear that *Roger* the common Enemy should take Advantage of it, it would have ended in an open War. Therefore Expedients were fallen upon, whereby neither the Rights of the Empire, nor those of the Church were to suffer any Prejudice; and it was agreed betwixt them that the new Duke should be invested by them both<sup>4</sup>. *Rainulphus* Count of *Avellino*, a *Norman* by Nation, and not a *German*, as *Sigonius* believ'd<sup>5</sup>, a Kinsman of the King's, and Son of Count *Robert*, who was descended from the old Count *Rainulphus*, Brother German of *Richard* I. Prince of *Capua*, was elected.

*RAINULPHUS* then was created Duke of *Puglia*, and receiv'd the Standard, as a Symbol of the Investiture, from the Hands both of the Pope and Emperor. And *Falcon* of *Benevento* adds, that on the fifth of *September*, the same Pope *Innocent* anointed *Rainulphus* as Duke of *Puglia* in the Cathedral Church of *Benevento*, at which were present the Patriarch of *Aquileja*, many Archbishops, Bishops and Abbots. Thus did *Roger*'s two most bitter Enemies, who had distinguish'd themselves in Favour of *Lothaire* and the Pope, receive the Rewards of their Zeal and Labours; *Robert* was restor'd to the Principality of *Capua*, and *Rainulphus* was advanc'd to a higher Dignity. *Sergius* with his *Neapolitans* still stood out the Siege of their City with unheard-of Constancy, in the Midst of terrible Calamities and Want; therefore *Lothaire* and *Innocent* resolv'd to march towards *Naples* with all their Forces, but their Armies being about *Salerno*, they had a Mind first to take that City, and thereafter to raise the Siege of *Naples*; and in the mean time they might expect the long-look'd for Succours from *Pisa*, without which that City could get no Relief by Sea, and without which they were not able to reduce *Amalphis*, and the other maritime Places in the Neighbourhood. In the Interim the *Pisans* with a hundred arm'd Vessels, as they had promis'd, arriv'd most opportunely at *Naples*, and having landed a Reinforcement and Provisions, which put this City out of Danger of being forc'd to surrender, the Emperor order'd them to sail immediately for *Amalphis*, to reduce that City with the neighbouring Places, and accordingly they set sail with forty Gallies, and took *Amalphis*, *Scala*, and *Ravello*, where they got a great Booty, and reduc'd them to the Emperor's Obedience.

<sup>1</sup> Idem, lib. 4. cap. 106.

<sup>2</sup> Idem.

<sup>3</sup> Otho Frising. in Chron.

<sup>4</sup> Sigon. de Reg. Ital. lib. 11.

<sup>5</sup> Falc. Benev.

<sup>6</sup> Pellegr. in Stemm.







## C H A P. II.

*The Pandects found in Amalphis. The Roman Jurisprudence, and the Books of Justinian reviv'd in the Academies of Italy.*



T was upon this Occasion, that the City of *Amalphis*, tho' it had been taken by Force, became more renown'd in the succeeding Ages, than all the other Cities of *Europe*; for a Citizen of *Amalphis* had found out the Mariner's Compass, and now on this Occasion this same City had the additional Glory of the Emperor *Justinian's* Pandects being found in it, which some believ'd, was the very same Copy that this Emperor had caus'd to be compil'd. The Copies of this Volume were in a manner lost, because of the many Collections of the *Basilicæ*, and for many other Reasons which we have mention'd in the seventh Book of this History; only in *France*, as we have observ'd elsewhere, there were still some Copies handed about; for we see that *Ivo of Chartres*, who flourish'd in the Time of *Paschal II.* about the Year 1099, in his Letters often quotes the Laws of the Pandects<sup>1</sup>. But all Memory of them had been lost in *Italy*; only, as we have said, his Code, Institutions and *Novellæ* were known, which was owing more to the Care of the Popes and Monks, who were then the only learn'd Men, than to any thing else.

INDEED we see many Laws of the Code quoted in the Decretals of the Popes, such as those of *Gregory III.* and other Popes<sup>2</sup>; the Institutions and *Novellæ* were better known, for we have seen, that the famous Abbot *Desiderius* preserv'd the Copies of them in the Library of the Monastery of *Monte Cassino*; but the Pandects, which was the finest Part, and contain'd the Beauty and Politeness of the *Roman* Laws, were little known among us. 'Tis as yet a Question whether part of them was not preserv'd in *Ravenna*. *Guido Pancirolus*<sup>3</sup> relates the Opinion of some, who believ'd that the Pandects were found in an ancient Library in *Ravenna*, and which being offer'd to *Lothaire*, he found them to be the genuine Work of the Emperor *Justinian*, and order'd that they should be publicly explain'd in the Schools. But the same *Pancirolus* look'd upon the Opinion of those to be better grounded, who write, that *Justinian's* Code was found in *Ravenna*, and not the Pandects, which this Year 1130, on the abovemention'd Occasion were found in *Amalphis*. This Glory then is owing to *Amalphis* not far from *Naples*, not to *Melpbis* in *Puglia*, as some on the other Side of the *Alps* have written, who were not well acquainted with the particular Places and Cities of these our Provinces, therefore have often mistaken and confounded the one City with the other; as on the other hand, they have said, that the Council celebrated in *Melpbis* in *Puglia*, in the Year 1059, was held in *Amalphis*. Some others, perhaps out of Love to their native Country, have not stuck to say, that the *Pisans* found them when they reliev'd *Naples*; and having taken them from the *Neapolitans*, carried them to *Pisa*: 'Tis strange that *Summontes* should give into this Conceit, repugnant to all History; and *Franciscus* hath inserted it among other Dreams with which he stuff'd his History. And a Modern Writer of *Puglia* likewise dream'd, that the Pandects were neither found in *Amalphis* nor *Naples*, but in *Molfetta*, for no other Reason but the Similitude of the Name, and that *Molfetta*

<sup>1</sup> Ivo Epist. 46, 69, &c.

<sup>2</sup> Cap. lator, de Pignor. where the Pope refers

to l. qui filios 6. C. quæ res pignor. oblig. poL

<sup>3</sup> Pancir. de Clar. LL. Interpr. lib. 2. cap. 17.

was the Place of the Writer's Nativity: Thus to this very Time (as the native Countries of *Homer* and *Tasso* are contended for) many Cities dispute the Glory of this Invention.

NOT to mention the ancient Annals, those who have seen in the Course of this History how famous the *Amalpbians* were for Navigation, and their great Commerce with the Eastern Parts and *Greece*, which those Cities that aspir'd to this Glory had not, will think it very reasonable, that among other Things which the *Amalpbians* brought to their City from the East, they may likewise have brought the Pandects, so rare a Book, and in which the Beauty of the *Roman* Laws was contain'd; and 'tis commonly said, that an *Amalpbian* Merchant in a Voyage to the East bought them there, and at his Return made a Present of them to his native Country. Neither is it question'd, but that the *Pisans*, among the other Booty which they got in *Amalphis*, found the Pandects, and that as a Reward for the Trouble they had been at in this Expedition, they only begg'd this of the Emperor *Lothaire*, who willingly granted their Request; so that being carried by them to *Pisa*, they got the Name of *Pandectæ Pisanae*, which Name they had little less than three Centuries, till the Year 1416, when the War broke out betwixt the *Pisans* and *Florentines*: *Guido Caponio*, a *Florentine* Captain, having besieg'd and taken *Pisa*, and found the Pandects, as a great Part of his Triumph carried them to *Florence*, where, with great Veneration, and as a Thing of vast Value, they are now preserv'd in the Library of the *Medici*, divided into two Tomes; so that tho' formerly they were call'd *Pisanae*, they are since call'd *Florentinae*. *Plotius Grifus*, and *Rainerus Grachaia* a *Pisan*, and a most ancient Historian, who wrote *de Bello Tusco*, more than 300 Years ago, confirm the same; and *Plotius* tells us, that he had in his Custody an ancient Instrument of this Donation which *Lothaire* made of the *Amalpbian* Pandects to the *Pisans*. See *Sigonius*<sup>2</sup>, *Raphael Volteranus*, *Angelus Politianus*<sup>3</sup>, *Antonio Gatto*<sup>4</sup>, *Francesco Taurello*<sup>5</sup>, *Artburus Duck*<sup>6</sup>, and all other Writers, down to *Burcardus Struvius*<sup>7</sup>, who is the last of the Moderns that confirms it.

THO' *Lothaire* had yielded a Thing of so great Value to the *Pisans*, yet being a learn'd Prince, and especially a prudent Law-giver, he did not fail to look into the Pandects, and perceiving that the Beauty of the *Roman* Laws was contain'd in them, resolv'd that they should no longer remain in Darkness, but be brought to light for the Benefit of Mankind. There is a great Dispute betwixt those of *Bologna* and other Writers, whether *Lothaire* establish'd by an Edict, that the Pandects should be publickly read in *Bologna*, or that they should be taught there with the other Books of *Justinian*, by *Irnerius* for private Use. The Doctors of *Bologna* say, that *Lothaire* order'd *Irnerius*, who read Philosophy in *Bologna*, to explain them publickly, which he began to do in the Year 1128, but then the Pandects had not been found in *Amalphis*. *Conradus Uspersensis* after having related the History of *Lothaire*, says, that *Irnerius* explain'd them at the Desire of the Countess *Matilda*; and in the Arguments of the History of *Bologna*, which are attributed to *Carolus Sigonius*, we read, that the Countess *Matilda* had order'd *Irnerius* in the Year 1102, to explain the Pandects, and that he there made the first Glosses on them. But *Burcardus Struvius*<sup>8</sup> looks upon what *Conrade* relates of the Countess *Matilda's* having impos'd this Task on *Irnerius*, in the Reign of *Lothaire*, as fabulous; for 'tis certain, that *Matilda* died in the Year 1115, before *Lothaire* was Emperor; and the same *Sigonius* likewise confutes what *Conrade* says, for the same Reason<sup>9</sup>. Whence *Struvius* believes, that those Arguments which we read at the End of the History of *Bologna*, could never be the Work of *Sigonius*, who in his History of the Kingdom of *Italy*, plainly asserts the contrary, and checks *Conrade* who wrote it.

THEREFORE the most grave Authors condemn these Accounts as fabulous, and tell us, that *Irnerius* never explain'd the Books of *Justinian* in the School of *Bologna*, neither by the Authority of the Countess *Matilda*, nor the Command of *Lothaire*, but for his private Study, and to please his own Ambition.

<sup>1</sup> Copece latr. lib. 1. hist. p. 35.

<sup>2</sup> Sigon. de Regn. Ital. lib. 11. p. 270.

<sup>3</sup> Polit. Miscel. cap. 41.

<sup>4</sup> Ant. Gat. hist. Gymnas Picin. c. 2. p. 92.

<sup>5</sup> Taurel. in Præfat. PP. Flor.

<sup>6</sup> Arth. lib. 3. cap. 5. num. 13.

<sup>7</sup> Struv. hist. Jur. Just. restau. c. 5. §. 8.

<sup>8</sup> Idem, §. 10.

<sup>9</sup> Sigon. de Regn. Ital. lib. 12. p. 272. In eo tamen aperte falsus, quod Matildis rogatu id suscepisse muneris ait, quæ multo ante Lotharii Imp. e vita migravit.

*IRNERIUS* in these Times, when the Jurisprudence and other Learning began to revive, was look'd upon as one of the best Lawyers. *Germany, Milan and Florence*, all lay claim to him as their Country-man; he first apply'd himself to the Study of Philosophy and Humanity, such as they were in these Times, and 'tis thought he made a Voyage to the *Levant*, and studied in *Constantinople*; from thence he return'd to *Ravenna*, where he taught and acquir'd the Reputation of a Man of great Learning. But afterwards he left *Ravenna*, and was invited to *Bologna*, where he taught Philosophy. There had been a School establish'd in *Bologna*, in which the Jurisprudence was taught, whereof *Pepo* was a Professor; and there having arisen a Dispute among the Professors about the Word *As*, signifying Twelve Ounces, *Irnerius* thereupon apply'd himself to the Study of *Justinian's* Books, and became so famous a Professor of Law, that he eclips'd the Fame of *Pepo*. He studied *Justinian's* Code, Institutions and *Novellæ*, and these last he adapted to the Laws of the Code, in order to shew wherein the latter differ'd from the former; he likewise made his first Glosses on these Books; and he was the first, who in the Year 1128, commented on the *Roman* Laws. Those who write that in this Year there had been another Copy of the Digests found in *Ravenna*, besides that, which was handed about in *France*, say, that *Irnerius* before the Pandeets were found in *Amalphis* (which *Angelus Politianus*<sup>1</sup> believ'd to be *Justinian's* own Copy, notwithstanding the Dissent of *Andreas Alciatus*<sup>2</sup>, and *Antonius Augustinus*<sup>3</sup>, though 'tis certain that all other Copies are taken from it, as being the most antient<sup>4</sup>) imploy'd his Labour likewise on the Digests, and taught them in *Bologna* with the other Books of *Justinian*, where he made his first Comments. But others, who deny that, and say, that the first Copies of the Pandeets that appear'd in *Italy*, were taken from those of *Amalphis*, maintain, that *Irnerius* explain'd the Digests in that Academy after they had been found in *Amalphis*, but not by the Command of the Emperor *Lothaire*, but for his own private Study, as he had before explain'd the other Books of *Justinian*, and other Learning, without the Emperor's Order. Neither had that Academy been instituted in these Times by *Lothaire*, nor do we read, that he commanded the Books of *Justinian* to be explain'd and taught there, as *Fredericus Lindenbrogius* affirms<sup>5</sup>; and *Hermanus Conringius*<sup>6</sup> subjoyns, that if *Lothaire* had commanded such a Thing, and had had the School of *Bologna* so much at Heart, when the Pandeets were found in *Amalphis*, he would have made a Present of them to the Professors of *Bologna*, and not to the *Pisans*.

BUT though we read no particular Edict of *Lothaire* concerning this Matter, yet 'tis not to be doubted, but that this Prince favour'd those Studies, and that the School of *Bologna* flourish'd more in his Time than formerly, for *Irnerius* had made a prodigious Progress in the *Roman* Laws; so that those Studies came to be cultivated and promoted, and many applied themselves to them, insomuch, that the School of *Irnerius* produc'd able Doctors, who either by their Pleading, or their written Comments, illustrated the Laws of *Justinian*, and excited not only the Academy of *Bologna*, but also all the other Academies of *Italy* to study them. Whence arose *Martinus* of *Cremona*: *Bulgarus*, who in the Time of *Frederick Barbarossa* was so famous in *Bologna*: *Hugo* and *Jacobus Ugo linus*, *Roger*, *Otho*, and *Placentius*, who were so renown'd in the Academy of *Montpelier* in *France*; a Disciple of *Bulgarus*, nam'd *Pileus*, who was famous in *Bologna* and *Modena*, for his *Quæstiones Sabbathinæ*; *Albericus* of *Ravenna*, and his Disciple *Azon*, who was the chief Lawyer of his Age, and Master of our *Roffredo Beneventano*, *Balduino*, and many others.

'TIS generally believ'd that from the Books of *Justinian* being thus revived in the Academies of *Italy*, and from the School of *Irnerius*, the Solemnities practis'd afterwards in creating of Doctors had their Rise, which are attributed to *Irnerius*, who, by the Authority of *Lothaire*, bestow'd the Degree of Doctor on the Professors, and 'tis said, that he was the first who declar'd *Bulgarus*, *Ugo linus*, *Martinus* and *Pileus*<sup>7</sup> Doctors. And *Acerbus Morena*<sup>8</sup> relates, that *Irnerius* being on his Death-bed, his Scholars accosted him, and ask'd, whom he would recommend to be

<sup>1</sup> Polit. lib. 10. Ep. 14.

<sup>2</sup> Alciat. dispunct. lib. 3. cap. 12.

<sup>3</sup> August. Emendat. lib. 1. c. 1.

<sup>4</sup> Struv. hist. jur. cap. 5. §. 10.

<sup>5</sup> Lindenbrog. in Prolegom. in Cod. LL. Antiq.

<sup>6</sup> Conring. de Orig. Jur. Germ. cap. 21.

<sup>7</sup> V. Iterum de Gradib. Academicis, cap. 3. §. 9.

<sup>8</sup> Morena de reb. Laudens. apud Leibnittum, tom. 1. pag. 118.

their

their Master after his Death, to whom he nam'd *Bulgarus*, *Martinus*, and *Hugo*, but they chose *Jacobus*, and made him their Doctor. But *Itterius* <sup>1</sup>, and *Conringius* <sup>2</sup> reckon, that the Solemnity of conferring the Degree of Doctor in Academies, took its Rise from the *French*, from whom the *Italians* had it.

*SIGONIUS* <sup>3</sup>, *Arthur Duck* <sup>4</sup>, and others believ'd, that *Lothaire*, besides having commanded the Books of *Justinian* to be read in the publick Academies, order'd them to be pleaded in the Tribunals, and the Judges to neglect the *Longobard* Laws, and give Judgment according to them. But their Opinion has no Foundation in History, for we read of no Edict of *Lothaire's* commanding it, which would have been necessary, and there is not a Contemporary Historian that mentions it; so that the gravest Writers <sup>5</sup>, and *Lindebrogius* <sup>6</sup> at large, confute their Error. What clearly convinceth us of the contrary, is, that the *Longobard* Laws were kept up in *Italy*, and especially in these our Provinces long afterwards; and according to them, Law Pleas were decided in the Tribunals, only the *Roman* Law was by Tradition observ'd amongst the Country People; neither in those Times were the Books of *Justinian* quoted, for they had not as yet acquir'd any Authority in the Courts, as by degrees they afterwards did, rather by Custom and the Dint of Reason, than by the Law of any Prince.

BUT if there ever had been a Law for that Purpose, 'tis sure, it could have been of no Force in our Provinces, that were under the Dominion of *Roger*, *Lothaire's* Enemy. *Roger*, as we shall see anon, soon recover'd all these Provinces which *Lothaire* had invaded, and overcame all his Enemies, and re-united the Provinces to his Kingdom of *Sicily*, and establish'd it in the Form of a true Monarchy, which obey'd no other Laws but those of the *Longobards*, and what others he made afterwards. And this was not only during the Empire of *Lothaire*, and his own Reign, but likewise continu'd in the Times of the *Norman* Kings his Successors, who being still at War with *Conrade*, and *Frederick I.* who succeeded *Lothaire*, never allow'd their Laws to be observ'd in these Provinces; and in Fact, as shall be seen by and by, Law Pleas were not decided by the *Roman* Laws contain'd in those Books, but by the *Longobard*, and the *Roman* Laws, which by way of Tradition, were retain'd by these People. Neither was there with us any Opportunity of reading these Books in our publick Schools, for till the Time of *Frederick II.* a great Favourer of Learning, and who introduc'd it into *Naples*, we had no Academies, and it was not till later Times, we being the last in following the Example of the other Cities of *Italy*, that the Study of those Books began in these Provinces, and they were quoted in the Courts more through Strength of Reason, than as Laws, as will be seen in the Course of this History.

<sup>1</sup> Itter. Loc. cit. cap. 4. §. 25.

<sup>2</sup> Conring. de Antiquitate Acad. diff. 14. p. 124.

<sup>3</sup> Sigon. de Reg. Ital. lib. 11.

<sup>4</sup> Arth. de usu & author. Juris Civ. l. 1. c. 14.

<sup>5</sup> V. Struv. Hist. Jur. Just. restaur. cap. 5.

<sup>6</sup> §. 10. Stokmans Decif. 1. num. 18.

<sup>6</sup> Linden. loc. cit.





## C H A P. III.

*King Roger prosecutes the War against Innocent. Anaclet dies ; and soon after the Emperor Lothaire, and Rainulphus Duke of Puglia likewise dye. Roger recovers the Cities which he had lost ; and all these Provinces with the Dukedom of Naples, submit to his Dominion. Innocent is made Prisoner, and Peace concluded betwixt him and King Roger, to whom he grants the Investiture of the Kingdom.*



**M**ALPHIS and the neighbouring Places being taken by the *Pisans*, *Lothaire* order'd them to sail to *Salerno*, and call'd Duke *Sergius* from *Naples*, and Prince *Robert* from *Capua*, to go on the same Expedition, and sent Duke *Rainulphus* with a Thousand *Germans* ; all which being join'd, they laid close Siege to *Salerno*.

**T**HIS City was defended by *Robert*, King *Roger's* Chancellor, without any other Troops but only Four hundred Soldiers, with some Barons of the neighbouring Castles ; but the Fidelity and the Love of the *Salernitans* to *Roger*, supplied the want of a strong Garrison ; these People who had been long under the Dominion of this King, were most faithful to him. To this was added, their Gratitude for the many Favours which they had receiv'd from this Prince, who lov'd and valu'd them above all his other Subjects, and amongst all the other Cities of this Kingdom, he had chosen *Salerno* for the Residence of his Court ; and as in *Sicily* he had fix'd his Abode in *Palermo*, so when his Affairs call'd him into these Provinces, he kept his Court in *Salerno*. Therefore they defended themselves against the Besiegers with much Bravery, insomuch that the *Pisans* having Proof of their Courage, in order to get the better of their Resolution, caus'd a Machine to be made for making a Breach in the Walls of the City, which so terrified the *Salernitans*, that they began to despair of being able to defend it any longer ; and when the Pope and Emperor came to the Siege, they sent Messengers to the Emperor, and submitted to him, on Condition, that the foreign Soldiers should have leave to go whither they thought fit, whereupon some went away, and others with the Barons and Captains, retir'd into the Castle of the City, and maintain'd it gallantly for their Master. The *Pisans* understanding that the *Salernitans* had surrender'd to the Emperor, and had been receiv'd by him without communicating the Matter to them, highly incens'd at such a Contempt, immediately burnt the Machines, which they had made for taking *Salerno*, and made ready their Vessels in order to return to *Pisa* ; and they would actually have been gone, had it not been for the Pope, who much valu'd their Alliance, and who with Intreaties and large Promises, stopp'd them ; but this Discord prevented the taking of the Castle, which therefore continu'd to be at *Roger's* Devotion.

**T**H E taking of *Salerno* occasion'd greater Discord betwixt the Emperor and *Innocent*, who pretended that this City belong'd to the Church of *Rome*, and though hitherto it was not known by what particular Right, nevertheless it was known that *Gregory VII.* would on no account invest *Roger*, nor any of his Successors with it, because of the Claim

Claim of the Apostolick See to this City; but *Lothaire* strongly opposing such a Claim, made *Innocent* to yield<sup>1</sup>, for this cunning Pope was unwilling to break with him, lest *Roger* should take advantage of it. However *Innocent* was highly offended; and the Bond of Friendship which had united them hitherto, began to slacken.

A T last (thinking their Expedition was over) *Innocent* and *Lothaire* left these our Provinces, and the Emperor leaving *Rainulphus* his General, with many other Officers, to oppose *Roger*, and maintain the Conquests he had made, went with the Pope to *Rome*, and from thence by the way of *Tuscany* march'd straight for *Germany*<sup>2</sup>. But *Roger*, who all this Time had given way to the Fury of so many Storms, was waiting an Opportunity to recover all he had lost, and as soon as he heard that *Lothaire* had left *Campagna*, he assembled a great Army in *Sicily*; and hearing that he was in *Rome* on his way to *Germany*, in all haste sail'd for *Salerno*, where he landed his Army<sup>3</sup>. This City presently surrender'd to its old Master, and from thence he went to *Nocera*, which with all the Towns in the Neighbourhood belonging to *Rainulphus*, immediately submitted to him. He afterwards march'd to *Capua*, and being furiously inrag'd at Prince *Robert*, who had been the chief Instrument of *Lothaire's* coming into *Italy*, he took it by Force, and it suffer'd a terrible Pillage. From thence with his victorious Army he march'd to *Avellino*, and after taking this City with all the Places round it, he advanc'd to *Benevento*. The *Beneventans* being terrified at *Roger's* Success, likewise submitted to him, and quitting the Party of *Innocent*, to whom they had sworn Fealty a little before, in order to please the King, they sided with *Anaclet*. *Roger* from *Benevento*, march'd to *Monte Sarchio*, which presently yielded; from thence entering into *Puglia*, with much Bravery he subjected many Cities of it. Duke *Rainulphus* hearing that *Roger* was come into *Puglia*, assembled 1500 gallant Soldiers which he drew out of *Bari*, *Trani*, *Melphis* and *Troja*, with whom he march'd against *Roger*, being resolv'd rather to die with his Sword in his Hand, than basely to submit to his Enemy.

I N the mean time *Innocent* was appriz'd of *Roger's* Progress, and the Emperor being at a Distance, he knew there was no great stress to be laid on Duke *Rainulphus*, nor the Emperor's Officers, therefore he resolv'd to send *Bernard* Abbot of *Claravalle*, to the King, with a Commission to treat of Peace, and reconcile the King and the Duke; but *Bernard*, who in these Times was in great Esteem, both for his Learning and holy Life, not succeeding, the King and the Duke came to a Battle, which was gallantly fought, and *Roger* came off with Loss; but not minding this Defeat, he retir'd to *Salerno*, where he recruited his Army, in order to invade *Puglia* anew. However the Abbot of *Claravalle* continued to treat with the King about a Peace betwixt him and the Pope, and at last he obtain'd, that *Innocent* should send three Cardinals, and *Anaclet* as many, to lay both their Claims before him, and then he would determine what he should think most equitable. Accordingly *Innocent* sent Cardinal *Aimerico* Chancellor of the holy Church, and Cardinal *Gherardo*, both of them Men of great Reputation, and the Abbot *Bernard*; and *Anaclet* likewise sent three of his Cardinals, to wit, *Matteo* his Chancellor, *Gregorio*, and *Pietro Pisano*, a Man in these Times look'd upon to be very eloquent, learn'd and well skill'd in the Holy Scriptures<sup>4</sup>. When they came to *Salerno*, the King heard them for several Days, and then conven'd all the *Salernitan* Clergy, and a good Number of his own People, with the Archbishop *William*, and the Abbots of the Monasteries, and took the Matter into Deliberation, and after canvassing it thoroughly, *Roger* fell on Means to prolong, and, according to *Falcon* of *Benevento*, spin out the Time of the Meeting, in order to amuse *Innocent*, and Duke *Rainulphus* by this Treaty, that in the mean Time he might make up the Losses he had sustain'd, and draw together a new Army. The Abbot of *Bonavalle*, and Cardinal *Baronius* relate the Fact otherwise than *Falcon*, who was a Contemporary Author. They say that *Bernard* and *Pietro Pisano* only treated about this Accommodation with *Roger*, and though *Pietro* was convinc'd by *Bernard's* Reasons, yet the King obstinately refus'd to agree with *Innocent*, insomuch that he oblig'd

<sup>1</sup> P. Diac. lib. 4. cap. 117. Quæ res inter Pontificem, & Cæsarem dissensionem maximam ministravit, Papa dicente, Salernitanam Civitatem Romanæ Ecclesiæ attinere; Imperatore, è contra, non Pontifici, sed Imperatori pertinere debere, dicente.

<sup>2</sup> P. Diac. lib. 4. cap. 126.

<sup>3</sup> Falc. Ben. Audiens Rex Rogerius Imperatorem viam redeundi arripuisse, exercitu convocato, Salernum venit.

<sup>4</sup> Sigon. de Regn. Italiæ, lib. 12. Insigni pro ea tempora eloquentia, singularique doctrina.



the Abbot of *Claravalle* to leave *Salerno*, and return to *Rome*. However that may be, *Roger* without coming to any Conclusion, departed, and imbarc'd in his Fleet for *Sicily*, in order to return into *Puglia* with a greater Army.

BUT while he was in *Sicily*, *Anaclet*, very opportunely died in *Rome* the seventh Day of *January* this Year 1138, whose Death put an end to this Schism that had disturb'd the Church for eight Years. The Sons of *Peter Leo*, and the other Adherents of *Anaclet*, inform'd the King of the Death of their Pope, and ask'd his Advice whether it was proper to chuse a Successor. *Roger*, whose Business was to keep up the Faction, in order to suppress *Innocent's* Party, order'd a Successor to be immediately chosen; and accordingly *Anaclet's* Party join'd together, and elected *Gregorio Romano* Cardinal of the Holy Apostles, to whom they gave the Name of *Victor IV*. But such was the Diligence of the Abbot *Bernard*, that by his Persuasion, both *Victor* and the Cardinals that had elected him, submitted to *Innocent*; and *Victor* having stripp'd himself of the Papal Ornaments, laid them at his Feet, which put an end to the Schism<sup>1</sup>: Whereupon the *Romans* were so well pleas'd with *Bernard*, that to do him Honour, they gave him the Name of Father of their Country; but he was so Self-denying, and had such an Aversion for the Honours of this World, that he left *Rome*, and return'd to his Monastery of *Claravalle* in *France*. *Petrus Diaconus*<sup>2</sup>, who here ends his Addition to the Chronicle of *Leo Ostiensis*, relates the Story otherwise; he says, that *Innocent* brib'd the Sons of *Peter Leo* and their Adherents, and brought them over to his Party; so that the Cardinals that had elected *Victor*, destitute of all Assistance, out of cruel Necessity submitted to *Innocent*. Even taking this for granted, there are some who free him of the Crime of Simony, such as the Abbot *de Nuce*, by alledging some other the like Examples.

*INNOCENT* seeing the Affairs of *Rome* thus settled, and all Discord at an end, bent all his Thoughts on the War of *Puglia* against *Roger*; for which end he went to *Albano*, and assembled a great Army to join Duke *Rainulphus*: On the other hand the King having likewise assembled his Troops, pass'd over from *Sicily* to *Puglia*, in order to subject the rest of the Cities of that Province to his Dominion. Duke *Rainulphus* did not fail to oppose him, but in vain, so that the King was fully resolv'd to besiege *Melphis*, but it was so well defended, that he could not take it, but all the Castles in the Neighbourhood submitted to him, after which he return'd to *Salerno*, and from thence went anew to *Sicily*.

THIS same Year 1138, the Emperor *Lothaire* died in the *Valle di Trento*; a Prince, who besides his military Qualifications, and many Virtues, was a great Encourager of Learning and Justice, and deserves to be extoll'd above all others, for having in his Time restor'd the Splendor of the Roman Laws in *Italy*, and allow'd them to be taught in the publick Academies there. Which was the Cause that in process of Time they afterwards recover'd so much Authority, and became so resplendent, that they eclips'd all the Laws of other Nations, and deservedly have the first Rank in all Academies, and by them the most knowing Part of the World is guided. And above all other Princes he deserves immortal Praise from all Lovers of the Civil Law.

THERE arose terrible Disputes amongst the Electors of the Empire about the Election of a Successor. *Conrade* Duke of *Suevia*, *Lothaire's* Nephew, and *Henry* Duke of *Bavaria*, his Son-in-Law, set up for it; but at last *Henry* being excluded, *Conrade* was rais'd to that sublime Dignity, and was acknowledg'd as Emperor by the Dukes, Princes, Marquises, and all the Great Men of the Empire; for the Right of electing was not as yet confin'd to Seven only, as it was afterwards<sup>3</sup>.

ON the other hand *Innocent*, who had nothing so much at Heart, as to suppress *Roger's* Party, in the Beginning of the Year 1139 conven'd a Council in *Rome*, and excommunicated *Roger*, and all those who had been of *Anaclet's* Faction<sup>4</sup>. But not long after *Innocent* receiv'd a terrible Blow; for on the last Day of *April* the Count of *Avellino* and Duke of *Puglia*, who had harass'd the King his Brother-in-Law with a cruel and continual War, was taken ill and died in *Troja*, and was buried in the Cathedral Church of that City, and much lamented by the Bishop *William* and the Citizens.

<sup>1</sup> Falc. Benev. ad A. 1138. Vita S. Bernardi.

<sup>2</sup> Lib. 4. cap. ult.

<sup>3</sup> P. Diac. lib. 4. cap. 127.

<sup>4</sup> Falc. Benev. A. 1139. Otho Frisingens.



THE welcome News of the Count's Death coming to King Roger, he look'd upon the War as at an end ; so that having immediately assembled his Army, he cross'd over to *Salerno* <sup>1</sup>, conven'd all the Barons that were in his Interest, and went to *Benevento*, from whence he march'd and took many Places belonging to the Count of *Ariano*, who fled to *Troja*, and thereafter he subjected all the Cities and Castles of the *Capitanata*. The King, as we have said, had several Sons by his first Wife *Alberia*, of which Roger was the Eldest, therefore he created him Duke of *Puglia* ; he striving to imitate the Bravery of his Father, who had gone to the Siege of *Troja*, subdu'd all the other Places of *Puglia*, both Inland and Maritime <sup>2</sup> ; only *Bari*, which was gallantly defended by the Prince *Giaquinto*, held out ; so that despairing to force it to surrender, he resolv'd to go and join his Father, who was encamp'd round the City of *Troja*. This City was defended by the Count of *Ariano*, who had gone thither with a good Body of Troops, and defended it so obstinately, that the King was oblig'd to raise the Siege, and join'd his Son, and march'd to *Ariano*, where he prepar'd many Machines in order to take it.

IN the mean time Pope *Innocent* hearing the sad News of the Death of Duke *Rainulphus*, and the prosperous Success of the King in *Puglia*, unwilling to leave these Places without Troops, conven'd his Army, and putting himself at the Head of it, left *Rome*, and march'd to *St. Germano*. Roger, by this Expedition of *Innocent's*, being diverted in the Midst of his good Fortune, endeavour'd, rather than to come to a Battle with him, to soften him by Proposals of Peace, for which end he sent Ambassadors, offering to be at his Devotion. The Ambassadors were courteously receiv'd by *Innocent*, who sent two Cardinals to Roger, inviting him to come to *St. Germano* in order to conclude a solid Peace. The King had then return'd to the Siege of *Troja*, and having receiv'd the Cardinals with much Respect, rais'd the Siege, and with the Duke his Son went immediately to *St. Germano* ; they continu'd to treat about this Affair for the Space of eight Days <sup>3</sup> ; but *Innocent* being obstinately resolv'd to have the Principality of *Capua* restor'd to Prince *Robert*, to which the King by no means would consent, the Treaty was broke off, and the King left *St. Germano*. The Pope hearing of his Departure, march'd with his Army to *Castello di Galluccio*, and laid close Siege to it, which the King presently getting Notice of, return'd in all haste, and on a sudden arriv'd at *St. Germano* ; the Pope, and Prince *Robert*, who was with him, being catch'd napping, were so terrified, that without any Delay, they rais'd the Siege of *Castello di Galluccio*, in order to shelter themselves in some secure Place ; but the King immediately sent his Son the Duke of *Puglia*, with a thousand brave Soldiers, to lie in wait and attack the Pope on his March. Which Project succeeded so well, that the Pope's Army was defeated and put to flight, and *Innocent* himself, to his great Reproach and Shame, with his Chancellor *Almerico*, many Cardinals, and other Men of Note, were carried Prisoners to the King, only *Robert* Prince of *Capua* made his Escape ; the victorious Soldiers plunder'd the Pope's rich Baggage, and found a great Sum of Money.

IN this unlucky manner have all the Expeditions of the Popes against our Princes terminated, and such has always been the Fruits of their laying aside their own Character, and taking upon them that of Secular Princes, by marching at the Head of Armies, with a Helmet in the Place of the *Tiara* <sup>\*</sup>, and a *Cuirass* instead of a Stole and Dalmatick.

THIS remarkable Event fell out on the Twenty-first of *July* in the Year 1139 <sup>4</sup>, as the most exact *Pellegrinus* <sup>5</sup> well proves, contrary to what *Baronius* and *D. Francisco Capecelatro* have written, who, not understanding this Place in *Falcon*, writes that *Innocent* was made Prisoner on the tenth of this Month. Neither must we omit in this Place to say, with the same *Capecelatro*, who is the most exact Writer of the History of the *Norman Kings*, of all the Moderns, that those who write that *Innocent's* Defeat and Imprisonment happen'd in the Beginning of his Reign, and was the Cause of the Schism, are grossly mistaken ; for the Contemporary Authors, and those who shortly after have transmitted these Facts to Posterity, place them in this Year, and in the manner we have related, such as the Chronicle of *Falcon*, a most ancient

<sup>1</sup> Falc. Benev.

<sup>2</sup> P. Diac. lib. 4. cap. 129. Præter Batum, Trojam, atque Neapolim, omni Terram quam facile amiserat, facilius cœpit recuperare.

<sup>3</sup> Falc. Benev.

<sup>4</sup> Idem. A. 1139.

<sup>5</sup> Pellegr. in Castig. ad Falc. Ben. A. 1130.

Writer of *Benevento*, the Anonymous *Cassinensis*, the Histories of Archbishop *Romualdo*, and of *Orto Prifingensis*, and the many Letters written on this Subject by St. *Bernard* Abbot of *Claravalle*; from the Authority of such grave and ancient Writers, Cardinal *Baronius*, the said *Capecelatro*, and the incomparable Critick in our Affairs *Camillus Pellegrinus*, place them in this Year.

BUT the Affection of the Normans for the Apostolick See, was as flagrant in this Imprisonment of *Innocent*, as in that of *Leo*; tho' *Roger* according to the Laws of War could have treated *Innocent* in the same manner as he could have done any other Secular Prince that was his Prisoner; yet being ignorant of the Distinction of two Persons in one Pope, he paid him all the Honours and Respect which are due to the Vicar of Jesus Christ; he sent Ambassadors to beg him Pardon, and intreat him to be reconcil'd with him. *Innocent* more overcome by this piece of Generosity and Greatness of Soul in *Roger*, than by his Arms, willingly consented to his Request; and four Days after, on the Feast of St. *James*, the Peace was concluded in *Benevento*. The Pope for his Part, absolv'd *Roger* and all his Adherents from the Excommunications he had thunder'd out against them; upon which the King with his Son *Roger* went and threw themselves at his Feet, and acknowledg'd him lawful Pope, and swore Fealty upon the Evangels, both to him and all the Popes his Successors, lawfully elected, and became their Vassals, by promising to pay the usual Quit-Rent of 600 *Schisati* yearly, and to restore *Benevento*. On the other hand the Pope deliver'd him the Standard, as the Custom was then, invested him with the Kingdom of *Sicily*, the Dukedom of *Puglia*, and the Principality of *Capua*, and acknowledg'd him King, and confirm'd him in all those Honours and Dignities belonging to a King.

THIS Investiture was transcrib'd from the Registers of the Library of St. *Peter* in *Rome* by Cardinal *Baronius*, and is inserted in his Annals; in which there are many Things worthy of Observation. First *Innocent* says, that he, following the Footsteps of his Predecessors, and having before his Eyes the Merits of *Robert Guiscard*, and *Roger* his Father, who with so much Toil and Labour had extirpated the *Saracens*, implacable Enemies of the Christian Name, out of *Sicily*, reckon'd them worthy of immortal Glory; therefore he confirm'd to *Roger* the Kingdom of *Sicily*, with which his Predecessor *Honorius* had invested him, with the Prerogative of King, and all other Honours and Royal Dignities; and subjoins the Reason why *Roger*, the Possessor of that Island, ought to be advanc'd to the Title of King, and *Sicily* made a Kingdom, because that Island formerly had the Prerogatives of a Kingdom, and its own Kings to govern it, according to the Abbot of *Telesse*; these are the Pope's Words, *Regnum Siciliae quod atque, prout in antiquis refertur historiis, Regnum fuisse, non dubium est, tibi ab eodem Antecessore nostro concessum cum integritate honoris Regii, & dignitate Regibus pertinente, Excellentiae tuae concedimus, & Apostolica auctoritate firmamus*; by which we may see, that the Popes, among their other Prerogatives, look'd upon that of erecting or re-establishing Kingdoms and Kings, to be one, and especially *Sicily*, with which *Roger's* Predecessors had been invested by the Apostolick See.

INNOCENT confirm'd the Investiture of the Dukedom of *Puglia*, which had been given *Roger* by his Predecessor *Honorius*; and that of the Principality of *Capua*, tho' Prince *Robert* was still alive, who was divested of it; and tho' formerly this Pope had so vigorously endeavour'd to have it restor'd to him, yet now he gives the Investiture of it to *Roger*, adding: *Et insuper Principatum Capuanum integre nihilominus nostri favoris robore confirmamus, tibi que concedimus: Ut ad amorem, atque obsequium B. Petri Apostolorum Principis, & nostrum ac successorum nostrorum vehementer adstringaris*; and thus he pretended to justify *Roger's* Title to this Principality, acquir'd only *Jure Belli*; and for no other end, but that *Roger* and his Successors might be the more Subservient and Obsequious to the Apostolick See, just so as *Gregory VII.* declar'd in his Investiture.

\* Anon. Cassin.

S E C T.

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## S E C T. I.

*The Dukedom of Naples, Bari, Brindisi, and all the other Cities of the Kingdom submit to Roger.*

**I**T is well worth our Observation, that in this Investiture there is no mention made of the Principality of *Salerno*; for the Popes, tho' 'tis not known by Virtue of what Title, have always pretended that this Principality belong'd to the Apostolick See, as well as that of *Benevento*. Neither is the Dukedom of *Naples* mention'd in it; so that they were much mistaken, who wrote that *Innocent* likewise invested *Roger* with *Naples*: We cannot but wonder when we read in the History of *Naples* at last publish'd by *P. Giannetasio*<sup>1</sup>, that from this Time, *Naples*, from being a free Republick, became subject to the Dominion of *Roger*; and the Author, as it were, lamenting the Fate of his Country, by the Concern he shews for its having lost its Liberty, accuses *Innocent* for allowing of it, seeing that City belong'd to the Empire of the East; as if, supposing the Fact true, it had been a new Thing for the Popes to give Investiture of Dominions that did not belong to them; and this appear'd to be a Novelty to him, tho' he was not surpriz'd to see the Popes give the Investiture of *Puglia* and *Calabria* to the *Normans*, which Provinces they had taken from the *Greeks*, and to which they had no better Title than to the Dukedom of *Naples*. This Dukedom was acquir'd by the *Normans*, not by the Investiture given them by the Popes, but by the Right of Conquest, and the Submission of the *Neapolitans*, as shall be related by-and-by. Only in *Anaclet's* Bull, after the Investiture of the Principality of *Capua*, there is added, *Honorem quoque Neapolis, ejusque pertinentiarum*; which meant nothing but the Honour of Dukes of *Naples*, by leaving the City in its former State and Polity; and 'tis *Petrus Diaconus*<sup>2</sup> alone, who writes, that *Anaclet*, besides the Principality of *Capua*, invested *Roger* with the Dukedom of *Naples*; but after *Roger* had made Peace with *Innocent*, he no longer minded what *Anaclet* had done; so that he pretended no other Right to the Dukedom of *Naples* but that of Conquest, and the Submission of the People, in the same manner as he did to *Amalphis*, *Gaeta*, the Principalities of *Taranto* and *Salerno*.

**BUT** let us return to where we left off: *Roger*, after having made this Peace, freely left the City of *Benevento* to the Pope; but while he was in that City, the *Neapolitans*, terrified at *Roger's* Success, came and subjected their City to his Dominion, as their Duke *Sergius* had formerly done. This Duke, if we may give credit to *Alexander* Abbot of *Telesè*, had subjected the City of *Naples* to *Roger* many Years before; but afterwards repenting of what he had done, join'd with Prince *Robert* and Count *Rainulphus*, *Roger's* Enemies, and carried on a long War with him; afterwards he sided with *Roger*, and while he was fighting under his Banner, in the Battle which *Roger* lost near *Salerno*, he, together with many Barons belonging to *Rainulphus*, was kill'd.

**THIS** Year 1139, the *Neapolitans* having experienc'd *Roger's* Valour, subjected themselves intirely to his Dominion; and by the Death of *Sergius*, being left without a Duke, with the King's Consent they elected his Son *Roger*<sup>3</sup>. *Irveges* proves *Roger* to have been elected Duke, and not *Ansfusus*; *Pellegrinus* will have it to be *Ansfusus*. However that may be, altho' this Dukedom was subjected to *Roger*, nevertheless he would not allow of any Alteration in the Form of its Government and Polity; the same Magistrates, and the same Laws were continu'd, and he confirm'd all those Prerogatives and Privileges which it enjoy'd when, under the last Dukes, it intirely renounc'd all Allegiance to the Empire of the East, and took the Form of a Republick; therefore we observe, that even after *Roger*, to the Year 1190, according to *Capaccio*<sup>4</sup>, or whoever may be the Author of the *Latin* History of

<sup>1</sup> Hist. Neapol. lib. 11.<sup>2</sup> P. Diac. lib. 4. cap. 97.<sup>3</sup> Falc. Benev. In his diebus Cives Neapolitani venerunt Beneventum, & Civitatem Neapolim

ad fidelitatem Domini Regis tradentes, Ducem filium ejus duxerunt, &amp; ejus fidelitati colla submitrunt.

<sup>4</sup> Capac. lib. 1. cap. 12.

*Naples,*

*Naples*, there have been other Dukes, such as *Sergius*, and a certain *Aliernus*, in whose Time, that Privilege related by *Marinus Freccia*, and which is likewise mention'd in the said *Latin History*, was granted to the Merchants of *Amalphis* who liv'd in *Naples*. However *Roger* did not leave *Naples* at full Liberty, like a free and independent State, as some have believ'd. They founded their Belief on what *Falcon of Benevento* relates, to wit, that *Roger*, after having taken *Troja* and *Bari*, the Year following 1140, return'd to *Naples*, where he was receiv'd with Acclamations, and with so great Pomp and Solemnity by the *Neapolitans*, that never any King nor Emperor had ever been treated there with so much Honour; that the next Day he rode through the City, and afterwards went in a Boat to *Castel di S. Salvatore*, situated in a little Island in the Sea, close by *Naples*, which is now call'd *Castel dell' Uovo*, on account of its Shape; and while he was there, he sent for the Citizens of *Naples*, with whom *De libertate Civitatis, & utilitate tractavit*, which are *Falcon's* Words; by which being deceiv'd, they believ'd that the *Neapolitans* treated there with *Roger* about the Freedom of their City; whereas the King, as the most accurate *Pellegrinus* demonstrates<sup>1</sup>, treated of nothing else but the Immunities and Franchises which the *Neapolitans* pretended to, and which *Roger* presently granted them; and *Capaccio* might have shunn'd this Error by the very Privilege which he quotes, where the *Neapolitans* granting Liberty to the Merchants of the Dukedom of *Amalphis*, who liv'd in *Naples*, meant nothing by Liberty, but a certain Sort of Franchise and Immunity, such as these Words import: *Ut sicut ista Civitas Neapolis Privilegio libertatis præfulget, ita & vos Negotiatores, Campsores, five Apothecarii in perpetuum gaudeatis*; but what Liberty does the Privilege mean? *ut nulla conditio, de personis, vel rebus vestris, five hæredum, & successorum vestrorum negotiatorum in Neapoli habitantium requiratur; sicut non requiritur de Civibus Neapolitanis*.

THEREFORE *Roger* did not leave the Dukedom of *Naples* altogether free and independent; tho' he continu'd the same Laws and Magistrates, and the same Form of a Republick, which imported nothing else but the Community, and not the chief Power, as was observ'd in the first Book of this History, exactly in the same manner that *Theodorick* left it, when he ordain'd that it should enjoy the very same Privileges it had; by which 'tis clear, that *Roger* left to the Nobility and People, who were design'd by the Title of *Ordines, Electi, or Decuriones*, the Jurisdiction with regard to the *Annona*; but as for the Administration of Justice, the King imitated *Theodorick* in sending *Comites* to take Charge thereof, as was done in all the other Cities and Castles of the Kingdom.

HOWEVER *Roger* did not use any other City of his Kingdom so mildly and favourable as he did *Naples*; for besides leaving their Privileges intire, he gave to each Cavalier five *Moggia* \* of Land, with five Husbandmen; he likewise promis'd them greater Rewards, if they continu'd faithful according to the Oath they had sworn to him, and kept the City in Peace and Tranquility under his Government<sup>2</sup>. 'Tis surprizing to find that *Fazzellus*<sup>3</sup>, not content with having confounded the Things, Times, and Persons concerning these Facts, likewise adds out of his own Brain, that after this Peace had been concluded betwixt *Innoceut* and *Roger*, he, *Roger*, made his Entry into *Naples* with great Acclamations, and that Day created a hundred and fifty Knights, and continu'd there for two Months feasting and diverting himself, not only contrary to all History, but also to what *Falcon of Benevento* hath related concerning these Facts.

ROGER likewise shew'd his Affection for the *Neapolitans* in another particular; for in order to know the Largeness of the City, he caus'd the Circumference of the Walls to be measur'd in the Night-time, which he found to be 2363 Paces; and the Day following he assembled the Inhabitants, and in a kind manner ask'd them, If they knew what was the Circumference of their Walls? and they answering No, the King told them: At which they were both surpriz'd and convinc'd of his Affection<sup>4</sup>.

SUCH is the Vicissitude of worldly Things, that this City, which, with respect to other Cities of these Provinces in *Roger's* Time, was of so small Compass, at this Day surpasses all the rest, and is not only become the Metropolis and Head of so large a Kingdom, but is one of the most famous and remarkable Cities in the World.

<sup>1</sup> Pellegr. ad Falc. Ben. A. 1140.

<sup>2</sup> Idem.

<sup>3</sup> Fazzel. poster. decad. lib. 7.

<sup>4</sup> Capec. Lat. hist. lib. 1. pag. 50.

BUT

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BUT before Roger made his second Entry into *Naples*, amidst so much Acclamation and Rejoycing, he had recover'd all the Province of *Capitanata* to his Dominion; he had taken *Troja* the Head of it, into which City he never would enter, though *William* the Bishop, and the Citizens by their Messengers, had begg'd of him to come; but he answer'd, that whilst the Traitor *Rainulphus* continu'd amongst them, he would not see them: The *Trojans*, afraid of the King's Displeasure, immediately caus'd the Sepulchre of *Rainulphus* to be open'd, his Body taken out, and dragg'd through the Streets of the City with a Rope about his Neck, and afterwards thrown into a dirty Puddle; this sad Catastrophe coming to the Knowledge of his Son the Duke of *Puglia* and *Naples*, he went in quest of his Father's Corps, and manag'd Matters so, that *Rainulphus* was again buried.

AFTER this Expedition he had likewise taken *Bari*, and put Prince *Giaquinto* to death; and returning afterwards to *Salerno*, had possess'd himself of the Estates of all those who had been his Enemies, and banish'd them out of his Dominions; he sent Roger Count of *Ariano*, with his Wife, Prisoners to *Sicily*. He intirely drove out *Tancred* Count of *Conversano*, took *Brindisi*, and all his other Towns, so that he was forc'd to fly to *Jrrusalem*. And thus with so sudden and surprizing good Fortune, having recover'd all these Provinces to his Dominion, he went over to *Sicily*, from whence he sent Judges and Governors to each Province, that the subjected People might enjoy a settled Peace, and besides he establish'd new Laws for the Good of the Realm, of which Laws we shall shortly discourse. And in the beginning of the Year 1140, having assembled a new Army, he sent it under the Command of his Son Prince *Ansfusus*, to subject that Part of *Abruzzo* situated on the other side of the River *Pescara*, which belong'd to the Principality of *Capua*; where the Prince on his arrival, took many Places, and destroy'd all that made Resistance. Into which Province the King soon after likewise sent Duke Roger with a good Body of Troops, who having join'd his Brother, they intirely subjected all those Parts to the very Borders of the State of the Church, and assur'd the Pope, who was in Pain, that they had no Design to disturb his Dominions in the least. In the mean time the King with his Army had return'd to *Salerno*, and from thence to *Capua*, and, in order to make the Pope easy, he recall'd his Sons, and afterwards march'd to *Ariano*, where he call'd an Assembly, which was the first that this King held in *Puglia*, where the two States, *viz.* the Barons, and Bishops and Prelates met, for putting the Affairs of that Province in a better Condition. Thereafter he caus'd new Silver Money mix'd with a great deal of Copper, to be coin'd, which was call'd *Ducats*; and another lesser, call'd *Follare*, altogether of Copper, which he order'd to pass for the third Part of a *Romasino*, which was worth Twelve Grains and a Half of the common Copper-money, current at this Time; and Eight *Romasini* made one *Ducat* of his Coin, and under severe Penalty he forbade the Currency of the antient Money in his Dominions, though much better than his own, to the great Detriment of his Subjects, and of all *Italy*. Afterwards he march'd to *Naples*, where he treated the *Neapolitans* with that Generosity and Kindness, we have lately mention'd; and from thence he return'd to *Salerno*, and imbarc'd in his Fleet, and directed his Course for *Palermo*, leaving the Government of *Puglia* to Duke Roger, and that of *Capua* to Prince *Ansfusus*, according to *Falcon* of *Benevento*, who here puts an End to his History, as *Alexander* Abbot of *Telesse* had done a little before.

THUS Roger, after having by his Valour and Conduct overcome so many, and such powerful Enemies, firmly united all these Provinces under the Dominion of one single Person. They were now in no Danger of being any more attack'd by foreign Enemies, or disturb'd by intestine Commotions, for by his Valour he settled a most firm and lasting Peace; so that the Wars being at an End, he had Leisure to establish his Kingdom in a better Form, and to provide it with new Laws, and wholesom Regulations, that it might vie with all the other Kingdoms in the West.

<sup>1</sup> Falc. Benev.



## C H A P. IV.

*The Kingdom is establish'd, and modell'd with new Laws and Officers.*



**T**HUS was the Kingdom establish'd, and these Provinces, to wit, the Dukedoms of *Puglia* and *Calabria*, the Principalities of *Taranto*, *Capua* and *Salerno*; the Dukedoms of *Bari*, *Naples*, *Sorrento*, *Amalphis* and *Gaeta*, the two *Abruzzi*, and in fine, all the Countries on this Side of the *Tyber* to the *Sicilian* Streights, formerly divided into many Dynasties, and subject to several Princes, are now united in one large and noble Monarchy, under the Dominion

of one single Person.

**BUT** the *Sicilians* on good Grounds pretend, that as yet these our Provinces were not united in the Form of a Kingdom by it self, and independent of their Kingdom of *Sicily*. They affirm, that they still depended on *Sicily*, and particularly on *Palermo* the Metropolis, where the Royal Palace was, and the chief Officers of the Crown, who had the Government of these Provinces resided.

**AND** truly, if the first Rise of this Kingdom, and *Anaclet's* Bull, which was the first Foundation of it, be consider'd, 'tis clear, that one only Kingdom was establish'd, which comprehended *Sicily*, as the Head, and *Calabria*, *Puglia* and the other Provinces on this side of the *Phare*, as Members; these are the Words of the Bull; *Et Siciliam Caput Regni constituimus*. Whence we likewise see, that *Roger's* first Titles were King of *Sicily*, of the Dukedom of *Puglia*, and Principality of *Capua*; as if all had been but one Kingdom, comprehending both that Island, and the other Provinces on this Side of the *Phare*. This is evident from the Constitutions of *Frederick II.* compil'd by *Pietro delle Vigne*, where he not only means the Island, but all the other Provinces on this side of the *Phare*; and yet more evident from the Constitution *Occupatis*<sup>1</sup>, where *Frederick* assigning to each City of the Kingdom of *Sicily*, one single Lord Chief Justice, and one Judge, he excepts three Cities only, to wit, *Naples*, *Capua* and *Messina*, to each of which, by reason of their Bigness, he sent more, and calls *Naples* and *Capua*, Cities of the Kingdom of *Sicily*. And *Andrea da Barletta*, who was Contemporary with *Frederick II.* says, that by ancient Custom, in *Regno isto Siciliae*, the Laws of the *Longobards*, derogated from those of the *Romans*, and calls the Kingdom of *Sicily*, what is now the Kingdom of *Naples*, which cannot be understood to be the Island of *Sicily*, where the *Longobards* never had footing, and where their Laws were never observ'd. Whence we are convinc'd, that the Popes did not introduce a Novelty, by taking the Kingdom of *Sicily* not only for that Island, but for all the other Provinces on this Side of the *Phare*, of which it was compos'd; but what explains best how much this Kingdom of *Sicily* comprehended, are the Investitures given afterwards to the Princes of *Anjou* in these Words, *Regnum Siciliae citra, & ultra Pharum*; and the first who made use of this Formula, was *Clement IV.* who in the Year 1265, investing *Charles* of *Anjou* with the Kingdom of *Naples* and *Sicily*, call'd it *Regnum Siciliae citra, & ultra Pharum*, and he was the first Pope, who, for the greater clearness,

<sup>1</sup> *Constit. Occupatis lib. 1.*



made use of this Distinction, not but that before him, both the one and the other Realm were understood by *Regnum Siciliae*; whence *Fazzellus*<sup>1</sup>, *Arniseus*<sup>2</sup>, and others, unjustly make the Popes Authors of this Formula, as if, contrary to the antient Description of *Italy*, and all the old Historians, and Geographers, of which *Fazzellus* gives us a long Catalogue, who by *Sicily* understood the Island only, they had resolv'd to transfer this Title to the other Provinces on this Side of the *Phare* likewise.

THE same Stile was us'd by the subsequent Popes: and *Gregory XI.* not content with that, in the Year 1363, having made Peace betwixt *Joan* Queen of *Naples*, and *Frederick III.* King of *Sicily*, in his *Diploma*, calls *Naples* the Kingdom of *Sicily*, and *Sicily Trinacria*. And *Martin* King of *Sicily*, likewise in his *Diploma*, calls the Kingdom of *Naples*, *Siciliam citra Pharus*, and *Sicily*, *Siciliam ultra Pharus*; and at last these two Kingdoms being united in the Person of *Alphon-sus I.* he was the first, who made use of the Title of *Rex utriusque Siciliae*; which Title his Successors, who possess'd both these Kingdoms, retain'd.

THE *Sicilians*, who pretend that these Provinces under *Roger*, were dependent on the Kingdom of *Sicily*, make use of this Argument, that when *Roger* made *Palermo* his Royal Seat, all the chief Officers of the Crown, on whom the lesser ones, both of the Island and these our Provinces depended, likewise resided there. And 'tis matter of Fact, that after this glorious Prince, in Imitation of *France*, from which he had his Origine, introduc'd into his own Kingdom the High Constables, High Chancellors, Lords Chief Justices, High Admirals, Lords High Chamberlains, Great Protonotaries, and Lords High Stewards: These Supreme Officers of the Crown attended his Royal Person in *Palermo*, and particular Justices, Chamberlains, Constables and Chancellors were sent into these our Provinces, and each of them govern'd a Province<sup>3</sup>, and were all subordinate to those Seven who remain'd at Court, and therefore were first call'd Masters Justices<sup>4</sup>, or Masters Chancellors, and afterwards High Justices, High Admirals, and High Chancellors; and therefore in *Sicilia Sacra*<sup>5</sup>, we find a Writ dated in the Year 1142, likewise recorded by *Camillo Tutini*<sup>6</sup>, wherein the famous *George* of *Antioch*, *Roger's* High Admiral, calls himself *Georgius Admiratorum Admiratus*; and the so much renown'd *Majone di Bari*, King *William's* High Admiral, in a Letter of this King's to Pope *Adrian IV.* is call'd *Majo Magnus Admiratus Admiratorum*; and he himself in his Writings sign'd *Majo Magnus Admiratus Admiratorum*<sup>7</sup>, as we shall relate more fully, when we come to treat of these Officers.

BUT the Arguments on the other Side, which prove that these Provinces remain'd a distinct Kingdom, and independent of that of *Sicily* under *Roger*, are no less strong and convincing. As soon as *Roger* had made Peace with *Innocent*, he little regarded what *Anaclet* had done by his Bull; 'tis certain that the Dukedom of *Puglia*, under which Name, in the Time of the *Normans*, all *Italy* on this Side of the *Tyber* was comprehended, and the County of *Sicily*, were both erected into Kingdoms, the one independant upon the other; and as by the Writers of this Twelfth and subsequent Centuries, the one was call'd the Kingdom of *Puglia*, or of *Italy*, so the other was call'd the Kingdom of *Sicily*; and their Kings took the Title of *Puglia*, or *Italy*, as well as that of *Sicily*. And the Royal Seat in these Provinces, in those Times, was in *Salerno*; and likewise the City of *Bari* was once reckon'd the Metropolis, *Regiam Sedem, Et totius Regionis Principem*, as *Marinus Freccia* terms it<sup>8</sup>. Whence came the Fable, that the Kings of *Puglia* were wont to be crown'd in *Bari* with the Iron Crown, so that *Bergeus* in his *Siriade* of *Bari*, says<sup>9</sup>,

——— *Primi unde insignia Regni*  
*Sceptraque, purpureosque habitus, Sacramque Tiaram,*  
*Sumere tum Reges, Siculique, Italique solebant.*

<sup>1</sup> Fazzel. de reb. Sicul. dec. 1. lib. 1. cap. 2.

<sup>2</sup> Arnif. tom. 1. pag. 519. & 566. num. 6.

<sup>3</sup> Anonym. Cassin. anno 1208. Constitutis Magistris Justiciariis Apulie, & Terræ Laboris Comite Petro Celano, & Richardo Fundano, &c.

<sup>4</sup> Camil. Pellegr. in Castig. ad Anonym. Cassin. anno 1208.

<sup>5</sup> Sicil. Sacr. tom. 3. fol. 275.

<sup>6</sup> Tutin. dell' Uffic. del. G. Ammir.

<sup>7</sup> Beatill. Hist. di Bari lib. 2. pag. 108.

<sup>8</sup> Freccia de subfeud. lib. 1. p. 43. num. 6.

<sup>9</sup> Alberto Bononiens. in Descript. Ital. Regione X. fol. 224. Beatil. Hist. di Bari, lib. 1. and in the Life of St. Nicolo di Bari.



WHAT is allowable in a Poet, who, perhaps, meant the ancient *Tarantine* Kings, or a feign'd Story, is not pardonable in Historians, who tell us, that the *Norman* and *Suevian* Kings of *Puglia* were crown'd in *Bari* with a Crown of Iron: That the Emperor *Henry* and *Constantia* his Wife, and *Manfred* likewise were crown'd there. Which are all fabulous Stories; for, as shall be shewn in the Course of this History, and which *Inveges*<sup>2</sup> proves, these Princes were crown'd in *Palermo*, and not in *Bari*. And *Marinus Freccia*<sup>3</sup> (whom *Beatillus* ought to believe, and not differ from him without Reason) says, that not having read in any Writer, that the Kings of *Puglia* had been crown'd in *Bari*, in the Year 1551 he went to that City, and inquir'd concerning this Coronation at the People of *Bari*, who were surpriz'd at the Question, as a new Thing, they never having had any Tradition that ever such a Solemnity had been perform'd in former Ages in their City.

BUT tho' those Kings were not crown'd in *Bari* the Metropolis of *Puglia*, nor in *Salerno* the Royal Seat of the *Normans*, but in *Palermo*, yet they valu'd themselves as much upon the Title of Kings of *Puglia* or *Italy*, as upon that of *Sicily*. Amongst the Monuments of our Antiquity, we have as yet many Charters, in which King *Roger*, and *William* his Son, are so intitled. In the third Tome of *Sicilia Sacra*, there is one in which *Roger* takes this Title: *Rogerus Rex Apuliæ, &c.* And in others related by *Ughellus* we read the same; and *Augustinus Inveges*<sup>4</sup>, who look'd upon these Provinces as Members of the Kingdom of *Sicily*, by the many Charters which he himself relates, wherein the like Titles are found, might have given up the Question; and in the Archives of the Monastery of the Trinity of the Cave, we have seen a *Diploma* of King *Roger's* dated in the Year 1130, the first Year of his Reign, which has the golden Seal appended to it, wherein *Roger* thus intitles himself: *Rogerus Dei Gratia Siciliae, Apuliæ, & Calabriae Rex, Adjutor Christianorum, & Clypeus: Filius, & hæres Rogerii magni Comitis*; whence, in the Decretals of the Popes, our Kings were call'd *Kings of Puglia*.

BUT a *Diploma* related by *Falcon* of *Benevento* deserves more Consideration, wherein this Title is given to *Roger*; *Rogerus Dei Gratia Siciliae & Italiae Rex, Christianorum Adjutor & Clypeus*. Here, in order to avoid the Mistakes into which many have fallen, 'tis worthy of Observation, that *Puglia*, which was always understood to be that Part of *Italy* on this Side of *Rome*, which is wash'd by the *Adriatick* Sea, and which in the Description of *Italy* comprehended only the tenth Province of it, was afterwards, according to the usual Vanity of the *Greeks*, by them call'd *Italy* absolutely; for they being formerly possessed of all *Italy*, and having afterwards very near lost all the other Provinces of it, except *Puglia*, they gave it the Name of *Italy*, that at least by retaining the Name, they might have the Vain-glory to call themselves Masters of *Italy*. Thus we have seen, when they had lost the ancient *Calabria*, and possess'd only *Abruzzo*, and a part of *Lucania*, that they might not diminish their Titles, they continu'd still to appoint Governors of *Calabria*, and sent them to reside in *Reggio*, where they govern'd *Abruzzo*, and that Part of *Lucania* which was left them, and call'd those Countries *Calabria*, which Name they retain to this Day. For this reason *Lupus Protospata* calls *Argirus* Prince and Duke of *Italy*, surely not meaning *Italy* according to its largest Extent, surrounded by both the Seas and the *Alps*, but only *Puglia*, of which *Bari* was then the Head. The same Writer likewise in the Year 1033, calls *Constantinus Protospata*, *Catapanus Italiae*<sup>5</sup>.

THIS is further prov'd by a *Greek Diploma*, which in the Year 1253, in the Time of the Emperor *Conrade*, King of *Sicily*, was translated into *Latin*, and may be seen in *Ughellus*, in which (these Provinces not being as yet erected into a Kingdom, when this Instrument was drawn up) Count *Roger* is thus intitled: — *Hoc est Sigillum factum a Rogerio Duce Italiae, Calabriae, & Siciliae*; where we clearly see, that by *Italy* the *Greeks* meant only *Puglia*. And in the Life of *St. Nilus*, which was translated from the *Greek* into *Latin* by *Cariophilus*, we read, that *Nicephorus regebat utramque Provinciam, Italiam, & Calabriam nostram*, meaning nothing else by *Italy*, but only *Puglia*, which was then possess'd by the *Greeks*; and in like manner *Charles* of *Anjou*, by the *Greek* Writers, and particularly *Nicephorus Gregora*, is always call'd *Rex Italiae*, but by the *Latins* *Rex Apuliæ*. Yet this *Greek* Idiotism

<sup>1</sup> Inveges hist. di Palerm. tom. 3.

<sup>2</sup> Freccia loc. cit. num. 4.

<sup>3</sup> Inveges hist. Palerm. tom. 4.

<sup>4</sup> Cap. veritatis de Jurejur.

<sup>5</sup> V. Pellegr. ad Lup. Pror. A. 1042.

<sup>6</sup> Ughel. tom. 9. Ital. Sacra, pag. 671.

of calling *Puglia*, *Italy*, was not only us'd by the Writers of that Nation, but likewise by our *Latin* Authors, as may be seen in *Falcon of Benevento*, who, speaking of the taking of the Castle of *Bari* by the Emperor *Lothaire*, says, *De tali tantaque Victoria tota Italia & Calabria, Siciliaque innotuit* <sup>1</sup>.

THUS while *Puglia* was in the Possession of the *Greeks*, it got the Name of *Italy*, by which was only meant that single Province; but afterwards, when *Puglia*, under the *Normans*, eclips'd all the other neighbouring Provinces, they all came under its Denomination. The Reason was, because the *Normans* first conquer'd *Puglia*, and made the Name of it resound through all the West; so that the Names of the other Provinces being in a manner forgot, especially by Foreigners, the Name of *Puglia* came to denote all *Italy* on this Side of the *Tyber*, and all those Provinces which now make up the Kingdom of *Naples*; as the Eastern People of *Asia*, because of the glorious Actions of the *French* there, call all the Western People *Franks*, which Glory is not new to that Nation; for in the Time of *Otho Frisingensis*, by reason of the frequent Expeditions to the Holy Land, where the *French* made themselves most famous, we read in this Author, that the Eastern People, and especially the *Greeks*, call'd all the People of the West *Franks* <sup>2</sup>. Therefore *Roger's* taking the Title of *Rex Apuliæ*, ought not to be understood of *Puglia* taken in a strict Sense, but of all that now makes up our Kingdom, in which Sense many Writers take it, as may be seen in *Petrus Bibliothecarius* in the Life of *Paschal*, and in many others <sup>3</sup>. This is the Reason why our Writers call it the Kingdom of *Puglia*, before the Popes gave it the Name of *Sicily* on this Side of the *Phare*, or that in latter Times it got that of *Naples*.

THEREFORE, as the *Greeks* had given the Name of *Italy* to *Puglia*, which then comprehended only one Province, it was more reasonable to give that Title to all the other Provinces on this Side of the *Tyber*, which now went under the Name of *Puglia*; and it was a more plausible Thing for *Roger* to call himself King of *Italy*, than of *Puglia*, both because it was a more lofty and specious Title with which the Kings of the *Goths* and *Longobards* had been adorn'd; and because there is no Instance of any King of *Puglia*, without going back to the most ancient Kings of the *Dauni*, *Lucani*, and *Taranto*, of whom *Freccia* treats at large, but to very little Purpose. *Roger* therefore thought fit to take the Title not only of King of *Sicily*, but likewise of *Italy*, meaning by *Italy* only, that Part of it on this Side of the *Tyber*; and the Authors of these Times meant the same, exactly in the same manner, as when by the Provinces of *Italy* these only were denoted, which were under the Government of the Prefect of *Italy*, and not those which were under the Prefect of the City of *Rome*, altho' they were comprehended in the Description of *Italy* taken in its largest Extent.

BY which 'tis evident, that by *Roger's* taking not only the Title of King of *Sicily*, but likewise that of *Italy* or *Puglia*, two Kingdoms were establish'd independent of one another, and not one only, and these our Provinces were not reckon'd a Part of the Kingdom of *Sicily*.

THIS is likewise evident from their peculiar Laws; for these our Provinces, even after they were erected into a Kingdom, own'd no other Laws but the *Longobard*, which Laws were of no Authority nor Use in *Sicily*, which had never been in the Possession of the *Longobards*, because that Nation never had any Naval Forces, so that their Power never reach'd beyond the *Phare*. Thus each Kingdom had its peculiar Laws, according to which it was govern'd, independent of the other; and each of these Provinces had its Lord Chief Justice, with his Tribunals; nor were the Causes which were decided therein, carried by Appeals to *Palermo*, as to a Tribunal superior to all others, but were determin'd there as the last resort, as we shall shortly relate in a particular Manner, when we come to treat of the Officers of the Crown.

AND if we do not find amongst our ancient Records, that *Roger*, or any of his *Norman* Successors, were wont to send any Viceroy to the Kingdom of *Puglia*, to take the Government of all the Realm, as was practis'd afterwards in later Times by the Princes of other Nations; no other Reason can be given for it, but that *Roger*, and the two *Williams* his Successors were wont to come often and reside in *Salerno*, and likewise, because their Custom was to create their Sons either Dukes of *Puglia*,

<sup>1</sup> V. Pell. ad Lup. A. 966.

<sup>2</sup> Otho Frins. lib. 7. cap. 4.

<sup>3</sup> V. Pell. ad Cast. Fal. A. 1117.

or Princes of *Capua* or *Taranto*, and to intrust them with the Government of these Dukedoms or Principalities, in the same manner as *Roger* did, who having retir'd to *Palermo*, left the Government of these Provinces to his two Sons, *Roger* Duke of *Puglia*, and *Anfusius* Prince of *Capua*.

AND as 'tis true, that the Kingdom of *Puglia* was independent of that of *Sicily*, and had its particular Laws and Magistrates, so likewise it cannot be denied, that the Laws which *Roger* made at this Time, and the supreme Officers of the Crown, which he introduc'd after the manner of *France*, were common to both; and 'tis evident, that the Officers of the Crown were appointed as well for the one as the other Kingdom; which was observ'd until the Island of *Sicily* revolted from the Kings of the Family of *Anjou*, and submitted to the Kings of *Arragon*, as we shall see in the Course of this History.



## CHAP. V.

### *Of the Laws of Roger I. King of Sicily.*



ROGER, by his surprizing good Fortune, having in this manner become so great and powerful a King, overcome his Enemies, and reduc'd the rebellious Provinces under his Obedience, resolv'd, by the Means of many useful and provident Laws, to bring them into a State of Tranquillity, in which, by reason of so many and continual Wars, they had not been for a very long Time.

THESE Provinces, as has been often said, had been govern'd by the ancient *Roman* Laws, now in a manner abolish'd, and rather preserv'd by Tradition, as old Customs, than as written Laws. The *Longobard* were the prevailing Laws, which continu'd amongst the *Normans* in full Force, and were religiously observ'd; and tho' the *Pandects* had been found in *Amalphis*, and were begun to be read in some Academies of *Italy*, and particularly in *Bologna*, by the Industry of *Irnerius*, and *Justinian's* Code and *Novellæ* were pretty well known; nevertheless *Roger* would not suffer these Books to be of any Authority in his Dominions; but the *Longobard* Laws were in full Force, and they alone prevail'd in the Courts of Justice, and by them all Causes were decided; of which we have a flagrant Instance, for at this very Time, in the Year 1149, there having arisen a Suit at Law, betwixt the Monastery of *S. Michael the Archangel ad Formam*, near *Capua*, and *Pietro Girardi* of *Madaloni*, the Monks of that Monastery pretending, that the said *Pietro* had taken Possession of some Lands within their Bounds, and which, they said, belong'd to the Monastery; the Cause was first tried by *Richard* and *Leo* Judges of *Madaloni*, and was afterwards decided by them and the Judges of *Capua*, as *Ebolo* the King's Chamberlain had appointed; and after having view'd the contraverted Lands, produc'd the Writings, and examin'd some Witneses, the Sentence was pronounc'd in Favour of the Monastery. The Proceſs was carried on and decided according to the *Longobard* Laws, and the Instrument of that Decree drawn up *ad futuram rei memoriam*, after the Custom of that Time, may be read in *Pellegrinus*, in his History of the *Longobard* Princes<sup>1</sup>.

BUT this prudent Prince now perceiving that his Kingdom, by reason of the many Disturbances and Revolutions that had happen'd, stood in need of new Laws for

<sup>1</sup> Pelleg. pag. 261.

repairing the many Disorders which so many and continual Wars had occasion'd, resolv'd to establish them; and tho' before his Time *Robert Guiscard*, and Count *Roger* his Grandfather, had introduc'd some commendable Customs, of which we have no other Record left us, but what we read in *Hugo Falcandus*<sup>1</sup>; yet he was the first, who, in imitation of *Rotaris* King of the *Longobards*, establish'd Laws, which he publish'd by an Edict in the Kingdoms of *Sicily* and *Puglia*, that those Laws might be observ'd as well in the one as the other, and be common to both Kingdoms. These are the first Laws of the Kingdom that were commonly call'd *Constitutions*; and these, together with those of *Frederick II.* his Grandchild, and of the other Kings his Predecessors, were collected into one Volume by *Pietro delle Vigne*, as shall be seen at large when we come to treat of this Collection. *Roger* took the same Method to establish them as the *Longobard* Kings had done; to wit, in the publick Assemblies of the States of Barons, Officers, Bishops, and other Prelates. *Augustinus Inveges*<sup>2</sup> is of Opinion, that *Roger*, when in the Year 1140, before he went a second Time to *Naples*, having stopp'd at *Ariano*, held the first Assembly of Barons, Bishops, and other Ecclesiastical Prelates there, and made those Constitutions which we have amongst those of *Frederick II.* which were common to all his Dominions, contrary to the Opinion of *Ramondetta*<sup>3</sup>, who, through Mistake, thought that they were not made for the Island of *Sicily*. And *Falcon* of *Benevento*<sup>4</sup> relates, that in this Assembly he likewise publish'd an Edict, by which he forbade the Currency of a certain *Roman* Money call'd *Romasina*; in place of which he caus'd another new Money to be coin'd, and to which, as is said, he gave the Name of *Ducato*, and one of them was worth eight *Romasinas*, and had more Copper than Silver in it; he likewise caus'd the *Follari* to be coin'd, so that not only the *Tarini* of *Amalphis*, but these new Pieces were current in the Kingdom.

OF the Laws of this Prince, we have only Thirty-nine scatter'd up and down in the Volume of Constitutions, compil'd by *Pietro delle Vigne*, by the Command of *Frederick II.* and the first is that which we find in the first Book, under the fourth Title *De Sacrilegio Regum*. By which it was reckon'd Sacrilege to censure the Actions, Councils, and Deliberations of the King; which *Roger*, retaining almost the same Words, took from the Law of the Code under the Title *De Crimine Sacrilegii*, wherein the Emperors *Gratianus*, *Valens*, and *Theodosius* establish'd the same; *Roger* instead of the Name of Emperor, put only that of King. Where 'tis worthy of Observation, that the Laws of *Justinian's* Code were of no Force or Authority in the Dominions of *Roger* in his Time; but he would have the Laws which he took out of that Code, to be observ'd as his own, and not as the Laws of a foreign Prince, in the same manner as the *Gothish* Kings of *Spain*, altho' they had taken many Laws from *Justinian's* Code; yet they would have their own Code, and not that of *Justinian* to be of Authority in their Dominions.

WE have that other Law of this Prince under the following Title *De arbitrio Regis*, wherein he order'd the Judges at their Pleasure to moderate those Laws which punish'd sacrilegious Persons so severely, provided that they had not pull'd down Churches, or violently broke them open, or in the Night-time had stole the sacred Vessels, and other Ornaments of the Churches, in which Cases capital Punishment was to be inflict'd.

*SUMMONTES* will have it, that the third Law of *Roger* was the following, under the Title *De Usurariis*, and so likewise will his Translator; but 'tis a manifest Mistake, for it's not *Roger's*, but *William II's* his Nephew; for it's ordain'd by this Law, that Processes concerning Usury brought before his Courts of Justice, should be decided according to the last Decree publish'd by the Pope in the Court of *Rome*, which cannot be understood but of the Decree made by Pope *Alexander III.* in the *Lateran* Council, which was held in the Time of *William II.* and not of *Roger*, as shall be more fully explain'd, when we come to treat of the Laws of that Prince; whence in the correct Editions, this Constitution begins with *Gulielmus*, and not *Rogerius*.

<sup>1</sup> Hug. Falc. speaking of William I. Ut his, aliisque perniciosis legibus antiquatis, eas restituat Consuetudines, quas Avus ejus Rogerius Comes a Roberto Guiscardo prius introduxas, observaverit, & observari præceperit.

<sup>2</sup> Inveg. hist. Palerm. tom. 3.

<sup>3</sup> Ramond. lib. 1. c. 46.

<sup>4</sup> Falc. Benev. Monetam suam introduxit, unam cui Ducatus nomen imposuit, octo Romasinas valentem, quæ Magis ærea, quam Argentea probata tenebatur: Induxit etiam tres follares æreos Romasinae unam appretiatos.

THE Third is that which we read under the Title *De raptu, & violentia monialibus illata*, by which the Ravishers of Virgins consecrated to God, tho' not veil'd, even under Promise of Marriage, were to be punish'd capitally: This was likewise taken from *Justinian's Code* <sup>1</sup>, where that Emperor establish'd the same.

WE read two other Laws under the Title *De Officialibus Reip.*; by the first it was ordain'd, that Officers, who, during the Time of their Administration, should imbezzle the Publick Money, were to be punish'd capitally. By the Second it was ordain'd, that Officers, who by their Negligence should occasion the Loss or Diminution of the Publick Treasure, were to be imprison'd, and oblig'd to make up the Damage out of their own Estates, the King, out of his Royal Goodness, remitting what other Punishment they deserv'd.

WE have the Sixth under the Title *De Officio Magistrorum, Camerariorum, & Bajulorum*, whereby the Justices, Chamberlains, Castellans, and Bailiffs, are order'd to be careful in assisting the Officers of the Customs, and Receivers of the Publick Revenues, and to give them their Advice, and be aiding to them as often as they shall be requir'd; which in the same Words was renew'd by *William* under the Title *De Officio Secreti*.

THE Seventh is plac'd under the Title *De Restitutione Mulierum*, in the second Book; for that which we read in the first Book, under the Title *De Advocatis Ordinandis*, tho' it bears the Name of *Roger*, nevertheless it's *Frederick II's*, as is clear by the Title and the Matters it treats of; whence in some correct Editions, we read not *Rex Rogerius*, but *Idem*, denoting *Frederick* Author of the preceding Law. By this Law *Roger* orders his Officers, upon urgent and proper Occasions to relieve Women in great Distress; which being very general and obscure, *Frederick II.* explain'd the Cases in which they were to assist Women, so that this Emperor publish'd another Constitution, which we read under the Title *De integrum restitutione Mulierum*: In the second Book, he says, *Obscuritatem legis Divi Regis Rogerii Avi nostri de restituendis Mulieribus editam declarantes, &c.*

THE Eighth and Ninth plac'd under the Title *De Pœna Judicis, qui male judicavit*: In the former he condemns the Judges to be branded with a Mark of Infamy, and their Goods to be confiscated, and to lose their Office, if they shall judge wrongfully and deceitfully against the Laws; and if ignorantly, the Punishment is left at the King's Pleasure. In the latter, if for Money they shall condemn any Person to Death, they are to be punish'd capitally.

THE Tenth, which we have under the first Title *De Juribus rerum Regalium*, of the first Book, deserves more Consideration than all the rest, for it's the first Feodal Law establish'd in the Kingdom by our *Norman* Princes. The first who publish'd a written Law concerning Fiefs and their Succession, was, as we have said, the Emperor *Conrade the Salick*. The Emperor *Lothaire* publish'd some others, and one amongst the rest, much to the same Purpose with this of *Roger's*, *De Feudo non alienando*; but tho' *Roger* suffer'd the Laws of the Emperors of the West, down to *Lothaire*, as also all the *Longobard* Laws continu'd in that Volume, to be observ'd in his Dominions, even after they were withdrawn from, and independent of the Empire, yet he would never suffer the Laws of *Lothaire*, his Enemy, to be of any Authority in his Kingdom; therefore, tho' *Lothaire* in the Year 1136, had publish'd a Law at *Roncaglia*, by which Feudatories were forbid to alienate their Fiefs, which being of no Force in the Kingdoms of *Sicily* and *Puglia*, *Roger*, in order to take Care of his Royal Rights, was oblig'd to establish a particular Law, by which he strictly prohibited not only all the Counts, Barons, Archbishops, Bishops, Abbots, and all others whoever, that held Fiefs or Royalties, how great or small soever they might be, to alienate, give, sell, either in whole or in part, or in the least to diminish them; and he likewise extended this Prohibition to the Princes, who were then his own Sons, to wit, *Roger Duke of Puglia*, *Anfusus Prince of Capua*, and *Tancred Prince of Taranto*; for at this Time, as *Hugo Falcandus* <sup>2</sup> relates, none could aspire to the Title of Prince or Duke, excepting the King's Sons; and therefore *Roger*, in this Constitution calls them *Principes nostros*. And this is that Constitution so much commended by *Frederick*, and which he afterwards extended to all other Contracts, Alienations, Transactions, Arbitrations, and *Excambions*, giving Power to those, who, without his Consent and Liberty,

<sup>1</sup> L. Raptus, C. de Raptu vir.

<sup>2</sup> Falc. fol. 69, & 70.

should make Alienations, to revoke them *proprio jure*, which still continues to be practis'd at this Day, and is quoted by our Barristers, who have a great Regard for this Constitution of *Frederick's*<sup>1</sup>; it begins, *Constitutionem Divæ memoriæ Regis Rogerii Avi nostri super prohibita diminutione Feudorum; Et rerum Feudalium ampli-*

*antes, &c.* THE Eleventh, which we read under the third Title of the same third Book, deserves no less Consideration; for by it we see that it has always been lawful for Princes to restrain, and hinder their Subjects from taking any Orders, when it was a Detriment to the Commonwealth, or the King's Royalties. So we see that *Constantine the Great* prohibited those that were Rich to do so; and the Emperor *Mauritius* hinder'd his Soldiers from turning Monks, of which *Gregory the Great* so much complain'd, though he did not look upon it as a Thing not in the Emperor's Power to command; but that it was of pernicious Consequence, out of worldly Respects, thus to put a Restraint on the godly Motions of the Soul. *Roger* by this Law, moderating another of his Constitutions, by which all Plebeians in general, without the Permission of their Masters, were forbid to take Orders; establish'd, that only those Plebeians could not take Orders, who were tied to personal Service, such as the *Ascriptitii*, Ploughmen, and such like; but those that were oblig'd to serve on account of their Holding, or Estate, wherewith they had been invested, could do so even without the Leave of their Superiors; but in such Case, they were first to resign their Estate, and then take Orders.

*ROGER's* twelfth Law, under the Title *de dotario constituendo*, likewise relates to Fiefs, and is the Second that this Prince publish'd about them. In this, Barons and other Feudatories, notwithstanding the Prohibition of Alienating, are allowed to settle a Dowry on their Wives, answerable to the Fiefs they possess, and according to their Number and Quality. Counts and Barons, who hold several Castles, are allow'd to assign one of them for a Dowry to their Wives, provided it be not that Castle, from which the Barony or County takes its Name. Thus it shall not be lawful for the Count of *Caserta* to give *Caserta* for a Dowry; but another Castle of his County; whence our Authors<sup>2</sup> have learnt, that the giving a simple Assent, never extends to the Head of the Barony or County.

THE Thirteenth, which we have under the Title *de Matrimoniis contrahendis* likewise deserves Consideration. By it we see plainly, that in *Roger's* Time it was not look'd upon as an improper Thing for Princes, to establish Laws concerning Matrimony; of which *Giovanui Launojo* has taken Notice in his Treatise; *Regia in Matrimonium potestas*<sup>3</sup>; neither has he neglected that of *Frederick II.* which begins, *Honorem nostri Diadematis*, agreeable to this of *Roger's*. The Popes had not as yet assum'd to themselves this Authority, which afterwards by *Innocent III.*<sup>4</sup>, and more by some of his Successors was look'd upon as peculiar to them, and which they usurp'd from the secular Princes. The *Theodosian* and *Justinian* Codes are full of those Laws, and till the Times of *Theodorick* and *Luitprand*, Kings of *Italy*, we read, that secular Princes not only made Laws concerning the Manner and Form of contracting Marriages, but likewise regulated the Degrees, in which they were forbidden, and it was the Prerogative of Princes to dispense with them; and *Cassiodore* in his Books, has left us the Form of such Dispensations. *Roger* in this Law order'd, that Marriages, after Betrothing, and the Priest's Blessing, should be solemnly and publicly celebrated, and altogether prohibited clandestine Marriages, insomuch that the Sons born of such Marriages, were not to be reputed lawful, nor could they succeed to their Fathers, neither by Testament nor *ab intestato*; and the Daughters were to lose their Portions, as if neither Portion nor Marriage could proceed from Contracts enter'd into against his Law. Nevertheless he did not subject Widows to the Rigour of this Law; neither did it take place with regard to Marriages contracted before the Publication of it. *Frederick II.* afterwards put another Restraint upon the Counts, Barons, and all the other Feudatories, that they could not marry without his Consent; and Women being allow'd to succeed to Fiefs, the Barons were forbidden to give their Daughters, Grandchildren or Sisters in marriage without his Approbation, that the Fiefs might not be transmitted to strange Families,

<sup>1</sup> Constit. Regn. lib. 3. tit. 5.

<sup>2</sup> Afflict. decif. 265. 2. col. Loffr. in paraphr. c. 8. col. 3. in prin. & in cons. 39. num. 30.

<sup>3</sup> Constit. lib. 3. cap. 1.

<sup>4</sup> Laun. 3. par. art. 2. cap. 8.

<sup>5</sup> C. Inhibitio de Clan. despons.



of whose Fidelity it concern'd the Prince to be well satisfied, as he order'd it in the Constitution *Honorem nostri Diadematis*, under the Title *de Uxore non ducenda sine permissione Regis*.

*ANDREA D'ISERNIA*, who was a Guelf, and therefore a Detracter of *Frederick's* Actions, writing under the Kings of the Family of *Anjou*, in an Age wherein other Maxims prevail'd, and blaming *Frederick*, to the Words *Honorem nostri Diadematis*, adds, *imo destructionem animæ istius Frederici Imperatoris prohibentis per obliquum matrimonia instituta a Deo in Paradiso*. As if it had not belong'd to the Oeconomy of the Prince to make Laws concerning Matrimony, and more especially that of his own Barons<sup>1</sup>, and often to put a Stop to it, when it was evident that it would prove prejudicial to the State, occasion'd intestine Broils betwixt noble Families, and bred Factions; of which our Authors, and among the rest *Francesco Ramos*<sup>2</sup>, have treated at large. And besides 'tis certain, that *Frederick* was not the first, who establish'd this Law, he found it in his Kingdom, and its first Author was *William* surnam'd the *Wicked*. The Barons did not complain of the Law, but of the bad Use that *William* made of it, for this Prince, that the Fiefs might devolve to himself, either never gave his Consent to the Marriage of their Daughters, or delay'd it till they were old and past Child-bearing, of which, according to *Hugo Falcando*<sup>3</sup>, the Grandees of *Sicily* not only complain'd, but on that very account rais'd a Rebellion against *William*. This Law was observ'd in *Sicily* till the Reign of King *James*, who in a Parliament held there, caus'd it to be abolish'd<sup>4</sup>. And with us it continued to the Reign of *Charles II.* of *Anjou*, who in one of his *Capitula*<sup>5</sup>, establish'd in the Plain of *St. Martin*, reform'd it.

NEITHER is *Roger's* fourteenth Law less remarkable, under the Title *de Administrationibus rerum Ecclesiasticarum post mortem Prælatorum*; for we find in it many considerable Matters. First, what *Roger* says is well worth our Notice, that all the Churches of his Kingdom, and particularly those that want Pastors, were under his Protection. Secondly, that seeing according to an uninterrupted and never contraverted Custom, after a Prelate's Death, the King's Officers took the Care and the Administration of the Revenues, until the Church was provided; if these Officers did not perform their Duty according to the Directions given them; he thought fit to make a Law, by which he order'd, that after the Death of Prelates, the Officers were no more to have the Administration and Care of Churches; but that they should be committed to three of the best, most faithful and discreet Persons of the Church, who were to have the Charge and Direction of them till they should be provided; in the mean time they were to distribute the Incomes, one Part to those that serv'd the Cure, and the other for the Fabrick, or other Necessaries of the Church; and when the Pastor was elected, the Remainder was to go to him, or he was to have an Account how it was laid out. The *Spolia*, introduc'd since by the Court of *Rome*, were not known then, and would have been look'd upon as tending not only to the Ruin of Ecclesiastical Discipline, but of the good Government of Kingdoms; all belong'd to the Church, and was laid out for the Use thereof, and the Remainder was reserv'd for the Successor. There were no Nuncios, nor Collectors, nor Commissaries, to plunder the Prelate's House before his Breath was well out<sup>6</sup>. Whence our Kings, as well as those of *France* boast of their *Regalia*, which among others, King *Conrad* claim'd<sup>7</sup>; and have always taken care that the Revenues of Churches should not be put to wrong Uses, and have often order'd them to be sequestrated for the Repair of the Fabricks, and therefore made many useful and wholesome Laws to that Effect, witness *Ferdinand I.* of *Arragon*, King *Frederick*, the great Captain, the Duke of *Alcala*, and others, as may be seen in *Chioccarello*<sup>8</sup>.

<sup>1</sup> V. Andreas disput. Feud. cap. 3. §. 8. num. 46.

<sup>2</sup> Ramos ad L. Jul. & Pap. lib. 3. cap. 4 9, 50 & 51.

<sup>3</sup> Hug. Falcand. Hist. Sic. Filias suas innuptas domi toto vitæ tempore permanere; nec enim inter eas absque permissione Curie matrimonia posse contrahi; adeoque difficile permissionem hanc hætenus impetratam, ut alius quidem tunc demum liceret nuptui dare, cum jam omnem

spem sobolis senectus ingruens subtulisset; alias vero perpetua virginitate damnatas sine spe conjugii decessissent.

<sup>4</sup> Cap. Regn. Sicil. cap. 22. in Matrimonii.

<sup>5</sup> Cap. Item Statuimus, de Matrim. contrah.

<sup>6</sup> V. D. Juan. Chumacero y Carillo, Memorial. c. 8, 9. numb. 61.

<sup>7</sup> Diploma Conradi apud Math. Paris in Hist. Anglic.

<sup>8</sup> Chioc. tom. 17.

NEITHER



NEITHER ought we to neglect that which *Andreas d'Ifernia* observ'd upon this Constitution of *Roger*, which he erroneously believ'd to be *William's*, saying, that when it was establish'd, it appear'd to be just and regular, because the Volume of the Decretals was not then compil'd; and that tho' *Roger* made this wholesome Law, yet afterwards, the Canonists would not receive these Laws of secular Princes, *etiam si pro eis condantur, quia nolunt, ut ponant falcem in messem alienam*. But before the Volumes of the Decretals came forth, it was not preposterous in Princes to establish such Laws, and particularly our Princes, who having founded almost all the Churches in the Kingdom out of their own Patrimony, it was but just, that they should be under their Power and Protection.

WE have *Roger's* fifteenth Constitution in the third Book, under the Title *de Prohibita in terra Demanii constructione Castrorum*. Whereby he forbids any Person whatsoever, to build Castles or Forts, under Colour of better Defence, within the King's Demains; but that those of the King, or his Royal Protection, were to be their Security. The Sixteenth, is under the Title *de injuriis curialibus personis irrogatis*, by which, in punishing Offences, the Judges are order'd to have a special Regard to the Persons against whom they are committed, by whom, in what Place, and at what Time; and if they are done against his Officers, he declares the Offence not only as done them, but likewise his Royal Dignity to be offended.

THE seventeenth Law, which is under the Title *de probabili experientia Medicorum*, is the first that was establish'd among us, in order, as much as possible, to prevent those Mischiefs, occasion'd by the Ignorance of Physicians. Formerly the most prudent Romans look'd upon the Choice and Approbation of Physicians, as not belonging to the *Præsides* of the Provinces, but to the *Decuriones* of the Cities, for the Reason which *Ulpianus*<sup>2</sup> elegantly expresseth in these Words; *Ut certi de probitate morum, & peritia artis, eligant ipsi, quibus se, liberosque suos in ægritudine corporum committant*. By this Law *Roger* ordain'd, that none should practise Physick, but those who shall first present themselves before his Officers and Judges, in order to be examin'd, and declar'd qualified for that Employment, and if any should be so bold as to practise Physick without this Examination, they are to be imprison'd, and to have their Goods confiscated. *Frederick II.* explain'd this Law of his Grandfather more at large, and establish'd many other Laws concerning Physicians, by which the *Schola Salerni*, was erected into an Academy, as also that of *Naples*, where this Prince was pleas'd to found another more famous and renown'd, as shall be related when we come to treat of the Actions of this glorious Emperor.

We likewise read under the Title *de nova militia*, another Constitution of *Roger's*, which is the Eighteenth, by which he forbid the inrolling of any Persons in the Army, if they were not of military Extract; and likewise allow'd none to be Judges, or Notaries, but those whose Fathers had been of the same Profession. *Frederick* confirm'd this Law by the following Constitution, and also added, that no Person of mean Extract could exercise these Offices, nor serve in the Army, if by the Father's Side he was not descended of Soldiers. However 'tis true, what *Bartholomew* of *Capua* attests, that in his Time these Constitutions were not observ'd in the Kingdom of *Sicily*, though he had heard that such was the Practice in *France*, which *Roger* would imitate. And *Summontes* very appositely observes, that this Constitution was *Frederick's* and not *Roger's*, as the Inscription in the vulgar Edition bears, by which it's evident, that by this, *Frederick* confirms that of his Grandfather *Roger*, for the preceding is mention'd in these Words, *contra prohibitionem divæ memoriæ avi nostri*. Besides, this is confirm'd by what *Ricardo da S. Germano* relates in his Chronicle, wherein he says, that amongst the other Constitutions which *Frederick* made in the Parliament held at *St. Germano* in the Month of *February*, of the Year 1232, that *de Militibus* was one; as *Tutini dell' Origine de' Seggi* also observes<sup>3</sup>.

THE Nineteenth, is that which we have under the Title *de Falsariis*, by which those who should counterfeit or alter the King's Writs, or Seal, are to be punish'd capitally. The Twentieth is under this Title, *de cudentibus monetam adulterinam*,

<sup>1</sup> And. d'Ifernia non erat compilatum volumen Decretalium. Et quamvis utiliter statuat pro Ecclesiis, tamen Canonistæ non recipiunt

leges Principum secularium, etiam, &c.

<sup>2</sup> Ulp. lib. 1. D. de decr. ab ord. faciend.

<sup>3</sup> Tutin. Orig. de Seg. cap. 14.

whereby

whereby not only the Coiners of false Money were to be punish'd with Death, but likewise those who should knowingly receive it, or in any Manner consent to so great a Crime. The Twenty-first is under the Title *de razione monetae*, by which those are likewise punish'd with Death, and their Goods confiscated, who shall be so bold as to clip, or in any manner diminish the Gold or Silver Coin.

WE afterwards read Seven other Laws dispos'd under as many different Titles, by which Forgers are condemn'd to various Punishments. The first excuses those who ignorantly shall make use of false Writs. The second punishes with *pœna falsi* those who shall imploy false Witnesses. The third condemns to the same Punishment, those who conceal, raze or cancel publick Deeds. The Fourth, deprives those of their paternal Inheritance, who cancel or conceal their Father's Wills, in order to succeed them *ab intestato*. The Fifth declares, that the Quality of the Person aggravates, or lessens the *pœna falsi*. The Sixth inflicts capital Punishment on those who shall have or sell Poison, or hurtful Medicines, to distemper one's Senses; and the Seventh declares, that they shall not go unpunish'd, who shall give Love-potions, or hurtful Food, altho' no Harm should follow; which Constitutions were afterwards approv'd of by *Frederick*, and more fully explain'd in the following Titles.

By the following Laws of this Prince, we clearly see among his other Virtues, how much he had at Heart the Chastity and Honour of Women. By the Twenty-ninth, which we have under the Title *de pœna Adulterii*, Husbands cannot pursue their Wives before a Judge for Adultery, if they shall allow them, in their own Presence, to commit lascivious and lewd Actions with their Gallants; and in the Thirtieth, which follows under the Title *de prohibita quæstione fornicæ*, not only Infamy, but severe Punishment is to be inflicted on Husbands that shall suffer their Wives to commit Adultery.

THE other Six that follow are no less to be commended; by the first he prohibits modest Women to converse with Prostitutes; to whom nevertheless no Violence is to be offered. By the Second, *de repudiis concedendis*, the Husband is allow'd to demand a Bill of Divorce against his Wife, provided he has just Cause to accuse her of Adultery. By the Third, *de Lenis*, Bawds and Pimps, are to be punish'd in the same Manner as Adulterers. The Fourth, confirm'd afterwards by *Frederick*, is terrible against Mothers, who prostitute their Virgin Daughters; for, besides their being punish'd as Bawds, their Noses are to be cut off; it ends with these serious Words; *Castitatem enim suorum viscerum vendere, inhumanum est, & crudele*: But if any Daughter shall have prostituted herself, and the Mother only give her Consent, the Punishment is left to the Discretion of the Judge. By the Fifth, under the Title *de pœna Uxoris in adulterio deprehensæ*, the Husband is allow'd to kill both the Wife and the Adulterer, provided he find them in the Act, and do it without delay; and by the Sixth, under the Title *de pœna Mariti ubi Adulter anfragit*, it is enacted, that if the Husband suffer the Adulterer to escape, and shall keep the Wife, he is to be punish'd as a Pimp, unless he could not prevent his Escape.

ROGER having thus by these Laws secur'd Womens Virtue, was no less careful of the Security of Men; for which End we read other Three of his Laws, which are the last we have of this Prince, and compleat the Number of Thirty-nine. By the first, under the Title *de venditione liberi hominis*, he who shall knowingly sell a free Man, is condemn'd to Slavery. By the Second, under the Title *de incendiariis*, those, who maliciously shall set Fire to another Man's House, are to suffer capital Punishment. And by the last, the same Punishment is inflicted on any Person, who, by coming down a steep Place, shall loosen and tumble down a Stone, or a Branch, by which a Man is killed, and does not cry out, or give Advertisement; the Rigor of which was afterwards moderated by *Frederick* in one of his Constitutions.

THUS did Roger, by these provident and useful Laws, settle and re-establish his Kingdom. And tho' some of these Laws concern'd Marriage, Divorce, Church Government and the Clergy, yet Princes were not thought to exceed the Bounds of their secular Authority, when they made them. Those Complaints were not as yet heard of, which the Popes made afterwards concerning the Breach of their Ecclesiastick Immunities, and that it was *mittere falcem in alienam messem*, for Princes to make such Laws. But it was not long before they put in their Claim, which was done

done by Piece-meal, till Gregory IX. put the last Hand to it, by reducing into one Body all the Rescripts which made for the *Roman Grandeur*, and wresting to general Use, those that were intended for a particular Place, and perhaps for one single Case only, and publish'd the Decretal, which laid the first Foundation of the *Roman Monarchy*. Thus in our Kingdom, to the antient *Roman Laws*; retain'd rather as Customs, than written Laws, and to the *Longobard Laws*, Roger added his Constitutions, which, without respect to the *Roman* and *Longobard*, were reputed particular Laws; whereas the former were common and general ones.

## S E C T. I.

*Of the particular Feodal Laws of this Kingdom.*

**B**UT, as we have said elsewhere, Baronies and Fiefs being multiplied in these Provinces, as they were likewise over all *Italy*, a new Law call'd the *Feodal* also started up. This was at first introduc'd into the Cities of *Italy* by the Customs of the *Longobards*, which were various and different, according to the several Usages of each City; so that the Feodal Law at first, could only be said to be the unwritten *Longobard Law*, whence some have wittily call'd it the *Child of Time*, introduc'd into *Italy* by the *Longobards*, not by Writ, but Custom; it prevail'd afterwards to that Degree, that *Conrad the Salick* first thought fit to add it to the written Laws; as the other Emperors his Successors, after his Example did; so that the common Feodal Law was made up of the Feodal Customs introduc'd by the *Longobards*, and the written Laws of the Emperors; and when other Countries came to adopt it, it was first receiv'd in *Italy*, and afterwards over all *Europe*. And for this Reason, with respect to Fiefs, there was no Difference betwixt those who liv'd under the *Longobard Laws*, and those who were govern'd by the *Roman*; for the *Romans* knew not what Fiefs were, and when a *Roman* was invest'd with a Fief, he was oblig'd to observe the *Longobard Law*, by which Fiefs were regulated, seeing nothing could be gather'd from the *Roman*.

AS this *jus commune Feudale*, was equally observ'd over all *Italy* before Roger's Time, so it had Force and Authority in these our Provinces. But now that Roger had form'd them into a Kingdom, and withdrawn them from the Empire, as this prudent Prince had added his own Laws, particularly adapted to his own Dominions, to the common *Roman* and *Longobard Laws*, so likewise he would add to the common Feodal Law, some particular Feodal Laws of his own, which were to be observ'd in his Kingdom, and among his Constitutions which are yet extant, there are Two concerning Fiefs. The two *Williams* his Successors, following his Example, added other Feodal Laws; and lastly, *Frederick II.* establish'd many more, which we read in the Volume of Constitutions; whence in our Kingdom the *jus commune Feudale*, contain'd in the Feodal Books, is not the same with our particular Feodal Law, which began by Roger, and afterwards enlarg'd with many Constitutions, Pragmatics, &c. by *William* and *Frederick*, and other Kings, came to be what we now see it, as we shall shew in a more fit Place. But we are to observe, that *Frederick II.* being both Emperor and King of *Sicily*, those Constitutions of his, which we find in the Feodal Books, belong to the *jus commune Feudale*; and those which are in the Volume of our Constitutions, to the *jus Feudale particulare* of the Kingdom of *Sicily*.

ROGER then, as he was the first, who added new Laws to the *Roman* and *Longobard*, so he was likewise the first, who, to the common Feodal Law, added new particular Feodal Laws in his Kingdom, by which a new Method of succeeding to Fiefs contrary to the *Longobard Laws*, was introduc'd; and it was on this Account, that the new *jus Francorum* was brought in, whence with us, that Distinction of Fiefs, *de jure Longobardorum*, & *Francorum*, became so famous.

AMONG the other good Qualities of this Prince, that Custom of informing himself of the Laws and Usages of other Nations, is much applauded by Writers, and what he thought commendable, he introduc'd into his Kingdom; but he lov'd no Nation so much as the *French*, from which he was descended; therefore he chose

to introduce all those Usages, and Customs which he observ'd in that most flourishing Realm, into his own new Kingdom; for the same Reason, as we shall shew anon, he brought into it the Seven Officers of the Crown as they were in *France*; but being too great a Lover of the *French*, he gave Jealousy and Uneasiness to his Subjects of *Sicily* and *Puglia*, who saw themselves neglected and Foreigners preferr'd<sup>1</sup>.

HENCE, as we have said, the Fiefs *juris Francorum* had their Rise in our Kingdom, for *Roger* often sending to *France* for Captains and *French* Soldiers, and that Nation being look'd upon as superior to all others for military Valour, he made use of them in all his difficult Expeditions; and *Hugo Falcandus* says, *Transalpinos maxime cum ab Normannis Originem duceret, sciretque Francorum gentem belli gloria ceteris auteferri, plurimum diligendos elegerat, & propemodum bonorandos*. And this Custom was also kept up afterwards by the Two *Williams* his Successors; but in the beginning of the Reign of *William II.* the *French* were in so great Favour at his Court, that he did not stick to make a *Frenchman* his High Chancellor, whence that Nation grew so numerous in his Court, that it gave great Offence to the Natives<sup>2</sup>.

THUS it happen'd, that those Captains fighting gallantly under the Banners of *Roger*, and the two *Williams*, were by them invested with many Fiefs, so that they forsook *France*, and settled their Families in these Provinces; but did not relinquish their own Customs which they had brought from Home; and till the Time of *Frederick II.* they were allow'd to have their Causes tried in the Courts of Justice, according to the Laws and Customs of their own Country, among which the most considerable was, that the eldest Son succeeded to the Fiefs, exclusive of all the other younger Brothers, contrary to what was very imprudently practis'd by the *Longobards*, who divided their Fiefs amongst all their Sons, to the Decay both of their Families and Fiefs; and was the chief Cause of their Ruin in these Provinces, as we have formerly observ'd. Over all *France*, as *Otho Frisingensis* and *Cujacius* witness<sup>3</sup>, it was wisely ordain'd, that the eldest Sons only should succeed to Fiefs, as the sure way to preserve the Grandeur of their Families. Accordingly all those *French* Captains and Soldiers, that were invested with Fiefs in these Provinces, kept up that Custom; and *Roger* and the two *Williams*, not only allow'd of it, but likewise of all their other Laws; insomuch that *Frederick II.* in order to avoid the Confusion which those so different Laws occasion'd in this Kingdom, was forc'd to establish a special Constitution, under the Title *de jure Franc. in Judic. Subl.* by which he revok'd that Privilege of using their own Customs; and by that his other famous Constitution *Monomachiam*, he abolish'd that barbarous Custom of Duelling, which they practis'd.

HOWEVER he did not forbid, but approv'd of as very commendable, their Custom, whereby the eldest Son succeeded to the Fiefs; whence it came to pass, that with us all Feudatories were distinguish'd by Franks, and *Longobards* by Franks, meaning those who succeeded to Fiefs *jure Francorum*, and by *Longobards*, those who according to the antient Usage, admitted all their Sons to succeed to their Fiefs. The *jus Francorum* therefore, was look'd upon as a special Law, with respect to the *jus Longobardorum*, which was the common Law, insomuch that *Andrea d'Isfernia*<sup>4</sup> writes, that he who call'd himself a Frank, and therefore not oblig'd to divide with his Brothers, but alledg'd a special Law for it, was bound to prove it, because it was commonly presum'd, that every Man was to be govern'd according to the *jus commune* of the *Longobards*, which appointed Fiefs to be divided amongst Brothers.

THIS special Law then of succeeding to Fiefs after the Manner of the *French*, was introduc'd into the Kingdom by *Roger*, who not content with having establish'd so wholesome Laws in his Kingdom, and having introduc'd new Customs and Usages from *France*; he would likewise bring in the Chief Officers of the Crown according to their Usage, and other new Dignities, to make his Kingdom the more Majestick.

<sup>1</sup> Hug. Falcand.

<sup>2</sup> Ibid.

<sup>3</sup> Cujac. lib. 1. de Feud. tit. 9. in fin.

<sup>4</sup> And. Iser. in Const. prosequentes.



## C H A P. VI.

*Of the Officers of the Crown.*

**A**FTER the sublime Dignity of *Maire of the Palace* was sunk in France, in the Line of *Hugh Capet*, it was thought both convenient and necessary to suppress and extinguish it intirely, it having been most pernicious to the Princes, as may be seen in the Reign of *Chilperick*. The Suppression of this high Dignity gave Rise to four other great Offices, which had formerly been swallow'd up in that of the *Maire of the Palace*, who was therefore call'd Chief of Chiefs, and Duke of Dukes; and very justly liken'd to the *Præfectus Prætorio* under the last Roman Emperors. All Causes relating to War, Peace, Justice, the Finances, and the King's Household were brought before him: In fine, he was Superintendant-General of all the Officers of the Kingdom, without Exception.

THEY who executed these four Offices were call'd *Officers of the Crown*, they were dignified with the Title of High, and acknowledg'd no other for their Head and Superior, but the King himself; but the High Constable was Intendant-General of War, and had the Command of the Armies in the Field. The High Admiral was Head of the Naval Forces, who in War and in Peace had the Command at Sea. The High Chancellor was the Chief Minister of Justice, and Head of all the Officers of Peace, and the Magistrate of Magistrates, on whom depended all the Judges and Protonotaries, and all the other inferior Chancellors. The High Treasurer, or Chamberlain, was Head of the Chamber of Accounts, and supreme Officer of the Finances; and the High Steward was Judge of the King's Household, and had the Government thereof.

ALL these were call'd Officers of the Crown, or Kingdom, because they did not concern themselves with the Service of the King's Person, but with that of the Kingdom; and Roger, as soon as he had establish'd his Kingdom, introduc'd these Officers, together with the lesser subordinate Ones. Formerly these our Provinces had no such Officers, but the Offices were perform'd by different Persons under other Titles; and tho' the *Goths* had some Knowledge of them, as may be seen in *Cassiodore*, from whom 'tis thought the *French* took them; yet these having been driven out by the *Greeks*, and the *Greeks* by the *Longobards*, we find that neither of them made use of such Officers, while they govern'd these Provinces<sup>1</sup>. The *Greeks* govern'd them by *Stratici*, and *Catapani*; whence there is yet some Vestige among us of these Officers. In *Salerno* the Title of *Stratico* is still kept up, as also in *Messina*. In *Puglia* the *Catapani* were very famous, whence a Province of this Kingdom retains the Name of *Capitanata* from the Title of this Magistrate. The *Greeks* had other Officers, such as the Masters of the Horse, by whom the Dukedom of *Naples* was long govern'd. They had Patricians; the *Protospata*, and many others; but never those abovemention'd. Only there are some who say, that the Office of Protonotary was originally *Greek*, but of that we shall speak in its Place.

THE *Longobards* certainly had no such Officers, they divided their Governments first into *Castaldati*, over each of which they put a *Castaldo*, to whom belong'd both the Affairs of War and Justice. Afterwards they created Counts, who

<sup>1</sup> Marin. Frecc. de Subfeud. pag. 21. a ter.

at first were only Officers, and not Lords; each having the Government of a County committed to him, till in process of Time that began to be alter'd, and from Offices they were converted into Fiefs and Lordships, as we have observ'd elsewhere.

THEREFORE it was the *Normans*, and especially the renown'd *Roger*, who, after he had united his Dominions into a large and potent Kingdom, thought fit to introduce those Offices, which in other Kingdoms, and particularly in *France*, were look'd upon as peculiar to the Royal Crown, and as so many Lights made it shine the brighter.

## S E C T. I.

### *Of the High Constable.*

THE High Constable, according to the general Opinion of Writers, and justly, was exalted above all the rest, and held the first Place. At the first Institution, he was call'd by the *French*, the King's Great Master of the Horse; and therefore by *Aimon* <sup>1</sup> he is call'd *Regalium Præpositus Equorum*, as his Title in *Latin Comes Stabuli* likewise imports, and which we frequently meet with in ancient Books. *Caranda* <sup>2</sup> quotes many Passages; *Loyseau* <sup>3</sup> is of the same Opinion, contrary to that of some Moderns, and especially *Cujacius* <sup>4</sup>.

HE has two great Prerogatives; the one as Keeper of the King's Sword, for at his Promotion to this high Dignity, the King delivers him his naked Sword into his Hands, upon which at that Instant he swears Fealty, and does Homage, just so as is related of the Emperor *Trajan*, who giving his naked Sword to *Sura Licinius*, *Præfectus Prætorio*, said these remarkable Words to him: *Accipe hunc ense, ut si quidem recte Reip. imperavero pro me, sin autem secus, in me utaris*. Therefore the Badge of this Dignity is a naked Sword, as our *Torquato Tasso* has well express'd it in the Person of the High Constable of *Egypt*, whom he places in that Assembly on the King's Right-Hand, as having the first Place above all the other Officers of the Crown, and gives him the naked Sword for his Badge.

*A Sword was put into the Worthiest's Hand  
Naked, an Emblem of austere Command.*

THE other Prerogative is, that in the Armies he has the Command over all Persons, even the Princes of the Blood; appoints the Quarters, Disciplines the Troops, distributes the Centinels; the Marshals, and all other inferior Officers take their Orders from him: In fine, he has the supreme Command of the Armies while they are in the Field.

BUT he exercises all this Authority and high Command in the Army only when they are in the Field, not when in Garrison, nor does it extend to the Governors of Provinces; so that they are in the Wrong, who make the High Constable's Power the same with that of our present Viceroy, who not only have the Command of the Armies in the Field, but likewise in Garrison; and all Governors of Provinces, and other Officers of the Crown, as well at Land as at Sea, are subject to them: But 'tis evident, that the Prerogatives of the High Constable are lodg'd in the Viceroy; for all Things relating to War belong to them, and they dispose of the Armies in the Field, and all the Generals and Marshals obey them; but when the Viceroy is out of the Kingdom, and none other deputed by the King, the High Constable, on sudden Emergencies, and when Necessity requires it, may take his Authority upon him, and exercise his ancient Jurisdiction, according to *Marinus Freccia* <sup>5</sup>.

THE first Constable that we find amongst the ancient Records in the Reign of *Roger*, was *Roberto di Bassavilla*, Count of *Conversano* <sup>6</sup>. He was the Son of another

<sup>1</sup> Aimon. lib. 3. cap. 7.

<sup>2</sup> Caron. in the 1st Book of his *Pandects*, cap. penult.

<sup>3</sup> Loyf. Book 4. Of the Officers of the Crown,

cap. 2. num. 15.

<sup>4</sup> Cujac. L. un. de Comit. & Tribun. Sclar.

<sup>5</sup> Frecc. de Subfeud. de Offic. M. Comest. n. 23.

<sup>6</sup> Ug. Falc. hist. Sicil. fol. 21.

*Robert,*

*Robert*, likewise Count of *Conversano*, and of *Judith* Sister to *Roger*; he was employ'd by *Roger* in all his difficult Undertakings, and on account of his great Skill in military Discipline, deserv'd to be rais'd by this Prince to that high Dignity. In the Reign of *William I.* he made himself more renown'd, and by this Prince was invest'd with the County of *Loritello*; but afterwards, he joining in Rebellion with some other Barons, put the Kingdom all in Confusion, whereupon *William* stripp'd him of this Dignity, and gave it to *Simon* Count of *Policastro*, his Cousin, who was the second Constable, of whom we shall have occasion to discourse more at large in the Reign of *William*; and in the Time of *William II.* *Robert* Count of *Caserta* was Constable<sup>1</sup>.

'TIS worthy of Observation, that these Constables (as also all the other supreme Officers) who were at first call'd *Maestri Contestabili*, and afterwards *Magni Contestabili*, were common both to these our Provinces, and to *Sicily*, till that Island was taken by the Kings of *Arragon* from those of *Anjou*; and tho' our Barons were frequently rais'd to this Dignity, because of their large Counties, and their Relation to the Princes themselves, who at this Time did not think it below them to marry into their Families, and the great Figure they made above all the Barons of *Sicily*, yet they resided on their own Estates; but when the *Norman* Kings fix'd their Royal Seat in *Palermo*, they regularly resided at Court with the King, who employ'd them in the most important Affairs of State. Therefore there's no occasion to confound them with the lesser Constables, who were sent to a particular Province, to whom either the Government of some City was committed, or the Command of some Regiments of Horse or Foot was given; for tho' these were likewise call'd Constables, yet their Office was very different from and much inferior to that of the Great Constables, who were call'd *Regni Comestabuli*. Thus in the Chronicle of *Not. Riccardo di S. Germano*, written in the Time of *Frederick II.* we read, that *Philippo di Citero, erat Comestabulus Capuæ*. And in later Times we find many Charters recorded by *Tutini*<sup>2</sup>, in which the Constableship was restricted to the Government of one City only, and to one particular Duty; so we frequently find in the Writs of the Royal Archives of *Zecca*, *Henricus Comestabulus Foggiaë*; and in some Instruments of the same Archives, we also read; *Franciscus Garis Comestabulus Viginti-quatuor Balestrarum*; and elsewhere, *Franciscus de Diano Comestabulus Peditum*.

SO likewise the King's Masters of the Horse are call'd *Comestabuli Regii Hospitii*. And in like manner the Captains of the Soldiers that were in each Province of the Kingdom, whom we now call Captains of Battalions, got the Title of Constables. Therefore we find *Pietro della Marra* Constable of *Terra di Lavoro*; *Guglielmo Pontiacco* Constable of *Basilicata*; *Mattia Gesualdo* Constable of *Principato*; *Gualtieri del Ponte* Constable of *Capitanata*; *Adamo Morerio* Constable of *Terra d'Otranto*; and *Gentile di Sangro* Constable of *Apruzzi*.

DURING the Reign of the Family of *Anjou* this Office lost nothing of its ancient Splendor; on the contrary, according to *Marino Freccia*, *Charles I.* of *Anjou* was wont to give it with the same Prerogatives, and in the same manner that it was given in *France*, and ordain'd it to be just so exercis'd in his Kingdom of *Sicily*. And *Charles II.* his Successor establish'd many Statutes, recorded by *Tutini*, concerning the Great Constables, to whom he subjected all the Marshals of his Kingdom. But now this Office, for Reasons which shall be related in the Progress of this History, is no more than a bare Title of Honour, its Authority for the most Part being lodg'd in the Person of the Viceroy; the Great Constables have only the Precedency in Parliament, and other solemn Occasions, with some other Marks of Distinction, such as to be cloath'd with Purple and Ermine, and to wear a little Cap; but tho' they enjoy these Honours, yet they have lost the Salary formerly annex'd to them.

<sup>1</sup> Notitia Judicati apud Pellegr. pag. 256.

<sup>2</sup> Tutin. dell' Offic. de Contest. nel. prin.



## S E C T. II.

## Of the High Admiral.

**A**MONGST the Offices of the Crown that of High Chancellor ought to have the second Place, as it hath in *France*, or as that of Lord Chief Justice hath now with us ; but two Reasons induce me to treat of the High Admiral next to the High Constable ; the first, because of the great Resemblance of the two Offices ; for both of them having the Direction of War, the one at Sea, and the other at Land, I am inclin'd to treat of the High Admiral before I proceed to the Officers of Peace and Justice ; the other more prevalent Reason is, because in the Time of these *Norman* Kings, the Dignity of High Admiral was esteem'd superior to that of High Chancellor, or any other Civil Officer ; for these Kings were so powerful at Sea, that they came to be renown'd and dreaded over all the East, and carried their victorious Flags to the very Gates of *Constantinople*, and made surprizing Conquests in *Africa*, insomuch that their Empire over the Seas was greater and more considerable than over the Land ; whence it came to pass, that in the Time of *Roger*, and the two *William's* his Successors, the High Admiral of *Sicily* was the highest Post that any could be rais'd to. So that we find the famous *Majone di Bari*, who in *Roger's* Time was High Chancellor, was afterwards made High Admiral by King *William*, who had a great Esteem for his Person ; and *Hugo Falcandus* relating the State of the Court in the Beginning of the Reign of *William II.* when *l'Eletto di Siracusa* was High Chancellor, and *Riccardo Mandra* High Chamberlain of the Household, says, that *Matthæus Notarius cum sciret Admiratum se non posse fieri, ob multam ejus nominis invidiam, Cancellariatum totis visibus appetebat.*

IF we consider the Business and Duty of this Office, there's no doubt of its being very ancient, for it was known amongst the *Romans*, and more among the Eastern People bordering on the Sea ; and in ancient *Gaul*, in *Cæsar's* Time we frequently read of the *Præfetti Maris*, amongst whom *Bibulus* was eminent. But indeed we do not find the Title of Admiral among the *Romans* ; and I agree with those, who take this not to be a Word of *Provence*, as *Alunno*<sup>1</sup> believ'd, but a *Saracen* Word, as *Fazzellus*<sup>2</sup>, *Pietro Vincenti*<sup>3</sup>, and *Tutini*<sup>4</sup>, from many Passages in History very well prove ; for the *Saracens* were very powerful at Sea, whence we frequently meet with this Title of Admiral in their Histories ; and when they infested the Sea-Coast of the East, and a great Part of the West, such as *Spain*, *Africa*, and *Sicily*, they had many Sea Generals, whom they call'd *Admirals*.

THE *Greeks* likewise had such an Office, and the last Emperors of the East, in order to oppose the Power of the *Saracens*, were also necessitated to have Naval Forces ; and 'tis very probable, that it was the *Greeks* who first introduc'd them into these our Provinces, for in the latter Times there being nothing left them, but many Cities on the Sea-Coast, such as those of *Calabria*, and part of *Lucania*, *Amalphis*, *Naples*, and *Gaeta*, they were oblig'd to have Naval Forces to defend them against the *Saracens*, who had taken *Sicily* from them ; and these Cities on this Side of the *Fare* were likewise in Danger of having the same Fate. And 'tis certain the *Amalphitans* became very powerful at Sea, and most expert in Maritime Affairs, insomuch that they were a strong Bulwark to the *Greeks*, who put their greatest Confidence in them as to Sea Affairs ; and as we have already observ'd, they improv'd the Art of Navigation to that Pitch, that besides their frequent Voyages over all the Eastern Parts, they were look'd upon as Umpires of all Maritime Controversies ; and as in the Time of the *Romans*, the *Rhodians* exceeded all other Nations in Naval Affairs, insomuch that the *Rhodian* Laws were a Rule to all the Nations of the Empire, by which all Disputes about Sea Matters were decided ; so with us, all Quarrels and Debates concerning Navigation were determin'd by the Laws and Customs of the *Amalphitans* ; and *Marinus Freccia*<sup>5</sup> witnesseth, that even in his Time, all such Pro-

<sup>1</sup> Alun. Fabr. del mon. num. 542.

<sup>2</sup> Faz. lib. 6. post Decad.

<sup>3</sup> Vinc. Teatr. de G. Ammir. nel. princ.

<sup>4</sup> Tutin. dell' Offic. dell' Ammir. nel princ.

<sup>5</sup> Frec. de Subfeud. lib. 1. de Offic. Admir. num. 8.

cesses

cesses were decided by the *Amalpbitan* Laws. Whence it came to pass, that the *Amalpbicans* being wholly bent on Navigation, and expert in Naval Affairs, at last *Flavio Gisia*, an *Amalpbitan*, and a Man of great Knowledge, in the Reign of *Charles II.* of *Anjou*, found out the Mariner's Compass, so necessary in Navigation.

BUT now that the *Normans* had expell'd the *Saracens* out of *Sicily*, and the *Greeks* out of these our Provinces, in order to defend themselves against the Invasion both of the one and the other, they were likewise oblig'd to have a Naval Force. And what Progress the *Normans* made therein, especially in the Time of the renown'd *Roger*, and the two *Williams*, is very evident from the History of their Reigns. Therefore the Office of High Admiral in these Times was look'd upon as most honourable and illustrious; whence the Number of their Fleets being very great, it was thought fit to have many Admirals, and the first and chief of all was call'd *Ammiraglio degli Ammiragli*, the Admiral of Admirals.

HE therefore had the most eminent Prerogatives as to his Command at Sea, that could be imagin'd; he commanded at Sea both in Time of Peace and War; it was his Business to have the Inspection of the Building of the King's Ships and Vessels, and to see them repair'd, and dispos'd of for the Good of Commerce; to keep the Harbours over all the Kingdom in good Repair, and the Sea-Coast obedient to the King; and all the other Admirals of the Provinces and Harbours, the *Protontini*, *Calkers*, *Boat-Swains*, *Carpenters*, and all the other inferior Sea-Officers were under his Direction<sup>1</sup>.

AT present our High Admiral retains the Jurisdiction, both Civil and Criminal, over all the Officers that are subordinate to him, and over all Sea-faring Persons<sup>2</sup>; for which end he has a particular Tribunal, where the Judges appointed by him, administer Justice to all under his Command, and there are special Laws establish'd for Sea Affairs, by which all Suits relating thereto are decided; and as with respect to Fiefs, we have a new Body of Feudal Laws, so likewise with respect to Sea Affairs, we have a new Body of Sea Laws, of which we shall treat by-and-by. The Admiral with us has for his Coat of Arms a Ship Lanthorn, which was borne of old by the High Admiral of *France*, who has now laid the Lanthorn aside, and bears the Anchor<sup>3</sup>. He wears a Purple Robe, and in Parliament sits on the King's Right-Hand, after, and next to the High Constable.

THE first we meet with in the Reign of *Roger* is *Giorgio Antiocheno*, who for his eminent Virtues, and Skill in Maritime Affairs, was invited from *Antioch*, and by this Prince made High Admiral, and was consulted by *Roger*, as well in his Land as Sea Expeditions<sup>4</sup>: It was the Custom of this glorious Prince, to invite from different Parts of the World, not only famous Warriors, but also learn'd Men. This great Captain gain'd many Victories in *Greece*, and carried *Roger's* victorious Banners to the Port of *Constantinople*. He rescu'd *Lewis* King of *France*, who while he was returning from *Palestine*, had been taken by the *Greeks*, and was to have been deliver'd to the Emperor of *Constantinople*; for having rencounter'd the *Grecian* Fleet, he fought it, and soon set the *French* King at liberty, who was honourably receiv'd by *Roger* in *Sicily*, from whence he return'd to *France*. He was the first, who in publick Writs sign'd himself *Georgius Admiratorum Admiratus*, as we see in the Writ quoted by *Tutini*; for as there were many Fleets, it was fit to have as many Admirals in different Parts of the Kingdom, so the first rightly stil'd himself the Admiral of Admirals.

THE next we find in the Reign of this Prince, is *Philip* the Eunuch; and, as *Claudianus* tells us, that *Eutropius* from an Eunuch was rais'd to be Consul, so *Philip* was made High Admiral by *Roger*. *Philip*, according to *Romualdus* Archbishop of *Salerno*<sup>5</sup>, was brought up from his Youth in *Roger's* Household; he was just such another as *Eutropius*, and by covering his Vices under the Cloke of Virtue, he insinuated himself so much into the King's Favour, that he was thought worthy to be made Steward of the King's Household; afterwards the King having a Mind to make an Expedition into *Turky*, for taking *Bonna*, pitch'd upon *Philip* to manage that War; and in the Year 1149, made him High Admiral, who having a strong Fleet under his Command, took the City, and with a great Booty return'd in

<sup>1</sup> Freccia lib. 1. loc. cit. num. 1.

<sup>2</sup> V. Tapp. de Jur. Regn. de Offic. M. Adm. num. 2. Tass. de Antef. ver. 3. obf. 3. Tribun. 3. n. 221.

<sup>3</sup> Loyseau des Offic. de la Cour. cap. 2.

<sup>4</sup> Chr. Romual. Gaarna M. S.

<sup>5</sup> Idem.

Triumph to *Sicily*, where he remain'd for a long time ; but afterwards, seeing himself rais'd to such a Pitch of Grandeur, he could no longer conceal his being of the *Saracen* Religion, which he had hitherto cloak'd under the Appearance of a Christian ; he soon discover'd that he abhorr'd the Christians, and had a great Value for the *Jews* and *Mabometans*, by frequently sending Messengers with Presents to *Mecca* to the Tomb of the Impostor *Mabomet*. Roger having discover'd this Treachery, and being afraid, that if he did not punish his Villany, the *Saracen* Religion might again get footing in that Island, out of which with so much Pains and Trouble he had driven the perfidious *Saracens*, punish'd him severely ; for having caus'd the Learn'd Men, and Barons of his Council to be conven'd, *Philip* was condemn'd to be burnt, and accordingly the Sentence was publickly put in Execution before the Royal Palace.

AFTERWARDS, in the Reign of *William*, this Office of High Admiral was bestow'd on the famous *Majone di Bari*, whose Exploits, so far as they have relation to the Design of this History, shall be treated of at large in the following Book. *Majone* being rais'd to the first Honours of the Kingdom by *William*, exercis'd the Office of High Admiral more haughtily and independently. He likewise, as being so call'd by the King, sign'd himself *Majo Admiratus Admiratorum*, having supreme Authority, and chief Command over all the other Admirals of the Kingdom.

WE have before observ'd, that in the Times of the *Normans* and *Suevi*, till this Kingdom was divided from that of *Sicily*, and this last subjected to the Family of *Arragon*, by the famous *Sicilian Vespers*, there was one High Admiral who had command over all the other Admirals of the Provinces of both Kingdoms, contrary to the Custom of *France*, where, when *Provence* was join'd to that Kingdom, there were four Admirals, one in *Guienne* ; another in *Bretagne* ; a third in *Provence* ; who tho' he had not the Title of Admiral, but General of the Gallies, as now with us in *Naples*, nevertheless he had the same Power with the Admirals ; so that there was nothing left to the ancient Admiral, but only the Coast of *Normandy* and *Picardy*, with the Title of Admiral of *France* indefinitely<sup>1</sup> ; but the High Admiral of *Sicily* had the Command of all the other Admirals, therefore he was call'd *Admiratus Admiratorum* ; for in all the other Parts of the Kingdom, on both Sides of the *Phare*, not only the Provinces, but even the Cities had their particular Admirals, all subordinate to the Chief and High Admiral. In short, there were many Admirals in these our Provinces at the same Time, which is clear from the Chronicle of *Cassino*<sup>2</sup>, where some of them are frequently mention'd ; and an Admiral resided almost in every Maritime City, these formerly were made by the King, and had the Charge of the King's Wood and Ships, and in the latter Times of the Family of *Anjou*, they were call'd *Protontini*, and administred Justice to all Seafaring Persons, who liv'd in these Cities, and on these Coasts. *Tutini* quotes several Writs, in which many are call'd Admirals of different Maritime Cities, such as *Landulfo Calenda* Admiral of *Salerno*, *Lisolo Serfale*, and many others. Thus our *Norman* Kings establish'd their Empire, not only at Land, but likewise at Sea, and appointed diverse Officers, to whom the Government and Security of the Sea, Harbours, Commerce, Navigation, and Traffick were committed ; therefore they took care also to make many Laws, which in process of Time became a new Body of Laws ; and like as, besides the *Jus commune Feudale*, we had a *Jus particulare Feudale*, so besides the *Jus commune Navale*, we had a *Jus particulare Navale* calculated for these our Provinces.

<sup>1</sup> Chron. Romuald. M. S.

<sup>2</sup> Lib. 3. cap. 44.

### S E C T. III.

#### Of the Naval Laws.

THE Romans had no other Naval Laws but what they learn'd from the *Rhodians* ; for the *Rhodian* Laws were so famous, as to be known over all that vast Empire ; and the Emperors *Tiberius*, *Adrianus*, *Antoninus*, *Pertinax*, and *Lucius Septimus Severus* made many Laws approving of them, and giving them Force and Vigour

Vigour through all the Empire; whence came the *Jus Navale Rhodianum*, taken from the eleventh Book of the Digests<sup>1</sup>, which, after it had a long Time lain buried in the Library of *Francisco Piteo*, was at last publish'd. But after the Emperors of the East having fix'd their Residence in *Constantinople*, a City wash'd by the Sea on three Sides, found their Empire began to decline, they laid greater Strefs on their Sea than Land Forces, and thought their Fleets a greater Security for the Provinces of their Empire, which for the most part border'd, or were surrounded by the Sea, than their Land Armies; for which reason we have many Laws concerning Sea Affairs, Commerce, the Security of Harbours and Navigation, made by the last Emperors of the East, which were partly collected by *Leunclavius* and *Petrus Peckius*, and partly by the incomparable *Arnoldus Vinnius*, who likewise exercis'd his noble Genius about these Laws, and made his Observations on *Peckius*.

BUT these Laws of the Emperors of the East underwent the same Misfortune with all their other Collections. According to *Marino Freccia*<sup>2</sup>, it was from the *Amalphytans* that we learn'd our Naval Laws; neither is it unlikely, that the *Amalphytans*, by reason of their frequent Voyages, and continual Traffick they had with the Eastern Nations, learn'd them from the Laws of those Emperors, or rather from long Experience, and the Risque they run at Sea. And seeing at the same Time the *Catalans*, the *Arragonians*, the *Pisans*, the *Genoese*, and the *Venetians* had become powerful at Sea, and famous by their Voyages to the Eastern Parts, and elsewhere, as well as the *Amalphytans*, therefore a new Body of Statutes and Customs came to be fram'd, which now being abridg'd into a small Volume, is to be had every where, intitled, *Il Consolato del Mare*, whence Sea-faring Men are guided in deciding their Controversies; which producing so good Effects, is approv'd of by all Princes, and the Rules thereof are as well observ'd as their own Laws and Statutes.

THESE *Capitula*, of which the *Consolato del Mare* is compos'd, were approved of by the *Romans*, *Pisans*, *Lewis King of France*, the Count of *Toulouse*, and many other Princes and Sovereigns; and the Kings of *Arragon*, and Counts of *Barcelona* added others to them; and *Arnoldus Vinnius* is of their Opinion, who relate, that this Collection was made in the Time of *St. Lewis King of France*. It was afterwards printed in *Venice* by *Giovambatista Pedrezano*, who gave it this Title, *Il libro del Consolato de Marinari*, and dedicated it to *M. Tomaso Zarmora*, then Consul in *Venice* for the Emperor *Charles V.*; it was afterwards, in the Year 1567, re-printed in *Venice*, and is now to be found every where; and in the Tribunal of the High Admiral of our Kingdom has all Force and Authority.

BUT our Princes, not content with this, made particular Laws for this Kingdom concerning Maritime Affairs. The Emperor *Frederick II.* besides those insert'd in the Code<sup>3</sup>, made many Rules concerning the Office of Admiral, by which are prescrib'd his Charge, his Duty, and how far his Authority ought to be extended. In the Time of the Kings of the Family of *Anjou*, many other *Capitula* were added to them, by which his Authority was limited after a new manner, as may be observ'd in those made by *Charles II. of Anjou* for *Philip Prince of Achaia and Taranto*, his fourth Son, when he made him High Admiral, which are transcrib'd by *Tutini*. Afterwards the *Arragon Kings* added many other Things to the *Capitula* of their Predecessors, which the High Admiral was to observe; and *Ferdinand I.* added many for *Roberto S. Severino*, Count of *Marsico*, when in the Year 1460. he made him High Admiral, likewise related by *Tutini*. And in the Times of the Family of *Austria*, many Pragmaticks were publish'd concerning this Office, of which we shall have occasion to treat in their Place.

SUCH and so great was the Dignity of High Admiral, and his Charge so vast in former Times, that in order to regulate it, so many Rules were necessary, as at last produc'd a new Law, call'd *Naval*. But this noble Office began to lose its Lustre in our Kingdom in the Time of *Marino Freccia*, and much more in later Times, and now there's scarcely any Vestige of its Grandeur remaining besides

<sup>1</sup> Digest. tit. 9. Nautæ, Caup. Stab. tit. 1. de Exercitoria act. Ad. L. Rhodiam de jactu. tit. 9. de Incend. ruin. Naufrag.

<sup>2</sup> Freccia de Subfeud. de Offic. Admirat. n. 7. Hinc in Regno non lege Rhodia maritima de-

cernuntur, sub tabula quam Amalphitanam vocant, omnes controversiæ, omnes lites, ac omnia Maris discrimina, ea lege, ea sanctione usque ad hæc tempora finiuntur.

<sup>3</sup> Cod. de furtis Collat. X. L. Navigia quoque.

Honour and Pre-eminency, with a separate Tribunal depending on it, and Jurisdiction over Sea-faring Men. The Causes of this Declension will be understood in the Course of this History, where it will be seen, that while our Kings were powerful at Sea, and while the *Normans*, the *Suevi*, and especially the Kings of the House of *Anjou* maintain'd a strong Naval Force, the Office of High Admiral made a shining Figure; but when afterwards the Fleets were diminish'd, and the Kingdom came under the Dominion of the House of *Austria*, and a new Model and Form of Government was introduc'd, depending on that of *Spain*, this great Authority vanish'd, and was partly lodg'd in the Generals of the Gallies, though not with the same Power and Authority that the High Admiral had.

### S E C T. III.

#### *Of the High Chancellor.*

THE Order which I observe in treating of the Officers of the Crown, and placing the High Chancellor next to the High Admiral, contrary to what other Authors have done, ought not to be look'd upon as disorderly. I know that *Marino Freccia* gives this Office the last Place, though without any Reason, since he himself in Parliaments, and other publick Assemblies, gives it the Sixth Place, and ranks this Officer before the High Steward, who sits not at the King's Side, but at his Feet. Others however put him in the Sixth Place after the great Prototary; and both they and *Freccia* give the second Place to the Lord Chief Justice, next to the High Constable.

However the *French* rank the High Chancellor next to the High Constable, and I say, that both of them have done very well in observing this Order. The High Chancellor of *France* is very different from what the High Chancellor of *Sicily* was in the Time of the *Normans*, and even the High Chancellor of the Kingdom of *Naples* differs widely, especially if we consider the Times in which *Freccia* and the other Authors wrote, and more if we look to our own Times.

DIGNITIES rise and fall at the Pleasure of Princes; as the Prince is the Fountain of all Honour, so he appoints the Rules; and as *Georgius Codinus*<sup>1</sup> very appositely says of the Officers of the King's Household, he may alter both Things and Names, and exalt and abase as he pleases.

THE Chancellor among the *French* was the same with the *Quæstor* among the *Romans*, as *Symmachus*<sup>2</sup> and *Cassiodorus* describe him; *Quæstor es*, *Legum conditor*, *Regalis Consilii particeps*, *Iustitiæ Arbitrator*. Therefore he was the Chief in Matters of Justice, as the Constable in those of War: The first of all the Officers of Peace, and chief Magistrate.

T H E R E are various Opinions concerning the Etymology of the Word Chancellor. The antient Glossator says, it's deriv'd from the Duty of this Officer, whose Business it is to examine all Petitions that are given to the Prince, to mark those that are fit to be presented, and to cancel the Impertinent, by drawing with a Pen cross Lines after the Manner of \* Lettices. But this is a very strange Etymology, <sup>\* Cancelli.</sup> that gives the Chancellor his Title from the Thing which he undoes, rather than from what he does. *Cassiodorus*<sup>3</sup>, and *Agathias* derive it better, who take it à *Cancellis*; for it being this Officer's Business to have Inspection of the Dispatch of all the Prince's Rescripts, to hear all those, who present Petitions to him, to prevent his being crowded by the People, and at the same time that he might be seen by every Body, he was wont to stand within a Bar, as was the Custom in *Rome* and *France*; whence *Tertullian* used to say; *Cancellis non adoro, subsellia non contundo*.

F O R which Reason he has the King's Seal for his Badge, whence he is likewise call'd by the *French*, Keeper of the Seal, because all special Grants and Dispatches from the King pass through his Hands, which he seals; and he gives Commissions, and Pensions to all Offices, which he may either refuse or delay, as he thinks fit, by

<sup>1</sup> Codin. cap. 2. num. 5. Langleo. 7. semest. 7. | <sup>3</sup> Cassiod. lib. 11. Ep. 6.

<sup>2</sup> Sym. Epist. 17. lib. 1.

not sealing them. Whence *Torquato* gives the High Chancellor of *Egypt* the Seal for his Badge :

*The Seal he bears, his Office to denote.*

THEREFORE he enjoys many notable Prerogatives ; he presides in the Council of State in the Civil Affairs of the Kingdom.

HE dispatches the King's Edicts, and all his other Orders. He has the Inspection of Justice, and is Judge in all Disputes concerning Offices and Officers, regulates their Precedencies, and determines what is the Duty of each Magistrate, that one may not incroach upon another.

THESE were the great Prerogatives of the Chancellors of *France*, whence *Roger* took them, and of the Kingdom of *Sicily* in the Time of the *Normans*. Two principal Dignities, which in a manner vied with that of the Princes themselves ; so that next to the Constable, the Chancellor had the second Place.

THE first Chancellor we meet with in the Reign of *Roger*, is *Guarino Canzolino*, much celebrated in *Petrus Diaconus* his Appendix to the Chronicle of *Cassino* <sup>2</sup> ; *Roger* imploy'd him in the most weighty Affairs of State, and gave him the Superintendency and chief Command of these our Provinces. 'Tis said, that *Guarino* being jealous that the Monks of *Cassino* would joyn *Lothaire's* Party, had at last resolv'd to assault their Monastery by Force, for which end he had order'd a Body of Soldiers, and some warlike Machines to be brought from *Benevento*, *Puglia*, *Calabria*, and the *Basilicata* ; but soon after falling sick in *Salerno*, and being at the Point of Death, with his last Breath cry'd out ; *Alas ! Benedict and Mauro, why do you kill me ?* Whence *Petrus Diaconus* <sup>3</sup> relates, that at the same Instant *Crescenzio Romano*, a Monk of that Monastery, in a terrible Fright and Trembling, said to the Monks, that he had seen a Vision, in which there appear'd to him a horrible Lake all on Fire, the dreadful Waves of which reach'd to the very Sky ; among which he saw the Soul of the High Chancellor to's'd up and down ; that he likewise thought he saw two Friars on the Bank of the Lake, and being ask'd by the Eldest of the Two, if he knew who it was that was so to's'd by the Waves ? answer'd no ; and that the Friar declar'd to him, that it was *Guarino's* Soul that was condemn'd to be punish'd in such a manner, for having troubled the Monks of *Monte Cassino* : That he then ask'd the Friar who he was ? who answer'd, that he was Friar *Benedict* ; upon which *Crescenzio* awak'd, and the Vision disappear'd.

THE next who exercis'd the Office of Chancellor in *Roger's* Time was *Robert*, of *English* Extract <sup>4</sup>. *Roger*, as has been already observ'd, in the Government of his Dominions, always made use of Ministers of great Learning and Prudence, which he invited from distant Countries ; and as he rais'd *George* of *Antioch* to be great Admiral, so likewise he call'd this famous *Robert* out of *England*, whom he not only imploy'd in the most important Affairs of State, and to whom he committed the Defence of *Salerno*, when it was besieg'd by *Lothaire*, the Prince of *Capua*, and the *Pisans* ; but likewise gave him the Government of *Puglia* and *Calabria* ; and he was so renown'd for Wisdom and Integrity, that *John* of *Salisbury*, Bishop of *Chartres* <sup>5</sup>, relates an Adventure which deserves to be taken Notice of in this History. Whilst the Chancellor govern'd *Puglia* and *Calabria*, the Church of *Avellino* happen'd to be vacant by the Death of her Bishop. For the Election of a Successor, it was necessary to have the King's Consent, as was the Custom in all Cathedral Churches : *Robert*, who was to give it in the King's Name, was earnestly solicited for it by many ; amongst the rest there were three strong Pretenders, an Abbot, an Archdeacon, and a Lay-man belonging to the King's Household, who had a Brother that was a Clergyman ; they all made great Offers to *Robert*, each of them promis'd him a vast Sum of Money if he would make him Bishop whom they should name ; the Chancellor, who had a mind to expose their Villainy, made a Bargain with each of the Three separately, giving them to understand, that he

<sup>2</sup> Agat. lib. 5.

<sup>3</sup> Petr. Diac. lib. 4. cap. 98 & 101. Capecelatr. lib. 1. pag. 22.

<sup>4</sup> Petr. Diac. lib. 4. cap. 102.

<sup>4</sup> Capecelatr. lib. 1. pag. 60.

<sup>5</sup> Jo. Sarisb. lib. de Nugis Curialium, Capecelatr. loc. cit.

would



would do what each of them desir'd : After they had given Pledges and Security for what they had promis'd, the Day appointed for the Election came ; *Robert* having conven'd the Clergy of *Avellino*, with many Archbishops, Bishops, and other Prelates and Persons of Distinction, told the Fraud which the three Candidates had a mind to commit ; they were all Three rejected as guilty of Simony, by the unanimous Suffrage of all the Assembly, and the Money agreed upon was exacted as a Punishment for their Crime ; then *Robert* got a poor Frier of a good and holy Life, who had no such View, to be elected Bishop.

THE third High Chancellor we find in the Reign of *Roger*, is the so much renown'd *Giorgio Majone*. He was born in *Bari* of very mean Parentage ; but by Nature endow'd with a wonderful Eloquence and Wit, and being but the Son of a poor Oyl-Merchant <sup>1</sup>, he found means to get a Place at Court in the Royal Chancery, where King *Roger* first made him his Notary ; after having gone through other petty Offices of the Chancery, he was made Vice-Chancellor, and at last High Chancellor, and was so much in Favour with this Prince, that during all his Life he employ'd him in the most weighty Transactions of his Kingdom ; and after *Roger's* Death, he was so belov'd by *William* his Son and Successor, which rarely happens, that, besides having made him High Admiral, he intrusted him with the Government of the Kingdom. Under the Two *Williams*, the chief Personages of these Times held this Office, viz. the Elect of *Syracusa*, and after him *Stephano di Parzio* Archbishop of *Palermo*.

THUS the Dignity of this high Office was as great in *Sicily* under the *Normans*, as in *France* ; neither was it in less Esteem in the Courts of other Princes. But afterwards it was rightly judg'd in Princes to lessen so many and eminent Prerogatives, by reassuming them to themselves from whence they sprung ; of which we have a very notable Instance in the Chancellor of the Holy See of *Rome*. In old Times, this See had a Chancellor, whose Authority was so great, that he vied with the Pope himself ; on which account it was exercis'd by the chief Personages ; and it was the next Step to the Papacy. Thus Pope *Gelasius II.* according to the Epitaph compos'd by *Pietro Pittavienese*, before he was Pope, *Archilevita fuit, & Cancellarius Urbis* ; and 'tis likewise said, that *Alexander II.* was Chancellor of the *Roman* See when he was elected Pope.

BUT after *Boniface VIII.* saw the Authority of the Chancellor at such a pitch of Greatness, that, as many Writers relate <sup>2</sup>, *quasi de pari cum Papa certabat*, he abolish'd this Office of Chancellor in *Rome*, and assuming it to himself, appointed only a Vice-Chancellor there ; whence this Office of Vice-Chancellor in *Rome* acknowledgeth none superior to it in the same Sphere, seeing the Chancellorship is lodg'd in the Pope ; and whereas this Office was formerly given to such as were not Cardinals, when Cardinals came to get it, they still retain'd the Name of Vice-Chancellors, though that of Chancellor be abolish'd ; just so as that Cardinal who is Head of the Pope's Datary, is call'd Prodatary, and Vicedatary, though he acts not in the Place of another Minister superior to him, for both the Chancery and Datary are lodg'd in the Pope.

FOR the very same Reason the Vice-Chancellor is mention'd only in the *Sixth Decretal* ; as is taken notice of in the Gloss <sup>3</sup>, and by *Gomes* on the Rules of the Chancery ; though *Onuphrius Panvinus*, in his Book *de Pontificibus*, says, that from the Time of *Honorius III.* there were no more Chancellors in *Rome*, but only Vice-Chancellors.

THIS supreme Office of great Chancellor had the same Fate in our Kingdom ; for in the Time of the Catholick King, and of the Emperor *Charles V.* the Chancery was in the King's Person <sup>4</sup>, and therefore a new Tribunal was erected, still call'd the Chancery, and manag'd by Regents, call'd Regents of the Chancery, who perform all the Duties formerly incumbent on the High Chancellor, for they subscribe the Petitions that are presented to the Prince, and the special Grants, and dispatch the King's Edicts and Orders. They are Judges of Differences amongst Officers, decide their Precedency, and prescribe to each Magistrate his Duty ; the Chancery

<sup>1</sup> Ugo Falcand.

<sup>2</sup> Zabarell. in Clem. Romana de Electionib.

Freccia lib. 1. de Offic. M. Cancell. num. 4.

<sup>3</sup> Gl. Pram. Sanctio, §. Romanæ, verb. Vice-Cancellarius.

<sup>4</sup> Freccia lib. 1. de M. Cancell. num. 29.



is lodg'd in them, and they have the Charge of the Records and Registers, and all that formerly belong'd to the High Chancellor; therefore they have a Secretary, and many other inferior Officers, who are call'd Officers of the Chancery; of which we shall discourse in another Place, when we come to treat of this Tribunal.

THAT Office, which is now in the Family of the Princes of *Avellino*, depends on the Chancery; for their Prerogatives are restricted purely to the College of Doctors, and they have only Power to confer the Degree of Doctor, and for that end to call a Convocation of Doctors, in order to examine the Candidates, to approve of, or reject them, and to do other Things thereunto belonging; for with us it does not belong to the Universities to confer the Degree of Doctor, but to the Prince who has lodg'd this Power with the High Chancellor and his College. There were many such Chancellors in *France*, such as the Chancellor of the University of *Paris*, which of old was an Office of so great Importance, that *Boniface VIII.* on account of the great Affairs he had in *France*, and that he might have a particular Authority over that University, especially with respect to the Divines who receive their Degrees, Benediction and Commission, to preach over all the World, from the Chancellor, usurp'd it to himself; but after *Boniface's* Death, the University of *Paris* left no Stone unturn'd to recover this Office, insomuch that it was restor'd them by *Benedict XI.* his Successor; and to prevent the like Usurpation in Time to come, it was annex'd to a Canonship of the Cathedral Church of *Paris*.

FOR this Reason *Morino Freccia* treating of these Offices, and having an Eye only to what was practis'd in his own Time, ranks the High Chancellor last of all; for now-a-days the great Chancellor, who is look'd upon as one of the Seven Officers of the Kingdom, is only a Shadow of what this Office was formerly: He enjoys but one of the many Prerogatives that of old adorn'd that Dignity, which is now in a manner abolish'd, and all its Privileges and Pre-eminences lodg'd in the King, who therefore has erected a new supreme Tribunal in its Place, call'd the *Court of Chancery*, administred, as we have said, by Regents.

HOWEVER we must not omit, that in the Times of the Emperor *Frederick II.* and King *Charles of Anjou*, though this Office was much decay'd in its antient Splendor, yet it retain'd Jurisdiction over all the Clergy of the King's Palace, and all his Chaplains: *Marino Freccia*<sup>2</sup> is much surpriz'd to find a Laick have Jurisdiction over the Clergy, seeing both by Divine, Canonical and Imperial Laws, they are exempted from Laick Jurisdiction; so that he endeavours to explain what he reckon'd a Paradox, by saying, that this Kingdom being a Part of *St. Peter's* Patrimony, 'tis to be believ'd the Kings have been invest'd with this Prerogative by the Apostolick See, therefore they are to be look'd upon as Ministers and Delegates of that See. Neither ought this to seem strange, says he, because the Kings are not to be consider'd as mere Laicks, seeing they are anointed, and were also Priests of Old. And not content with this, he adds, that *Frederick*, and especially *Charles*, were authoriz'd by the Apostolick See, to appoint a Judge over all the Clergy of the Royal Household; and that afterwards, it seeming very unbecoming and unhand-some for a Laick to exercise Jurisdiction over the Clergy, *Alphonfus I.* appointed one of his own Chaplains to be Judge, who exercis'd Jurisdiction over all the other Chaplains and Clergy of the Royal Chapel, and was therefore call'd Chaplain Major, and that by Permission of the Apostolick See; so that the High Chancellor had no longer such Jurisdiction, all being left to the Chaplain Major.

BUT *Freccia* had no Reason to be so much surpriz'd, for in these Times the Chaplain Major was subordinate to the High Chancellor, and assisted in the Chancery; for in *France*, according to *Peter de Marca*<sup>3</sup>, the same was practis'd under the *Carlovingian* Race; when the Maires of the Palace presided in the Royal Palace in Matters of State, and the Chaplain Major, likewise call'd Archchaplain, in Ecclesiastick and Spiritual Matters, who, as *Hincmare* informs us, *Vice Regis in consessu Episcoporum & Procerum jus dicebat, nisi causæ gravitas exigeret Regis præsentiam*. And it was not in the Time of *Alphonfus I.* of *Aragon*, that this Pre-eminence was disjoin'd from the Office of High Chancellor, but long before, when *Charles I.* of *Anjou* had fix'd his Royal Seat in *Naples*, and appointed one of his Chaplains as

<sup>1</sup> Loyseau des Offic. loc. cit.

<sup>2</sup> *Freccia* de subfeud. lib. 1. d. Off. M. Canc. num. 24 & 25.

<sup>3</sup> *Marca de Concord.* lib. 4. cap. 7. num. 3. & lib. 8. cap. 14. num. 6.

Judge, who exercis'd Jurisdiction independently on the High Chancellor, over all the other Chaplains and Clergy of the Royal Chapel; whence he got the Title of *Protochaplain Royal*, or *Master of the Royal Chapel*, and at last Chaplain Major; of which Office, and such like, introduc'd by *Charles I. of Anjou* into his Royal Palace at *Naples*, we shall treat in his Reign.

THUS in process of Time, the great and many Prerogatives of this Officer being lodg'd in the King's Chancery; the High Chancellor retains no other Power, but that of conferring the Degrees of Doctor of Law, Divinity, Philosophy, and Physick, and the Superintendency of the College of Doctors<sup>1</sup>. Nevertheless he has the Honour to wear Purple, to sit in Parliament, and other publick Assemblies where the King is present; but in the sixth Place on the King's Left Hand next to the great Protonotary, and he is also counted among the Seven Officers of the Crown.

<sup>1</sup> V Tappia de jure Regn. tit. de Offic. M. Cancel. n. 9. Tassone de Antef. ver. 3. obf. 3. n. 271 & 285.

## S E C T. IV.

### *Of the Lord Chief Justice.*

ALTHOUGH in *France* the Office of Lord Chief Justice was subordinate to the great Chancellor, who was the Magistrate of Magistrates, and Head of all the Officers of Justice, and in the Reign of *Roger* his Authority was not so ample; nevertheless *William* his Successor having appointed the Tribunal of the High Court, and *Frederick II.* having afterwards by many Constitutions, establish'd, that the Chief Justice who presided in this Tribunal, should be Head, and Supreme over all the other Justices of the Provinces, this Office came to be look'd upon not only as one of the chief and greatest of the Kingdom, but to have the second Rank next to the great Constable; for which Reason he sat next the King on his Left Hand, cloathed in Purple, and had the Standard for his particular Badge; of which with us there remains as yet some Vestige; for when Sentence is to be put in Execution upon a Person condemn'd to die, this Standard is display'd from a Balcony, in token of the Chief Justice's Authority. By how much the more the Tribunal of the High Court was exalted by *Frederick II.* who made it the Supreme and Superior to all the other Courts of the Kingdom, where not only civil and criminal Causes were to be discuss'd, but likewise the Feodal relating to the Baronies, Counties, and all Appeals from the Courts of the other Justices of the Provinces, even those delegated by the King, and subjected all the Dukes, Princes, and all the other Barons of the Kingdom to its Jurisdiction; and besides gave it Power to take Cognizance of Crimes of High Treason: So much the more was the Lord Chief Justice rais'd above the other Officers of the Crown, and deservedly call'd *Chief Justice*; and therefore *Frederick* in one of his Constitutions<sup>1</sup> calls him *Luminare Majus*, on account of the Lustre with which he eclipseth the other inferior Justices, so that when he visits the Provinces, their Office ceases.

WE are to observe, that from this Time of the *Norman* Kings began that Division of the Provinces, that in a great measure continues to this Day: They were not then call'd Provinces, but *Giustizierati* from *Giasfizieri*, the Justices who govern'd them<sup>2</sup>; as in the Time of the *Longobards*, the *Castaldati* were so call'd, from the *Castaldi*, who had the Government of them. In effect, in the Time of King *William II.* *Tancred* Count of *Lecce*, was Justice of *Puglia*, and *Terra di Lavoro*; Count *Pietro Celano*, and *Riccardo Fondano* were also Justices of the same Provinces<sup>3</sup>. Thus in later Times we frequently meet with in the Registers recorded by *Tutino*<sup>4</sup>, that when these Justices were sent into the Provinces, they were not

<sup>1</sup> Constit. honorem, lib. 1.

<sup>2</sup> Pellegr. in dissert. Duc. B. p. 78.

<sup>3</sup> Pell. ad An. Cass. anno 1208.

<sup>4</sup> Tutin. de Maestr. Giustiz. in princ.

call'd

call'd *Chief Justices*, but only Justices of the Provinces which they govern'd, in order to distinguish them from the Chief Justice of the Kingdom. Thus *Giovanni Scotto* was call'd Justice of *Apruzo*, and *Guglielmo Sanfelice*, Justice of *Terra di Lavoro*, whence those Governments got the Name of Provinces, such as the *Justiziarato* of *Calabria*, *Puglia*, *Terra di Lavoro*, and others, which are now call'd Provinces; and even in these same Times of the *Normans* and likewise of the *Suevi*; one Province was frequently govern'd by two Justices, as in the Time of *William II.* *Luca Guarna* and *Filippo da Camarota* were both Justices of *Salerno* at the same Time. And in the Year 1197 we find<sup>1</sup>, that *Roberto di Venosa*, and *Giovanni di Frassineto* were both Justices of *Terra di Lavoro*<sup>2</sup>. But Matters were afterwards put upon a better Footing by *Frederick II.* who for each Province appointed but one Justice, who was to have one single Judge, and one Notary, whom we now call *Mastrodatti*, as was establish'd in the Constitution *Occupatis* in the first Book. This was continued by the Kings of the Family of *Anjou*, who, to each Province sent only one Justice, whom we now call President.

In the Reign of *Roger*, we find only one Chief Justice in the Archives of the Monastery of the *Trinity* in *Venosa*, and in an Instrument recorded by *Tutino*, we read, that in the Year 1141. *Errico Ollia* was Chief Justice. *Ego Henricus Ollia Dei Gratia Regalis Justitiarius*; but in the Reigns of the Two *Williams* his Successors, many are mention'd by *Romualdus* Archbishop of *Salerno*, and in the Chronicle of *Notar Riccardo da S. Germano*; such as *Roberto Conte di Caserta*, *Ruggiero Conte d'Andria*, and *Luca Guarna*, as shall be related in the Reigns of these Princes; whence they are mistaken, who believe that this Office was introduc'd into the Kingdom by *Frederick II.*: For though this Emperor, by means of his many Constitutions relating to this Office, regulated and put it upon a better Footing, yet he was not the first that introduc'd it, which is evident from these very Constitutions. There were other Laws publish'd afterwards, in the Reigns of the Kings of the Family of *Anjou*, concerning this Office of Chief Justice, and we have many Constitutions of *Charles II.* concerning his Jurisdiction and Duty; but being to discourse more at large of this Officer, when we come to treat of the Tribunal of the *Curia Vicaria*, we shall therefore refer it to that Place; for in process of Time, under the *Aragon* and *Austrian* Princes, other Tribunals were erected; and as that of the High Court lost its antient Authority and Dignity, so likewise the Chief Justice was in a great measure stript of his Splendor and Prerogatives, insomuch that now he enjoys no more than a bare Title of Honour, with the Privileges common to other Officers of the Crown, only on publick and solemn Occasions, he sits next to the High Constable, and wears Purple.

<sup>1</sup> In the Archives of the Carthusians in Capria | <sup>2</sup> Ricc. di S. Germ. Cron. 1.  
Instrum. Sig. V. 1197.

## S E C T. V.

### *Of the High Chamberlain.*

OUR High Chamberlain or Chief Officer of the King's Chamber of Accounts, was the same with the High Treasurer of *France*, or Superintendant of the Finances. He had the Charge of the King's Person and Household, provided Cloaths for him and his Children: Saw the Centinels rightly plac'd about the Court, dispos'd of the Ushers, cloath'd the King's Household, kept the Jewels, the Gold, the Silver, the Silk and Woollen Robes. But his chief Business was to receive all the Money that was sent to the King's Treasury; to have Jurisdiction over all the other Treasurers of the Kingdom, all the Receivers of the Revenues and Customs, and the Officers belonging thereto, whom he could put in or turn out as he saw Reason. And seeing, as in *France*, when Treasurers were sent to the particular Provinces, it was thought necessary to erect a supreme Tribunal of the Finances, to which all the inferior Tribunals were accountable; so with us a new supreme and general Tribunal of the Finances was erected, the Head of which was the High Chamberlain,

Chamberlain, to whom, all the particular Treasurers of the Provinces, Toll-gatherers, Officers of the Customs, Receivers of the Revenues, and all others, were to be accountable, therefore he was call'd the Chief Officer of the Chamber of Accounts, which is much the same with the *Comes sacrarum largitionum* among the Romans; and as they had many *Quæstores pecuniarum*, so likewise with us there were many Under-Treasurers, Chamberlains, Toll-gatherers, Custom-House Officers, and others, whose Business it was to collect the King's Money. In the Reigns of *Frederick II.* and of the Kings of the House of *Anjou*, this Tribunal was govern'd by the Masters of Accounts, in the Court of the King's Mint; they were call'd Masters of Accounts, because their greatest Business was to take care that the Under-Chamberlains, Treasurers, Custom-House Officers, and others, should give account of their Administration, and to receive from them an Account of what Money they receiv'd and sent to the King's Treasury.

GR E A T Privileges and Prerogatives were given to these Masters of Accounts by King *Lewis* of *Anjou*, and Queen *Joan I.*<sup>1</sup>; and they were likewise call'd Masters of Accounts of the High Court; and how illustrious a Dignity this was in the Times of the Kings of the House of *Anjou*, may be seen by the Personages who bore these Employments; for we read, that the famous *Andrea d'Isernia*, the renown'd *Niccolo Alunno d'Alife*, and other eminent Civilians in the Reigns of King *Charles II. Robert*, and other Kings their Successors, were Masters of Accounts.

A F T E R W A R D S when the Family of *Aragon* came to reign, *Alphonfus I.* annex'd to this Tribunal one created by himself, call'd *Summaria*, which was govern'd by four Presidents that were Lawyers, and two private Men, besides one who presided over all in place of the High Chamberlain, and therefore was call'd his Lieutenant<sup>2</sup>. For which Cause this Tribunal was more eminent, and had greater Authority; for besides the Care of the Royal Demesne, it was vested with that of Feodal Causes, which formerly belong'd to the High Court. From hence arose the Name of *Camera Summaria*, and Presidents of the *Summaria*; the Denomination (not to amuse ourselves with the specious Etymologies of *Summa rei*, or *Rationis*, as *Luca di Penna*<sup>3</sup> dreameth, who was follow'd by *Marino Freccia*<sup>4</sup>, for which he was check'd by *Moles*) was taken from their summary Examination of the Accounts made up by the Masters of Accounts. And as the *French* call this Tribunal the Chamber of Accounts, or of the Finances, so with us, for the same Reason, it's call'd *Camera della Summaria*. Which is evident from a Privilege granted by the same King *Alphonfus*, inserted in our Statutes<sup>5</sup>, where the King plainly says, that this Tribunal is call'd *Summaria*, *quod rationes ipsæ in Camera per Præsidentes, & Rationales ibidem ordinatos SUMMARIE viderentur*; of which we shall have Occasion to discourse more at large, when we come to treat of the Institution of this Tribunal in the Reign of *Alphonfus I.*

T H O' this supreme Office of High Chamberlain, according to *Freccia*, was put upon a better footing, like that of *France* by *Charles I.* of *Anjou*; yet it was not he that first introduc'd it, for it was known among our *Norman* and *Suevian* Kings; and many Chamberlains are mention'd during the Reigns of these Princes, and particularly in that of *Roger*; but Length of Time having bereav'd us of their Names, we have not been able to record them. Yet in the Time of *William I.* his Successor, among others, we find, that *Gaito Joario* was High Chamberlain of the King's Household; after whose Death *Gaito Pietro* an Eunuch succeeded in that Office, both of them *Saracens*<sup>6</sup>. The Word *Gaito*, in the Language of these People, was the Name of an Office, and signifies Captain<sup>7</sup>. And in the Reign of *William II.* we read, that *Gaito Riccardo* was High Chamberlain of the Household<sup>8</sup>; and that *Gaito Martino* had the Charge of the Revenues of the Custom-House. And under the same King, we likewise find mention made of the Chamberlains of *Calabria*, who resided in *Reggio*, among these we find *Giovanni Colomeno*, of whom we shall have occasion to speak in the Reign of this Prince<sup>9</sup>. Thus also in the Times of their

<sup>1</sup> V. Capece Galeot. resp. fife. 1. num. 51.

<sup>2</sup> Costanzo hist. lib. 18.

<sup>3</sup> Luc. de Penna l. si quando la 3. C. de Bonis vacantib. lib. 10. col. 2.

<sup>4</sup> Freccia de Subfeud. de Offic. M. Camer. num. 4. V. Surgent. de Neap. illustr. cap. 7.

num. 2. & 3. & cap. 26. num. 24. in fin. verfi. dicta est autem Summaria.

<sup>5</sup> Pragm. 1. de Offic. Procur. Cæsar.

<sup>6</sup> Ugo Falcand.

<sup>7</sup> Capecelatr. lib. 2. pag. 107.

<sup>8</sup> Idem, lib. 3. pag. 119.

<sup>9</sup> Idem, pag. 128.

*Suevian* Successors, and in the Constitutions of *Frederick* <sup>1</sup> we read many Laws, both concerning the Office of High Chamberlain, and other Officers, as may be seen in *Toppi*.

*CHARLES* of *Anjou* reduc'd this Office into a better Form, after the same Method with that of *France*, by establishing one sole High Chamberlain, whom all the other Chamberlains of the Provinces were to obey, and to whom they were all accountable, as supreme Officer of all the Finances. And this Prince left us many written Laws and Establishments concerning the Duty of this Officer, by framing a particular Regulation for his Office, in doing of which he could not forbear to make use of the *French* Terms; for he ordain'd that it should be in the Power of the High Chamberlain to depute, substitute, and correct the *Graffieri*, or Clerks, whose Business it was to write and note, as that of the Comptrollers to inspect and observe that there was no Fraud in the Collections. He appointed likewise *Maestri degli Arresti*, Masters of Arrests; whence this *French* Term has continu'd among us to this Day; and therefore we say, *gli Arresti della Camera*, which they call the Decisions and Decrees of their Parliaments <sup>2</sup>.

IN after Times the High Chamberlain began to lose these his so great Prerogatives, but it was not so with the Tribunal of the *Camera della Summaria*, which had its own Presidents and Accomptants, and was govern'd by his Lieutenant, who, tho' call'd so, was made by the King, and not by the High Chamberlain; whence it came, that tho' this Tribunal was put upon an equal footing with the other supreme Tribunals of the Kingdom, yet the High Chamberlain is now no more than a bare Title of Honour, neither does he concern himself with the Affairs of this Tribunal, nor has he any Thing to do with the Revenues of the *Camera Summaria*; but all is manag'd by the Lieutenant and his Officers, who are accountable to the Viceroy, who is in place of the King, there being a particular Treasurer who has the Charge of the King's Money. Nevertheless he retains his Prerogatives, as well in sitting on the King's Left-Hand, next the Chief Justice <sup>3</sup>, in the fourth Place, as at solemn Marriages, and other publick Occasions, in wearing purple Robes, and he is reckon'd one of the seven Officers of the Crown, and till of late he had the Emoluments.

<sup>1</sup> Constit. si quando ferte, sub tit. de forma Procuratoribus, &c.  
qualiter, sint locandæ res Fiscoles. Constit. <sup>2</sup> V. Freccia loc. cit. num. 11. & 12.  
authoritatem Magistris. Constit. Magistris <sup>3</sup> Idem, num. 21. & 22.

## S E C T. VI.

### Of the Great Protonotary.

**P** I E T R O V I N C E N T I has written a small Treatise concerning the *Protonotaries* of the Kingdom, wherein he has given us rather a long Catalogue of those who have exercis'd this Office, than describ'd their Business and Charge. The Protonotary, or *Logotheta* with us, certainly had his Rise from the *Greeks*, as the Word itself testifies; nevertheless this Office was known among the *Romans* under another Name. In the Empire, as Head of the Notaries, he was call'd *Primicerius Notariorum*, and was honour'd with the Proconsular Dignity; and after he had exercis'd his Office two Years, he became *Illustis*. In the ancient Empire he had three Sorts or Degrees of Notaries under him, which are plainly describ'd in the *Theodosian Code* <sup>1</sup>. The first were call'd *Tribuni Prætoriani*, & *Notarii*; and as *Cassiodore* <sup>2</sup> witnesseth, were call'd *Candidati*; and were of the same Dignity with Counts. The second were plainly nam'd *Tribuni* & *Notarii*; these were of equal Dignity with the *Vicarii*. Lastly, the third were call'd *Notarii Familiares*, or *Domefici*, who were of Consular Rank and Dignity.

B U T 'tis needless to confound these Notaries with those now a-days, whom the *Romans* call'd *Tabelliones*, whose Office and Employment were quite different, as shall be related. Neither are we to confound the Office of Great Protonotary, in the

<sup>1</sup> Cod. Th. l. 2. 3. de Primic. & Notar.

<sup>2</sup> Cassiodor. lib. 4. epist. 3.

Times of our *Norman* and *Suevian* Kings, and of those of the Houses of *Anjou* and *Arragon*, with that of the Viceprotonotary at this Time, which is solely confin'd to the making of Notaries, and *Judices Chartularii*.

THE Office of Great Protonotary in the Times of these Kings, was so eminent, that in a great measure it resembled that of *Primicerius Notariorum* among the *Roman*. These, as *Cassiodorus* <sup>1</sup>, and *Gotofredus* <sup>2</sup> describe them to us, were of the Prince's Council, and acted therein as Secretaries; the Imperial Answers and Decrees pass'd thro' their Hands, and the Orations of the Emperors to the Senate, were frequently deliver'd by the *Primicerius*: In short, he was the Prince's Secretary, with whom he trusted all his Secrets and Designs, and therefore by his Office he was constantly oblig'd to attend him, and see his Imperial Commands dispatch'd. For which Cause he had under him these three Degrees of Notaries, which were form'd into a Body or College, and were much the same with the present Secretaries of State, or of the King's Cabinet, or Household, of whom we shall treat in the Reign of *Charles II. of Anjou*.

SUCH was the Office and Power of the Great Protonotary in the Times of the abovemention'd Kings. His chief Business was not to make Notaries, and *Judices Chartularii*, but constantly to attend the King's Person, receive the Petitions and Memorials that were to be presented to him; give Audience to those who had recourse to the King, and give the King account of what had pass'd: All Letters Patent pass'd thro' his Hands, and were drawn up by him. All new Constitutions, Edicts, and Statutes made by the King, were penn'd and seal'd by the Protonotary. Whatever the Prince resolv'd or decreed in Council, or elsewhere, he couch'd it in Writing, either in the Form of a Sentence, Decree, Letters Patent, or Special Grant <sup>3</sup>. And we see to what a Pitch of Eminency this Office was rais'd in the Reign of *Charles II. of Anjou* <sup>4</sup>, when it was exercis'd by *Bartolomeo di Capua*, thro' whose Hands the most weighty and important Affairs of the Crown pass'd.

BUT as in process of Time, the Tribunal of the *Curia Vicaria* depress'd the High Justice, and reduc'd him to the Condition he is in at present, so the Erection of the Council of *Sancta Clara*, in the Time of *Alphonfus I. King of Arragon*, almost quite eclips'd the Great Protonotary; for tho' *Alphonfus*, when he vested the President of this Council with the same Power, declar'd, that he did not mean by that to incroach upon the Prerogatives of the Great Protonotary; and tho', either he or his Viceprotonotary was admitted to preside in that Council, and frequently hear Causes as well as the President; nevertheless by Degrees this Office was afterwards reduc'd to a meer Title of Honour, and the Protonotary excluded from that Council; for being oblig'd to be always present in Person, and not having Power to elect a Viceprotonotary without a new Grant, which the King refus'd, the Viceprotonotary was no more made by him, but directly by the King, as is still practis'd. Besides, when the Great Protonotary was elected by the King, with great Solemnity he took Possession of his Place in the Council of *Sancta Clara*, and was present with the President and all the other Counsellors at all the Sentences and Decrees that were given; and at last the King made the President of that Council Viceprotonotary: Thus these two Offices were united in the same Person, as shall be related more at large in the Reign of *Alphonfus I.*

IN process of Time, when the great Barons were advanc'd to this Office, and no Regard had to Lawyers, as in the Time of *Bartolomeo di Capua*; the Great Protonotaries, as Persons of high Quality, in a manner disdain'd to go in Person to the Council of *Sancta Clara*, the Viceprotonotaries went; and these being no more made by those, but by the King, the Great Protonotaries at last came to be excluded altogether out of that Council. On the other hand, the Presidents of the Council, whose Authority was very great, excluded afterwards the Viceprotonotaries from all the Prerogatives which formerly they had, as representing the Person of the Great Protonotary; so that their Authority came to be restricted to the sole making of Notaries, and *Judices Chartularii*, &c. which they still have.

BUT tho' the Office of Viceprotonotary was thus restricted, yet the making of Notaries and the *Judices Chartularii*, the examining their Privileges and Protocols

<sup>1</sup> Cassiodor. 6. var. 3. 10. & 16. & 11. var. 18.

<sup>2</sup> Goth. l. 1. 2. C. Th. de Primic. & Notar.

<sup>3</sup> Freccia de Subfeud. de Offic. Logot. & Proton. num. 1. & 2.

<sup>4</sup> Idem. num. 17.

brought great Emoluments, which occasion'd grievous Disputes betwixt the Great Protonotaries, who pretended they belong'd to them, and the Viceprotonotaries, who being appointed by the King, appropriated all to themselves; and *Marino Freccia* relates a bitter Dispute that arose in his Time betwixt the Duke of *Castrovillari* Great Protonotary, and the famous *Cico Loffredo* Viceprotonotary. At present all these Disputes are over; for the Viceprotonotary holding his Office of none but the King, enjoys all the Profits, and now the Office of Great Protonotary is only a bare Title of Honour, without any Emoluments, but he still retains the Honour of Purple Robes, and his Seat in Parliament on the King's Right-Hand next the High Admiral.

BUT it must be observ'd, that the present Notaries, who are made by the Viceprotonotary, bear no Resemblance with those Notaries mention'd in the *Theodosian* Code, and by *Cassiodorus*, who, as we have said, resembled more the Officers of the King's Secretary or Chancery Offices, who have the Charge of the King's publick Acts and Writs, than the present Notaries, whose Business relates only to the Deeds and Writs of private Persons, tho' their Office be of a publick nature. These are more like the *Tabelliones* of the ancient Romans, whose Office was very much the same, with this one Difference, that the present Notaries perform the Office both of the *Tabularii* and the *Tabelliones*.

AMONG the Romans, those who were appointed to keep the publick Archives, where the Publick Instruments and Records were preserv'd, were call'd *Tabularii*, because the Place where these Things were kept was call'd *Tabularium*, and the Greeks call'd it *Grammatophylacium*, or *Archium*<sup>2</sup>; and the Care of these Places was often committed to publick Slaves, that is, such as were bought with the publick Money of the Cities or Provinces; and these *Tabularii* being publick Slaves, could not only act, covenant, acquire, and in their Names take Possession for the Publick, but likewise for private Persons<sup>3</sup>. The Emperor *Arcadius* afterwards turn'd out these publick Slaves from the *Tabularia*, and order'd that the *Tabularii* should be Freemen<sup>4</sup>, who, as publick Persons, could covenant for others, in the same manner as a Magistrate<sup>5</sup>. But the Office of these *Tabularii* was only to take care of the publick Instruments and Records in the Archives, and as publick Persons to act and covenant for others.

THE *Tabelliones* were those who indited and wrote Testaments or last Wills, and drew up Contracts, making them publick Instruments in the Presence of the *Tabularii*<sup>6</sup>, which were afterwards given to the *Tabularii* to be kept. These *Tabelliones* were likewise call'd *Nomici*, that is to say, *Juris studiosi*, because in order to be skill'd in drawing up and writing these Instruments and Testaments, it behoved them to have some Knowledge of the Laws<sup>7</sup>. Some interpret the Word *Nomicus*, viz. *Legitimus*, because he made all Deeds lawful. However that may be, 'tis certain, that the *Tabelliones*, whom we now call *Notaries*, were quite different from the *Tabularii*, who had the Charge of the Archives; and seeing they were distinguish'd by *Justinian* in his *Novellæ*<sup>8</sup>, 'tis needless to confound them, as *Accursius*<sup>9</sup>, *Goveanus*<sup>10</sup>, and *Forcatulus*<sup>11</sup> have done.

NEVERTHELESS these two Employments were afterwards united in our Notaries; for as formerly the *Tabelliones* wrote the Instruments in the Presence of the *Tabularii*, who preserv'd them in the Archives, it was afterwards brought into Practice, that the Instruments or Testaments were wrote in the Presence of the *Tabelliones*, without having recourse to the *Tabularii*, and the *Tabelliones* made Protocols of them, and kept them in their own Houses, not in the Archives. Whence, by confounding these two Offices, a Notary was look'd upon as a publick Person, that could covenant for other People, as the *Tabularii* did.

THEREFORE the Office of Notary came to be in greater Esteem and Credit; so that when Princes made them, there were certain Laws enacted concerning them, and many Qualifications requir'd, such as Integrity, a good Reputation, Fidelity, and Knowledge; a fair Hand, and a ready Conception, in order to

<sup>1</sup> Freccia loc. cit. num. 22.

<sup>2</sup> Budeus in annot. reliquis in PP.

<sup>3</sup> V. Aulis in Comment. ad tit. de verb. oblig. cap. 2. qu. 2.

<sup>4</sup> L. generali, C. de Tabular. lib. 10.

<sup>5</sup> Institut. §. cum autem, de Adopt.

<sup>6</sup> Novel. 44. de Tabel. Nov. 97. de Instrum.

caut. lib. 1. C. Th. de Crim. falsi.

<sup>7</sup> Nov. 66. §. 1. in princ.

<sup>8</sup> Idem 44.

<sup>9</sup> Accur. l. si Pupillus absens, D. Rem. Pupil. Salv. fore, & l. non aliter, D. de Adoption.

<sup>10</sup> Govean. 2. lect. 10.

<sup>11</sup> Forcat. Dialog. 98. num. 3.



couch in Writing, the Articles agreed upon betwixt Parties; they were to be Close, Freemen, Christians, and Natives of the Places where they were to officiate, that they might know the contracting Parties. And this Office requiring the utmost Fidelity, with us of old, the Nobility were not asham'd to exercise it; and, as once it was not below the Nobility, particularly those of *Salerno*, to practise Physick, so likewise many Noblemen of our *Sedeli* \* did not think it below them to be Notaries formerly; *Marino Freccia* <sup>1</sup> declares, that he has seen many Instruments, Records, Inventories, and other ancient Documents, written by the Hands of noble Notaries, whose Families, he says, he would not name, for fear of displeasing their Posterity. Whence 'tis a Rule among us, that the Office of Notary does not derogate from a Man's Nobility, and that Notaries are not reckon'd among Tradefinen <sup>2</sup>.

\* Certain Tribunals in the different Wards of the City of *Naples*.

<sup>1</sup> Freccia de Subfeud. lib. 1. tit. de Offic. Logot. num. 14.

<sup>2</sup> V. Tap. de Jur. Regn. de Offic. Notar. num. 6, 7, 8.

## S E C T. VII.

### *Of the High Steward.*

**A**S upon the Suppression of the Maires of the Palace in *France*, four new Offices, with respect to War, Justice, the Finances, and the King's Household had their Rise; for War, the High Constable; for Justice, the High Chancellor; for the Finances, the High Treasurer, chief Officer of the Chamber of Accounts; and for the King's Household, the Great Master of *France*, of old call'd the *Count of the Palace*, that is to say, Judge of the King's Household, who had the Government thereof.

**I**N the same manner in the Kingdom of *Sicily*, besides the Officers already mention'd, in imitation of *France*, the Great Master of *Sicily* was created, and also by a *French* Word call'd *Siniscalco*, or Steward of the King's Household, of which he had the Charge, and furnish'd it with all Sorts of Provisions; it was likewise his Business to provide Corn and all other Fodder for the King's Horses, to take care of the Forests, and the Game reserv'd for the King's Diversion, to have Inspection over the King's Domesticks, and other Servants, whom he had Power to correct and punish, except the Chamberlains, who were of the King's Bedchamber, and who undress'd and put the King to Bed, and all Privy Counsellors were also exempted from the Jurisdiction of the High Steward <sup>1</sup>.

**T**H E R E F O R E he was Judge of the King's Household, and the whole Family of the Royal Palace was under his Care, as also all the other inferior Officers, who according to their several Employments had different Names, whence there sprung many Offices that were not Offices of the Crown, but of the Royal Household.

**I**N the Time of the *Normans* we find there were High Ssewards, call'd so, because they were at the Head of, and commanded all the other inferior Stewards of the King's Household; and tho' we cannot discover from Records who was *Roger's* High Steward, yet in the Reign of *William I.* his Successor, we find *Simone* a Kinsman of the famous *Majone*, was High Steward, whom *Pellegrinus* also mentions <sup>2</sup>, and to whom *William* gave the Government of *Puglia* <sup>3</sup>; so that without doubt this Office, as well as the rest, was introduc'd among us by the *Normans*.

**T** I S likewise evident, that in the Time of the Kings of the House of *Anjou*, particularly of *Charles II.* this Office was put on a better Footing, according to the Establishment of this Office recorded by *Freccia*; whence sprung those lesser Offices of the King's Household in *Naples* depending on the High Steward; and the Reason was, because *Charles I.* of *Anjou*, having fix'd his Royal Seat in *Naples*, the High Steward distinguish'd himself above all the other Officers of the King's Household, which were many; therefore in the Time of these Kings of the House of *Anjou*, we

<sup>1</sup> Freccia de Subfeud. lib. 1. de Offic. M. Senescal.

<sup>2</sup> Pellegr. in Notitia Judicati, pag. 257.

<sup>3</sup> Capecelatr. lib. 2. pag. 77.

often find mention made of the Stewards of the King's Household, of the King's Masters of the Horse, his Masters of the Pantry, Grooms of the Stables, Chief Querries, Masters of the Household, Masters of the Stud, Masters Oeconomists, and the *Senescalli Regii Hospitii*; as we read in the Time of Queen Joan I. *Phicbillus Gaetanus Reginalis hospitii Senescallus*; and in the Time of Charles III. *Nobilis vir Bartholomæus Tomacellus miles Regii hospitii Senescallus*; and under King Ladislaus we find *Paolino Scaglione* High Steward to this King, and others mention'd by *Tutino*<sup>1</sup>. So likewise there were other Officers of the King's Household under the High Steward, such as the Master Cook, the Master Butcher, the Judge of the King's Household, the King's Chamberlains, his Huntsmen, Birdcatcher, Falconer, and others, of whom we shall have occasion to discourse more at large in the Reigns of these Princes.

BUT as in the Time of the Kings of the House of *Anjou*, the High Steward on account of so many Officers that were under him, was at his highest Pitch of Grandeur, and his Prerogatives were still continu'd to him under the Kings of the House of *Arragon*, because they also made *Naples* the Place of their Residence; so afterwards, when this Kingdom came under the Dominion of the House of *Austria*, and *Naples* was no more the Seat of the Kings, the Prerogatives of the High Steward were much diminish'd, and many of the abovemention'd Officers of the King's Household suppress'd, and at last for the same Reason it was reduc'd to a bare Title of Honour, without Function or Office.

BY this Suppression, many of these Offices that depended on the High Steward came to be more esteem'd, and to be reckon'd (tho' none of the seven Offices of the Crown) at least among the Chief of the Kingdom, no ways subordinate to others, such as the Master of the King's Studs, his chief Huntsman, who has the Overseeing of all the King's Huntsmen, his Forests and Game; and others, of whom we shall have occasion to speak in a more fit Place. 'Tis worthy of Observation, that in the *Notitia Imperii* there are to be found Officers that have some Resemblance with each of those we have hitherto nam'd; but as for the chief Huntsman, 'tis in vain to expect such a one among the *Romans*, for their Emperors had no Inclination for Hunting, as our Kings had, who look'd upon that Exercise as proper for Warriors, such as they were, who often went in Person at the Head of their Armies; they reckon'd that by going a Hunting they made themselves acquainted with the Situation and Position of the Mountains, Valleys, Hillocks, Plains and Rivers, which, generally speaking, have the same Positions all the World over.

THUS at present among us, by the long Absence of our Kings, who have their Royal Seats elsewhere, the Office of High Steward is in a manner extinct, and only continues to be a Title of Honour; yet on some Occasions, such as in Parliaments, and at publick Solemnities, he retains his Prerogatives and Pre-eminences; he wears Purple Robes, and sits in the last Place at the King's Feet, and is reckon'd one of the seven Officers of the Crown.

THUS did Roger establish his Kingdom, and such were the Laws and Polity which he introduc'd, and the Officers by whom the Kingdom was manag'd, which after so much Labour he brought to a solid State of Tranquillity. But his heroic Spirit, not content with having establish'd the Monarchy in this manner, was wholly bent on acquiring new Kingdoms and Provinces, tho' situated in the more remote and distant Parts of *Africa*.

<sup>1</sup> Tutin. degl' Offic. del. Regn. in. princ.





## C H A P. VII.

## Roger's Expedition into Africa. His Virtues and Death.



IN the mean time Pope *Innocent*, after he had govern'd the Church of *Rome* for the Space of Fourteen Years, on the 24th Day of *September* in the Year 1143, died in *Rome* much afflicted with the Trouble which the *Arnaldists* and *Romans* gave him, who had undertaken to restore their native Country to its antient Liberty, and to re-instate the antient Senatorian and Equestrian Orders, and to humble the Ecclesiastical State, on which account they had continual Broils with this Pope.

*GUIDO CASTELLO* a Cardinal, by the Title of *St. Mark*, was elected in his Room, and proclaim'd Pope by the Name of *Celestine II.* who had scarcely been Six Months in the Chair, when he became jealous of *Roger's* Greatness, and endeavour'd to break the Peace made by his Predecessor with this Prince; but he was prevented by Death on the 8th Day of *March* in the following Year 1144. The Cardinals elected *Gerardo Caccianemico da Bologna*, Cardinal of the Holy Cross, his Successor, who took the Name of *Lucius II.*

THIS Pope, treading in the Footsteps of *Celestine*, was ill pleas'd with *Roger*; and this Prince, endeavouring to make him his Friend, they had an Interview in the Monastery of *Cassino*; but not coming to an Agreement, by reason of the Obstacles which the Cardinals threw in the Way, the King in a hostile Manner entered the State of the Church, took *Terracina*, and many other Places in the *Campagna di Roma*<sup>1</sup>. This made the Cardinals immediately remove the Obstacles, and the Pope soon came to an Agreement, and having granted *Roger* many Prerogatives, *Terracina* and the other Places were restor'd to him again. Then it was, that this Pope, in order to the better establishing of the Monarchy of *Sicily*, besides what *Urban II.* had confer'd on *Roger*, granted him the Ring, the Sandals, the Scepter, the Mitre and the Dalmatick, and promis'd not to send any Person as Legate into *Roger's* Dominions but such as should be acceptable to him<sup>2</sup>, (tho' *Sigonius*<sup>3</sup> says, that these Ornaments were granted to *Roger* the following Year 1145, by *Honorius III.* and not by Pope *Lucius II.*) whence our Kings value themselves in being not only Lords in Temporals, but likewise in Spirituals in *Sicily*; and indeed on the Money which *William I.* caus'd to be coin'd, on one Side we see the King crown'd with a Crown of four Rays, the Verge in his Hand, with the Dalmatick or Stole Crosswise on his Breast, and seated on the Royal Throne with the Sandals on his Feet<sup>4</sup>.

THE *Arnaldists*, who continu'd to plague *Rome* under the famous *Arnaldo da Brescia* their Head, who had been condemn'd by *Innocent II.* in the *Lateran Council*, accus'd *Lucius* before *Conrade* King of the *Romans*, that for a great Sum of Money, he had granted *Roger* his Enemy these Prerogatives, and had enter'd into a Confederacy with him<sup>5</sup>.

*ROGER* return'd afterwards to *Palermo*, and this very Year *Anfusius* Prince of *Cipua* his Son, died, which Principality *Roger* gave to *William*, whom he also made Duke of *Naples*; and who afterwards succeeded him in his Dominions.

<sup>1</sup> Pellegr. in Anon. Cassin. anno 1143. Cron. di Fossanova, ann. 1144.

<sup>2</sup> Otho Frising. de reb. gest. Frid. lib. 2. cap. 27, 28.

<sup>3</sup> Sigon. de Reg. Italiae lib. 11.

<sup>4</sup> Inveges lib. 3. hist. Paler.

<sup>5</sup> Otho Frising. de gest. Frid. lib. 1. cap. 27, 28. Et Siculus dedit ei multam pecuniam pro detrimento vestro, & Rom. Imperii.

*Augustinus Inveges* <sup>1</sup>, and *Camillus Pellegrinus* <sup>2</sup> relate, that *Tancred* his second Son, Prince of *Bari* and *Taranto*, died either in the Year 1142 or 1143, and that *Anfusus* his third Son, died this Year 1144. *Roger* this same Year return'd to *Capua*, where he call'd the first general Meeting; for that which a little before he had call'd in *Ariano*, consisted only of the Prelates and Barons of *Puglia*. His Son *William* with the Archbishops, Bishops and Abbots, with many Counts and Barons, were present in this Meeting; in which many provident Laws were made for the good Government of the Kingdom, and many Law-Suits were compounded, and particularly one that had arisen betwixt *John* Bishop of *Aversa*, and *Walter* Abbot of *St. Lorenzo*, in the same City, about the fishing of the Lake of *Patria* <sup>3</sup>; the Writ of which is recorded by *Chioccarelli* <sup>4</sup>.

IN the Year 1145, Pope *Lucius II.* died in *Rome*, and the Cardinals elected *Bernard* Abbot of *St. Anastasius*, Disciple of *St. Bernard*, his Successor, who took the Name of *Eugene III.* who, notwithstanding that the Romans and *Arnaldists* continued to disturb him, hearing that the Affairs of the Christians in *Palestine* grew worse and worse, resolv'd to relieve those Holy Places, and, by his Letters, and the Persuasion of *St. Bernard*, the Emperor *Conrad*, and *Lewis* King of *France*, were mov'd to go with a great and powerful Army to the Holy Land. *Roger* would not enter into this Confederacy, because the Intent of it was to preserve the Kingdom of *Jerusalem* to *Baldwin III.* and, as we have said, he had always been push'd on by *Adelaida* his Mother, to conquer it for himself; so that having settled his Dominions in a solid and lasting Peace, and being of a heroick Spirit, and covetous of Dominion, he resolv'd to extend his Conquests to other more remote Parts. Therefore he made every thing ready for an Expedition into *Africa*, and having order'd a great Fleet to rendezvous in *Sicily*, he embark'd in it, and steer'd for the Kingdom of *Tunis*, and having attack'd that King, he made himself Master of the Cities of *Tripoly*, *Stace* and *Cassia*, and so harass'd him in other Parts of the Kingdom, that he forc'd him to buy his Peace for a yearly Tribute <sup>5</sup>, which continu'd to be pay'd for the Space of Thirty Years, both to himself and his Son *William*; whence, according to *Inveges* <sup>6</sup>, the Church of *Tripoli* in *Africa* was made Suffragan to that of *Palermo*. *Roger*, proud of having made the King of *Tripoli* Tributary to him, took for his military Motto, which he caus'd to be engraven upon his Sword, this Verse,

*Appulus, & Calaber, Siculus mihi servit, & Afer.*

HE likewise carried his victorious Arms into *Greece*; for the Emperor *Callo-Joannes* dying about this Time, was succeeded in the Empire by his Son *Emanuel*, who sent Ambassadors to the King, desiring to enter into Alliance with him by Marriage, and *Roger*, that it might take Effect, sent Ambassadors to *Constantinople*; but the perfidious *Greek* changing his Mind, and amusing them for some Time, caus'd them to be put in Prison; which so inrag'd *Roger*, that he order'd a strong Fleet to be conven'd at *Otranto*, and sent it with a great many of his Barons into *Greece*, under the Command of *George* of *Antioch* his High Admiral, who having taken the City of *Mutine*, fell upon the Island of *Corfu*; and from thence he sail'd into the *Morea*, and scowering along into the Gulf of *Saronico* near *Cancrea*, a Port belonging to *Corinth*, he destroy'd all that Country with Fire and Sword; from thence he went and ransack'd all *Achaia*, and ruin'd *Thebe*, and committed Hostilities in all Places of the *Negropont* and *Bœotia*; from whence, besides the rich Booty, he carried off with him the chief Workmen of the Silk Manufactures, and brought them to *Sicily* and these our Provinces, which Art had never been known in *Italy* before this Time; and had not the *Venetians*, who, at the Request of the Emperor *Emanuel*, came to his Assistance with Sixty Gallies, oblig'd him to return to *Sicily*, he would have carried his victorious Banner to the Walls of *Constantinople*.

BUT all these Triumphs were imbitter'd by the Death of *Henry* his Fifth Son, there being now none left of so many Sons, but only Two, *Roger* Duke of *Puglia*,

<sup>1</sup> Inveg. Hist. Pal. tom. 3.

<sup>2</sup> Pellegr. part. 1. in stem. Pr. Capuæ.

<sup>3</sup> Capececiatr. hist. lib. 1. pag. 53.

<sup>4</sup> Chioc. de Archiep. Neap. A. 1118. in Marin.

<sup>5</sup> Anon. Cassin. ann. 1145. Fr. Tolom. di Lucca Chron. tom. 3. Hist. illustr. fol. 375.

<sup>6</sup> Inveg. hist. Paler. tom. 3.

and

and *William Duke of Naples* and Prince of *Capua*. *Camillus Pellegrinus* says, that *Henry* died when he was very Young: but he is much mistaken; for he was the Son of Queen *Albira*, who died in the Year 1134, and 'tis certain that *Henry* was at that Time a Youth at least of 14 Years old. And what added to his Grief, was, that he discover'd that this Year 1149, the Emperor *Conrad* had enter'd into an Alliance with the Emperor *Emanuel* to his Prejudice, and soon after in the same Year, *Roger Duke of Puglia* died<sup>1</sup>. Therefore the King resolv'd to marry again, and took to Wife *Sibilla*, Sister to the Duke of *Burgundy*; but this Princess died the Year following 1150 in *Salerno*, and was buried in the Church of the *Trinity of the Cave*, where her Tomb is to be seen to this Day<sup>2</sup>.

<sup>1</sup> Romuald. in Chron.

<sup>2</sup> Anon. Cassin. Anno 1150, Obiit Sibilla

Regina, & Rex Rogerius constituit Gulielmum Ducem filium suum Apuliæ Regem.

## SECT. I.

*The Coronation of William I. and the Deaths of Pope Eugen, and the Emperor Conrad, who was succeeded by Frederick Barbarossa.*

**R**OGER, being thus left alone, made *William* his Colleague, and caus'd him to be crown'd and anointed King of *Sicily* the same Year 1150, which Ceremony was perform'd in *Palermo* by *Hugo*, Archbishop of that City; whence *Inveges* says<sup>1</sup>, that though the Family of *Caravella* claim it as their Right to crown the Kings of *Sicily*, nevertheless the *Palermitans* dispute it with them, and say, that 'tis the Prerogative of their Archbishop. However that may be, in all Writs the Years of *William's* Reign are computed from 1150, in which his Father made him his Colleague. And *Roger*, *Sibilla* having died so soon without leaving Children, married anew, and took to Wife *Beatrice* the Sister of Count *di Retesta*; this Queen after *Roger's* Death, being left big with Child, brought forth *Constance*, whom *Henry of Suevia* married when she was Thirty Years of Age, and by whose Right he afterwards became King of *Sicily*, as shall be related more at large in its Place; so that those Authors are grossly mistaken, who have written, that this *Constance* was a Nun; whence we may see, that what's told of *Roger* his having consulted the Abbot *Gioachimo*, concerning his Prophecy relating to *Constance*, is a meer Fable; but some Authors, such as *Vilani*, tell the Story of his Son *William*.

THE Year following 1151, the Emperor *Conrad* died in *Germany* in the City of *Bamberg*, not without Suspicion of having been poison'd by *Roger's* Means, who had still been his Enemy, (as all the Kings of *Sicily* had been to the Emperors) neither had the famous *Peter*, Abbot of *Clugny*, been able to reconcile *Conrad* and *Roger*. His Nephew *Frederick Duke of Suevia*, surnam'd *Barbarossa*, a gallant and wife Prince, was elected his Successor, whose Exploits shall be recorded in the following Book.

THE Year following 1152, Pope *Eugen*, after having restor'd Tranquillity in *Rome*, where he had been joyfully receiv'd, likewise died, and Cardinal *Conrad a Roman*, in the Year 1153, was elected in his Room, and took the Name of *Anastasius IV*.

IN the mean time *Roger*, after having, by the Means of his Captains, conquer'd the City *Hippon* in *Africa*, famous for having been the See of the Great *Augustine*, laid aside any more Thoughts of War, took up his Residence in *Palermo*, and spent the Two remaining Years of his Life in erecting perpetual Monuments both of his Magnificence and Piety; for besides a stately Palace which he built in *Palermo*, and a noble Royal Chapel dedicated to St. *Peter*, and another Church in *Messina*, dedicated to St. *Nicholas*, he founded a noble Church to *Nicholas Bishop of Mira*.

IN the Year 1078, as we have said, the Bones of this Saint had been transported to *Bari*; and now on account of the Liquor which was seen to drop out of them, were become the Wonder of the World: The Fame of the Prodigy increas'd, and

<sup>1</sup> Inveg. hist. Pal. tom. 2.

in these Times this Church and *Bari* grew so famous in the East, that it drew Veneration from the very Emperors of *Greece*, as may be seen in the *Novellæ* of the Emperor *Emanuel*, wherein so notable a Miracle is mention'd. *Roger*, out of Devotion, went frequently to *Bari*, most graciously confirm'd the Customs or Laws of that City, and erected this magnificent Church there, and declar'd it to be his Royal Chapel: he would not have it to be subject to the Archbishop of the City, but absolutely to the Pope, and instituted a Prior and many Canons in it: He enrich'd it with great Revenues, Castles and Farms, as may be seen by an Inscription on Marble in that Place; though *Beatillo*, who wrote the History of the City of *Bari*, and the Life of this Saint, mentions no such thing; but gives the Church and Priory a more antient and different Rise. Some will have it, that *Charles* of *Anjou* instituted that Priory, and declar'd this Church his Chapel Royal; of which we shall have occasion to discourse in another Place.

*ROGER* gave likewise many noble Ornaments both of Gold and Silver, and the Inheritance of many Lands to St. *Matthew's* Chapel in *Salerno*; and some rich Presents to the Monastery of the *Trinity of the Cave*; and though he did not think fit to make use of Violence to oblige the *Saracens* and *Jews* that were in *Sicily* to turn Christians, yet he was at great Pains to bring it about.

BUT this Prince, after having, by his notable Exploits, made himself so famous and renown'd in the World, in the Month of *February* of this Year 1154, fell sick in *Palermo*, and died in the 58th Year of his Age<sup>2</sup>: A short Life for so many noble Actions perform'd by him; whose Death was soon followed in the Month of *December* of the same Year, by that of *Anastasius*; and *Adrian IV.* was elected in his Room.

*ROGER* was truly a great and illustrious Prince, whose magnanimous Exploits rais'd him to be one of the most powerful and greatest Kings in the World, who not only struck Terror into the Emperors of the West, but also into those of the East; and by his Conduct rais'd his Kingdom in the midst of these Two potent Empires: He was no less prudent in Council, than brave in the Field, unshaken in Adversity, and moderate in Prosperity. An equal Admirer of gallant and learned Men, whom he invited from the most remote Countries, and rais'd to the first Honours of his Kingdom. He was judicious in making new Laws, and govern'd his Dominions with the utmost Justice. He had a great Affection for the *French*, his Forefathers having been of *French* Extract. He left notable Monuments of his Piety; and tho' some have charg'd him with Cruelty towards his Enemies and Rebels; yet he was not to be blam'd for that, seeing he was oblig'd to make use of all those Means which are proper and necessary to a Prince, who was to establish a new Kingdom.

I KNOW that St. *Bernard*, and the Emperor *Emanuel* spoke of him as a Tyrant and Usurper; but the first, who was of *Innocent's* and *Lothair's* Faction, spoke the Sentiments of that Party; which was evident, for no sooner had *Roger* made up Matters with *Innocent*, than the Title of Tyrant and Usurper vanish'd; whence we have many Letters of the same *Bernard* written to *Roger*, full of Encomiums on him. And our modern *Neapolitan* Historian, says, that *Roger*, after this Peace, of the worst, became the best of Men; for in the Opinion of Writers of this Kidney, he's a wicked Prince, who, in order to preserve his own Rights and Royal Prerogatives, opposes the Popes; and he's a good Prince, who, to curry Favour with them, cringes, and is at their Devotion. As for the Emperor *Emanuel*, no other could be expected from him, because he was his mortal Enemy, as all the *Norman* Princes were to the Emperors of the East, on account of the continual Wars they had with one another; thus, the Princess *Anna Comnena* calls the famous *Robert Guiscard* a Robber, because of the cruel War which he made on *Alexius Comnenus* her Father.

I likewise know, that some blame this Prince for having join'd the Faction of *Anaclet* the Anti-Pope, and rejected *Innocent*; but they ought to consider, that by blaming *Roger* for this, they accuse at the same Time almost the whole Catholick World, that then look'd upon *Anaclet*, and not *Innocent*, to be the true Pope.

<sup>1</sup> Capecelatr. lib. 1. pag. 59.

<sup>2</sup> Camil. Pellegr. ad Anon. Cassin. A. 1154.

Capecelatr. hist. lib. 1. pag. 59.



They were both created the same Day, and tho' *Innocent* was first elected, yet *Anaclet* had the greatest Number of Votes ; and the Suffrages of those Cardinals, who after they had elected *Anaclet*, went over to *Innocent's* Faction, could be of no stead to him. Though the People of *Rome*, and the chief Men of that City at first stuck by *Innocent*, nevertheless they afterwards publish'd to the World by several Manifestoes, that since they had come to the Knowledge of the Truth, they own'd *Anaclet* for true Pope. The Monks of *Monte Cassino* with their Abbot, acknowledg'd him as such: Many Cardinals, Bishops and the chief Prelates of the Church, sided with *Anaclet*; and many Princes and Kingdoms did the same; and before the Council of *Eftampes*, a City betwixt *Paris* and *Orleans*, which decided in Favour of *Innocent*, *France* was very uncertain what Side to chuse. *Henry* King of *England* was afraid to own *Innocent* for Pope, and till *St. Bernard* satisfied his Conscience, he never would acknowledge him'. And though *Germany* was for *Innocent*, yet it was more owing to *Lothaire*, than to the want of Scruple of Conscience. It was a hard Matter at this Time to discover Truth amidst so many and opposite Factions under which it was disguis'd; and the World was witness to a most deplorable Tragedy. *Innocent* excommunicated *Anaclet* with his Adherents; and *Anaclet* excommunicated *Innocent* with his Followers: *Bernard* and *Peter* of *Pisa* contended with one another, and both of them were reckon'd equally wise and learned. Many Disputes arose amongst the gravest Divines of those Times, insomuch that by the Arguments of both Sides, the People were confounded. In which Circumstance, as *St. Anthony*<sup>1</sup>, speaking of the Schism which fell out betwixt *Urban VI.* and *Clement VII.* very much to the Purpose, said, tho' we must believe, that as there is but one Catholick Church, so likewise she can have but one Head; nevertheless if through Schism, more Popes than one happen to be elected at the same Time, our Salvation do's not depend upon believing absolutely this one or that one to be true Pope; but that one of them who has been lawfully elected, must be such; and we are neither oblig'd to inquire narrowly, nor to know which of them has been lawfully elected; and the People are to be guided in that by their Superiors and Prelates; whence this same Writer does not condemn *St. Vincent Ferreri* of his own Order, for having spent almost his whole Life-time in *Avignon*, where *Benedict XIII.* kept his Court, and whom he acknowledg'd to be the true Pope, tho' the *Italians*, and many other Nations, look'd upon him as an Apostate and Schismatick, and especially in so intricate and doubtful a Case; and many things may be said to be lawful while doubtful; but not when the Truth is set in a clear light. If any'thing derogates from the Worth of this Prince, it is, that after almost all the World had acknowledg'd *Innocent* as true Pope, and even after *Anaclet's* Death, he obstinately stood it out, and got others to be elected in his Room; but 'tis very clear he did so for Reasons of State, and not of Religion: By this Behaviour he had a mind to humble *Innocent* his implacable Enemy, by keeping up the opposite Faction, whereby *Innocent* might be forc'd to be friends with him. But that did not take with the obstinate Pope, who must needs put himself at the Head of an Army, in order to crush *Roger*. But it happen'd quite otherwise, for the Pope was taken in the Battle and made Prisoner. This Action made *Roger's* Piety more conspicuous, for tho' he had it in his Power to treat him according to the Laws of Victory, yet he then pay'd him Respect, and acknowledg'd him for the Vicar of Christ, and would make Peace with him, and he was afterwards the greatest Defender that the Church of *Rome* had against the Incroachments both of the Emperors of the East and West; as the famous *Robert Guiscard* had been, and the Two *Williams* his Successors were.

THIS Prince, by his so many Wives, left no Children but *William*, who succeeded him in the Kingdom, and *Constantia* his posthumous Daughter: He foresaw, that though he left him Heir to his Dominions, he would not inherit his Virtues: To his great Grief he had lost all his other Sons, and Death had snatch'd away the best, and left the worst; he had made *William* his Colleague, that he might learn of him the Art of Government.

BY the four Concubines which at different Times he had had, he left some Children. It was an Error in *Fazzellus* to write, that *Tancred* Prince of *Bari* or *Taranto*,

<sup>1</sup> Auth. Vitæ. S. Barnardi.

<sup>2</sup> Anton. 3. par. lib. 22. cap. 2. tit. 2.



was the Son of one of *Roger's* Concubines<sup>1</sup>; for, as we have said, he was his lawful Son, by *Albiria* his first Wife. Neither was that *Tancred*, who was fourth King of *Sicily*, Son to this King *Roger*, but he was his Grandchild by *Roger* his eldest Son, Duke of *Puglia*, so that 'tis uncertain what Children *Roger* left by his first Concubine. By the Second he had *Simon*, to whom by his Will he left the Principality of *Taranto*; but King *William* his Brother took it from him, and gave him the County of *Policastro*. The Third was Mother of *Clementia* Countess of *Catanzaro*, who was first married to *Hugo di Molino* Count of *Molise*, and afterwards *Matteo Bonello*, Son-in-Law to the High Admiral *Majone*, courted her. The Fourth was Mother of her, whom Queen *Margaret* the Wife of *William I.* married to *Henry* her bastard Brother, who got with her the County of *Monte Scaglioso*.

WE are not to be surpriz'd to find this religious Prince keep Concubines in his Palace; for in these Times Concubinage was not so ignominious as at present. Formerly among the *Romans*, as we have observ'd elsewhere, it was look'd upon as a lawful Conjunction, and the Concubines were in a manner Wives, and Concubinage was call'd *Semimatrimonium*. And when Priests could marry, they were allowed to keep one of the Two, either a Concubine, or a Wife, as we read in the first Council of *Toledo*. Thereafter, the *Latin Church* not allowing Priests to marry, though the *Greek Church* did, there were many Councils held for prohibiting the Use of Concubines likewise, which Custom requir'd the Labour of many Ages to extirpate it, as we have said on another Occasion; but Concubinage continu'd amongst Laicks for many Ages; and tho' in the East, *Leo* by one of his *Novellæ* forbid it altogether, as *Constantinus Porphyrogenitus* afterwards did, yet in the West the *Longobards* and many other Nations continued to practise it; and *Cujacius* writes, that even in his Time, some People in *France* towards the *Pyrenean Mountains* retain'd it. The *Normans*, who were exact Observers of the Laws and Customs of the *Longobards*, likewise kept it up; so that we must not wonder at *Roger's* keeping Concubines while he was a Widower; for none, except the *Jews* and *Turks* (who reckon'd Polygamy lawful) were ever allow'd to have a Wife and Concubine; or two Wives, or two Concubines at the same Time.

IN After-times, Concubinage was prohibited by the Civil Law, and by many Councils afterwards it was declar'd unlawful; so that it is not now, as formerly, a lawful Conjunction, but scandalous and opprobrious; and to keep a Concubine, is look'd upon at present to be as great a Crime, as to commit Adultery, Incest, or any other wicked Lust. Thus Time changes Things, and what was formerly honest and lawful, becomes shameful and blame-worthy.

<sup>1</sup> Inveges lib. 3. Hist. Paler.







THE  
CIVIL HISTORY  
Of the KINGDOM of  
N A P L E S.  

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B O O K XII.

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THE Reign of *William I.* was not so much confounded and disturb'd by the Power of a foreign Enemy, as by the intestine Commotions of his Barons; and it was more remarkable for the Plots and Conspiracies against his own Person, and the Great Men of his Court, than for Wars and Battles. The Occasion of so much Mischief was, that he undervalu'd the Actions of his most worthy Father, and suffer'd his Court, which his Father had reform'd and put on a good Footing, to go to ruin, partly by banishing, and partly by imprisoning those Persons whom *Roger* had most esteem'd. For having indiscreetly rais'd *Majone di Bari* to the chief Honours of the Kingdom, and made him his High Admiral, he likewise intrusted him with the whole Government of the Kingdom; he was so dear to him, that when he was furly and austere to others, he was open and serene to him; which so much offended the principal Barons, that they withdrew their Affection from him to that Degree, as turn'd the Kingdom topsy-turvy, as shall be related by-and-by.

AS soon as his Father was dead, tho' he had reign'd in company with him little less than four Years, he caus'd all the Prelates and Barons of the Kingdom to be assembled, and made himself to be solemnly crown'd anew in *Palermo*, on *Easter Day* this same Year 1154. And soon after this great Solemnity, the Birth of his second Son *William*, by Queen *Margaret* his Wife, Daughter of *Garcias II.* King of *Navar*, was celebrated with great Magnificence and Feasting; for his eldest Son

Roger was born while his Grandfather was alive<sup>1</sup>. There were no other Princes of the Blood in the Royal Family but Roger and William II. both Infants. Their Aunt Constantia, the posthumous Daughter of Roger, was still a Child. Tancred and William, the Sons of Roger Duke of Puglia, tho' but Youths, for Reasons of State, were kept Prisoners in the Royal Palace in Palermo: Thus William was left alone at the Age of 34 Years, without the Assistance or Advice of Kinsmen, to govern the Kingdoms of Puglia and Sicily, and the other Provinces and Cities of Greece and Africa.

THEREFORE the High Admiral Majone, who was endued with Talents fit to raise a private Man to be a Prince, had free scope for imposing on the King, and governing his Dominions without Controul. He was of a ready and piercing Wit, and fitted for the hardiest and most difficult Undertaking; fluent in Speech, exceeding generous, a most cunning Dissembler, and greedy of Command; for which end he had his Thoughts always employ'd in contriving how to arrive at the highest Pitch of Dignity and Honour; but he conceal'd all under a serene and chearful Countenance: he spent whole Days with the King on the Affairs of State, and the most secret Transactions were intrusted with him alone, and his Advice was solely acceptable and rely'd upon. His Authority gain'd him Friends and Partisans, to whom, at his Pleasure, he gave the Government of Provinces, Castles, and military Employments; and William was so much his Bubble, that whatever he was pleas'd to ask was immediately granted: In order to remove all Obstacles that possibly could stand in his way, he pretended to be in Love with the Queen, and sully'd her Virtue, by gaining to his Interest all the Saracen Eunuchs, Keepers of the Royal Palace. In short, he was the Director of the Kingdom; he was so forward to raise his own Family, that he advanc'd one of his Brothers, and one of his Sons, both of them nam'd Stephen, to the chief Military Employments, and made the Son of one of his Sisters, call'd Simon, High Steward of the Kingdom, and married one of his Daughters to Matteo Bonello, one of the principal Barons of the Kingdom; and he caus'd to be registred by the Monks of Monte Cassino, in a Book wherein the Deaths of Popes, Emperors, Kings, Sovereign Dukes, and such like Personages were recorded, the Days on which Leo and Curazzo, his own Father and Mother, formerly very mean Persons, died, in these Words; *Curazza Mater Madii magni Admirati Admiratorum obiit VII. Kal. Aug. & Leo Pater Admirati Admiratorum obiit VI. id. Septembris*<sup>2</sup>. And Cardinal Laborante, who in these Days was reckon'd the most knowing and learned Man that flourish'd in Rome, having compos'd a Book, *De Justis, & Justitie rationibus*, which is to be seen at this Time divided into four Parts, he dedicated it to this Majone, as to the most renown'd and remarkable Personage in Europe at this Time.

HE being arriv'd to this Pitch of Grandeur, bethought himself how he might at last accomplish his Design of usurping the Kingdom; and finding that he had nothing else to do but to dispatch out of the Way all those who were able to obstruct it, he employ'd all his Thoughts how to ruin them.

THOSE that he thought were most likely to baulk him, were Simon Count of Policastro, the bastard Son, as we have said, of King Roger, Roberto da Bassavilla Count of Loritello, William's Cousin-German, and Eberard Count of Squillace, who were all Men of consummate Virtue, who could neither be brib'd nor cozen'd; and he was convinc'd, that while they were alive, all his Labour would be in vain. He began then to contrive their Ruin; and being sensible that Hugo Archbishop of Palermo was a fit Person to communicate his Design to, and be his Accomplice, by whose Assistance he should the more easily be able to bring his Project to bear; for the Archbishop was a subtle and bold Man, both fit for any great Undertaking, and greedy of Command; therefore the Admiral began to sound him by Degrees, by insinuating, that if once the King were dispatch'd, as being a Man both unfit for Government, and wicked, they might then easily take the young Sons into their Charge, by which Means they would be Masters of all, till the Children should be of Age. He would not discover his Resolution of usurping the Kingdom, for fear that the Heinousness of the Crime might surprize him, hoping, that if he were once Tutor to the King's Children, nothing could stop him from putting his Designs in Execution. Therefore he enter'd into a strict Friendship with the Archbishop, and they

<sup>1</sup> Inveges lib. 3. hist. Paler.

<sup>2</sup> Libro Mortuale di Monte Cassino.

mutually

mutually swore to assist one another, happen what would ; and the Admiral order'd Matters so, that the Archbishop became one of the King's Confidants and Creatures, in order to approve or disapprove of the King's Actions, how wicked soever, as he thought fit.

THESE were the Foundations which *Majone* laid for supporting the lofty Fabrick of his Ambition : In the mean Time new Opportunities offer'd, which the Admiral seasonably laid hold of in order to ruin his Rivals, and those who were able to obstruct his Design. Pope *Anastasi*, as we have said, had died in *Rome*, and *Adrian IV.* an *Englishman*, had been elected in his Stead. This Pope was offended at *William's* having caus'd himself to be crown'd in *Palermo* without asking his Consent, which the Popes pretend to be necessary to the Coronation of their Feudatory Princes, and the King having heard of *Adrian's* Election, sent Ambassadors to confirm the Peace which he had made with his Predecessor, but the Pope dismiss'd them without concluding any Thing. *William* went afterwards from *Palermo* to *Messina*, and from thence to *Salerno*, and while he was there, *Adrian* sent Cardinal *Henry* with Letters to him, who not only would not receive them, but order'd the Cardinal immediately to depart his Kingdom ; the King was likewise offended because the Pope in his Letters did not give him the Title of King, but only *Lord of Sicily*, pretending that he could not give him that Title, because he had been crown'd without his Permission and Authority <sup>1</sup>. But *William*, who took it as an Affront to be oblig'd to ask of the Pope what was in his own Power, after having celebrated the Feast of *Easter* in *Salerno* this Year 1155, and created *Ascle* Archdeacon of *Catania* High Chancellor, and Governor of *Puglia*, in a bitter Passion order'd him to assemble a strong Army to besiege *Benevento*, lay waste all its Territories, and take it in spite of the Pope. On the other hand *Adrian* excommunicated the King, who, besides having commanded the Chancellor to besiege *Benevento*, likewise order'd that none of the Bishops of his Kingdom should acknowledge the Pope, nor be consecrated by him. Then, he left *Salerno*, and accompanied, with *Majone*, return'd to *Palermo*.

MEAN while the Chancellor, after having laid waste the Territory of *Benevento* to the very Walls of the City, endeavour'd to surprize it, but it being bravely defended by the *Beneventans*, who put their Archbishop to Death, because he had been discover'd to be a secret Friend and Partisan of *William's*, the Chancellor was forc'd to lay close Siege to it : During the Siege, some Barons not satisfied with the present Government, and besides spur'd on by the Pope, deserted the Army, and threw themselves into *Benevento*, and others, without Leave, left the Camp ; for which Cause, the Army being divided, the Siege was rais'd <sup>2</sup>. *Robert* Count of *Bassavilla*, full of Rage return'd to *Puglia*, for he having been to wait upon the King while he was in *Salerno*, by the Means of *Majone* was so coldly receiv'd, that the King did not so much as speak to him. The Chancellor with that part of the Army that had stuck by him, and some new levied Soldiers, march'd into *Campagna di Roma*, where he took and burnt *Cepparano*, *Bacucco*, *Frusinone*, *Arce*, and other neighbouring Places ; and afterwards in his marching back to the Kingdom, he caus'd the Walls of *Aquino*, *Pontecorvo*, and other Castles belonging to the Monks of *Monte Cassino* <sup>3</sup> to be demolish'd, and besides, he turn'd out all the Monks of that Monastery, because they were Partisans of the Pope, excepting twelve, which he left to take care of the Church, and return'd to *Capua*, where he remain'd in Company with Count *Simon*, in order to be at hand for the Defence of the Kingdom, and to prevent any Commotion of the Barons, who were cruelly vex'd at the Admiral's Power, which was so great, that it was a hard matter to distinguish whether he or *William* was King of *Sicily* ; but more especially to prevent a new Storm that was threatening ; for it was rumour'd aboad, that the Emperor *Frederick Barbarossa*, with a great Army, was on his march from *Germany* to *Italy*.

<sup>1</sup> Romuald. Arc. di Saler. Eo quod in literis Apostolicis, quas Regi portabat, Papa eum non Regem, sed Willel. Dom. Siciliæ nominabat.

<sup>2</sup> Hugo Falcand. Capecelatr. lib. 2.

<sup>3</sup> Anon. Cassin. in Chr. fol. 141.

## S E C T. I.

*The Emperor Frederick I. enters into a League with Emanuel Comnenus Emperor of the East, and with the Pope makes War against King William.*

**F**REDERICK, as his Predecessors had been, was an implacable Enemy to the Normans, and as Lothaire, Henry, and Conrade had oppos'd Roger, so he bent all his Thoughts on driving William out of Puglia and Sicily, looking upon him as an Usurper of the Provinces of the Empire. No Emperor had ever conceiv'd such high Thoughts of the Empire restor'd by Charles the Great in the West, as he did; for he look'd upon himself to be another Octavianus Augustus, and that all the Provinces which were formerly under that vast Empire, whether in Asia, Africa, or in any other more remote Part of the World, belong'd to his Empire, and that therefore he had sufficient Right to expel the Invaders; for Saladin had no sooner made himself Master of many Places of Syria, than he immediately declar'd War against him, and by a thundering Letter threaten'd him, if he did not restore those Places, which Letter is recorded in the Annals of England by Roger, and Mathew Paris, in which among other Brags and Rodomantados, he tells him, that he could not but know, that both the *Æthiopias*, *Mauritania*, *Persia*, *Syria*, *Partbia*, where Marcus Crassus died, *Judea*, *Samaria*, *Arabia*, *Chaldea*, and *Egypt* itself, where Anthony fell in Love with Cleopatra, *Armenia*, and a multitude of other Places were subject to his Empire. But Saladin answer'd him with no less Haughtiness and Pride, as may be seen in his Answer recorded by the same Writers. 'Tis likewise known, that no Emperor before him, was seiz'd with the Whim of creating so many honorary Kings as he did; for he sent the Sword and Royal Crown to Peter King of Denmark, the Dukes of Austria and Bohemia, to whom he gave the Title of Kings, as we have related in the preceding Book.

AND this Vanity of believing himself to be Lord of all the World, and of particular Cities and Places, was of so pernicious Consequence to him, that when, according to these Notions (fomented by the fawning Martin the Civilian) he was imposing severe and rigorous Laws upon the Nobility and Cities of Italy, all Lombardy revolted, which occasion'd the Ruin of Milan, as we shall see anon.

BY the same airy Notions he look'd upon William as an Invader and unjust Usurper both of Puglia and Calabria, therefore he employ'd all his Thoughts and Power in order to drive this Enemy from his Throne; but considering that of himself he could not bring it to bear, for tho' he could bring an Army into the Field sufficient to conquer Puglia, yet for want of Sea Forces, it was impossible to undertake any Thing against Sicily; therefore the preceding Year 1154, after having call'd a Dyet at Ratisbon, he had sent Ambassadors to the Emperor Emanuel Comnenus to solicit an Alliance with him against William<sup>1</sup>. Emanuel was as jealous of the Growth of the Normans as Frederick, for they had not only possess'd themselves of Sicily, but had likewise got footing in Greece, and had extended their Conquests to the very Gates of Constantinople. William found himself betwixt two powerful Enemies, united and confederated together. It was truly a very unaccountable Thing to see Frederick on the one hand boast, that William's Dominions belong'd to his Empire of the West; and on the other hand Emanuel threaten'd, that he and his Romans would never desist from making War in Italy, until it, and the whole Island of Sicily were restor'd to his Empire, from which they had been wrested<sup>2</sup>. Frederick likewise found Means to get the Pisans, who were then powerful at Sea, to enter into this League against William; who being also involv'd in a War with the Pope, and jealous of the Loyalty of his Barons, was seiz'd with such a Consternation and Melancholy, that abhorring to see any Person, he was always shut up in his Palace, where he only convers'd with Majone and the Archbishop, from whom he learnt how the Affairs of his Dominions went, not as was fitting, but as best suited with their Designs. And in the mean while, Majone perceiving that he could not expect

<sup>1</sup> Sigon. de Regn. Ital. p. 287.

<sup>2</sup> Jo. Cinnamus hist. Comnena, lib. 4.

a more

a more fit Opportunity than the present for accomplishing his deep Designs; he made the King believe that the Count of *Loritello* had retir'd to *Puglia*, on purpose to get himself made King, by Virtue of a certain Testament of *Roger's*, wherein 'tis said, that he should succeed in case his Son *William* was not found fit to govern his Dominions; and therefore he ought to order *Ascleettino* to invite him to *Capua*, and upon his Arrival to make him Prisoner, and send him under a strong Guard to *Palermo*. But the Count immediately suspected this Invitation, and afterwards having discover'd the Trick, he refus'd to obey the Chancellor, who commanded him in the King's Name, to deliver over his Soldiers to Count *Boemondo*, and in a great Passion told him, it was the Order of a Fool, or a Traytor, and forthwith left *Puglia*, and with all his Men went to *Abruzzo*. *Majone* not content with this, at the same Time resolv'd to ruin Count *Simon* likewise, by artfully sowing Dissention betwixt the Count and the Chancellor, and a Mutiny happening among the Soldiers, he represented the Matter at Court, not as it really was, but as he thought fit, adding, that the Count was the Occasion of those Tumults, and that there was a secret Correspondence, by Letters, carried on betwixt him and Count *Robert*, about Affairs of great Consequence; this was enough to make the King believe that the Counts *Simon* and *Robert*, with many others, were in a Plot against him, in order to dethrone him; whereupon *William*, who was always jealous of his nearest Kinsmen, invited Count *Simon* to *Palermo*, and without giving him Time to alledge any Thing in Defence of his Innocence, he caus'd him to be shut up in Prison, which rais'd Indignation in every Body against the Admiral, by whose Means all these Mischiefs were brought about.

AT this very Time it happen'd, that the King, either on account of a violent Fit of Sickness, or for some other Reason, shut himself himself so close up in his Palace for several Days, that he could neither be seen nor spoke to by any Person, except by the Archbishop and *Majone*; which made it to be rumour'd abroad in his Dominions, that he had died of Poison given him by the Admiral. This Report being spread in *Puglia*, occasion'd terrible Commotions, insomuch that many Provinces immediately revolted; for Pope *Adrian* taking Advantage of the Opportunity stirr'd up the Barons of *Puglia*, and those whom *William* had expell'd, to rise in Arms all of a sudden<sup>1</sup>. They had such an Aversion to the King on the Score of *Majone*, that it was no hard matter to bring about a Rebellion; therefore *Calabria*, *Puglia*, and *Terra di Lavoro* were immediately imbroil'd in a cruel War, and full of Tumults and Sedition. Count *Robert* having assembled a great Army in the Neighbourhood of *Abruzzo*, surpriz'd many of the Maritime Cities of *Puglia*, as far as *Taranto*, and having taken *Bari*, with the Consent of the Citizens, he caus'd the Castle built by *Roger* a few Years before, to be demolish'd; and besides, together with the Pope, prevail'd upon the Emperor to join them, by promising to restore *Puglia* to the Empire of the East. *Emanuel* sent a good Army commanded by gallant Officers, and a great Sum of Money to *Brindisi*; for which end they repair'd the Harbour of that City, whither *Emanuel* resolv'd to send more Troops.

THE Report of the King's Death occasion'd the like Commotions in *Terra di Lavoro*; for *Robert* the exil'd Prince of *Capua*, who hitherto had led a private Life in *Sorrento*, which *Roger* had wink'd at, whence he was also call'd *Robert of Sorrento*<sup>2</sup>, wanted not to be spurr'd on by the Pope, but came quickly to *Capua*, and took Possession of his ancient Inheritance, and soon after he not only intirely subjeected all the Cities of his own Principality, but having likewise march'd into *Puglia*, he subdu'd all the rest, excepting *Melpbis* and *Troja*. And the King's Affairs were in such a bad Situation in the Country of the *Picentini*, and *Terra di Lavoro*, that nothing remain'd under his Obedience but the Cities of *Amalphis*, *Naples* and *Salerno*, and a few Forts and Castles, for *Riccardo dell' Aquila* Count of *Fondi*, had taken *Sessa* and *Tiano*, and the Count *Andrea da Rupe Canina* had possess'd himself of *Alife*.

IN the mean Time the Fear of greater Troubles increas'd; for the Emperor *Frederick* had come from *Germany* to *Rome*, where he had been receiv'd with great Pomp, and solemnly crown'd in *St. Peter's Church* by Pope *Adrian*; and before his Coronation the Pope had made him promise, that besides his marching into *Puglia* against *William*, which, out of Emnity, he would have done without being desir'd,

<sup>1</sup> *Laveges*, lib. 3. hist. Paler.

<sup>2</sup> *Camil. Pel. in Stem.*



he should likewise depose the Senators of *Rome*, and reduce that City, as formerly, under his, the Pope's, Obedience. But *Frederick* could neither perform the one nor the other, for not only the Plague had seiz'd his Army, but he was oblig'd to return to *Germany*, and on his march to quell the Commotions that had arisen, in some Cities of *Lombardy*, and now that he was crown'd, he made no account of his Promises, only he animated the *Pisans* to send their Fleet against *William*.

ALTHO' the Pope had been thus bubbled by *Frederick*, nevertheless he was no ways dishearten'd, but was resolv'd to make the best of this favourable Juncture; for having assembled a great Army, the best way he could, and put himself at the Head of it, he enter'd the Kingdom, and immediately Count *Andrea di Rupe Canina*, and the Malecontent Barons join'd him; he was likewise join'd by *Robert*, now Prince of *Capua*, who march'd into *Terra di Lavoro*, and from thence to *Benevento*, where he was honourably receiv'd: On the other hand the Emperor *Emanuel* resolving to be reveng'd of the Injuries he had receiv'd from *Roger*, upon his Son *William*, had sent *Paleologus*, *Cominatus*, *Sebastus*, and other renown'd and brave Captains, with a good Body of Troops, and a large Sum of Money into *Puglia* to *Robert's* Assistance; and besides he had sent the Pope Word, that he would assist him to ruin *William* altogether, provided he would put him in Possession of three Maritime Cities of that Province, with which Reinforcement Count *Robert* carried on a terrible War in *Puglia*, and had already possess'd himself of a great Part of it.

SUCH was the deplorable State to which these our Provinces were reduc'd in this Year 1155. Tho' the King was appriz'd of all these Mischiefs, yet they were not sufficient to oblige him to shake off his Indolence, which had so glued him to the Pleasures of a Court, that his being coop'd up in his Palace, had given Rise to the false Report of his Death; for *Majone*, disguising his own inward Trouble with a chearful Countenance, did not discover his Fear to the King nor the Archbishop, only he thought fit to desire the King to write to those who had continu'd Loyal to him, that the Report of his Death was false, and invented by his rebellious Subjects, against whom he order'd them to take Arms.

BUT tho' the Commotions of these Provinces occasion'd by *Majone*, were not sufficient for rousing the King out of so long and deep a Lethargy, yet those which were rais'd in *Sicily*, and soon after in the very City of *Palermo* were; for Count *Giuffredi*, having discover'd *Majone's* Conspiracy, tho' the King would not give credit to it, revolted; and the *Sicilians*, on account of the Admiral's Tyranny, rising up in Arms, possess'd themselves of *Butera*; and the Citizens of *Palermo* making a terrible Uproar for the unjust Imprisonment of Count *Simon*; all these and other Things join'd together, at last rouz'd the King to that Degree, that, forsaking the Pleasures of his Court, and exposing himself to the greatest Dangers, he pacified the Tumults in *Palermo*, by setting Count *Simon* at Liberty, and recover'd *Butera*; and having restor'd that Island to its former Quiet, he resolv'd to go in Person to *Puglia*, in order to subdue his rebellious Subjects, and restore Peace in that Kingdom; for which end he went to embark at *Messina*, where he was met by the Chancellor, of whom Count *Simon* made heavy Complaints to the King, for not defending *Terra di Lavoro* as he ought to have done; the Chancellor boldly endeavouring to defend himself, was not heard, but immediately put in Prison, where some Years after he ended his Days. *William* having assembled an Army the best way he could, left *Messina*, landed in *Puglia*, and in the Beginning of this Year 1156 incamp'd at *Brindisi*<sup>1</sup>; from thence he sent the Elect of *Catania* to make Peace with the Pope, by offering him advantageous Conditions; but by the Means of some Cardinals who were Partisans of the Emperor *Frederick* he was dismiss'd without concluding any thing; whereupon the King, seeing there were no Hopes of an Agreement, without any more ado, boldly invest'd *Brindisi*, where the *Greeks*, and the greatest Part of his rebellious Barons were: He besieg'd it so closely, that *Roberto da Bassavilla*, who commanded the City, being terrified, fled to *Benevento*, and the King so annoy'd that City with continual Attacks both by Sea and Land, that at last he took it, and made all the *Greeks*, with their Officers, and the rebellious Barons, with their Followers, Prisoners, of which last he caus'd a great many to be hang'd, and the Eyes of others to be put out; he likewise got the rich Spoils of the

<sup>1</sup> Inveges, lib. 3. hist. Paler.

Greeks, and a great Sum of Money which they had brought with them for the Occasions of the War <sup>1</sup>.

THE King with his victorious Army march'd afterwards to *Bari*, whose Citizens seeing that neither the Pope, nor the Count, who had been the Promoters of the Rebellion, sent them Assistance, resolv'd to surrender themselves to the King's Mercy; and in order to mitigate his Wrath, they went disarm'd to meet him and ask his Pardon; but *William* observing the Ruins of the Castle, which his Father *Roger* had built there, and which the *Barefians* had demolish'd, answer'd them, *I shall not spare your Houses, because you have had no Regard for mine* <sup>2</sup>: He then order'd, that within two Days they should all depart with Bag and Baggage; which being put in Execution, he likewise caus'd the Walls of the City to be demolish'd to the very Foundation, and the Houses to be pull'd down and level'd with the Ground. Thus was *Bari* destroy'd, which for its Richness, the Nobility of its Citizens, Populousness, the Beauty of its Palaces, and the Strength of its Walls, of all the other Cities of *Puglia* was the first, and once the Seat of the greatest Personages of *Greece*. This may convince us of the Error of those, who will have *Bari*, in the Time of Queen *Constantia*, and *Manfred*, to be reckon'd a Royal Seat, where these Princes were crown'd; for *Bari*, after this Misfortune, was reduc'd to some Villages, and it was long after that it recovered the Face of a City. Thus we see the Vicissitude of worldly Things, and how these Changes serv'd to raise *Naples* above all the other Cities of this Kingdom; for tho' *Salerno* was at this Time in being, yet not many Years after we shall find this City likewise ruin'd and destroy'd, by the Hatred which *Henry* the Husband of *Constantia* bore it.

THE King afterwards took *Taranto*, and all the other Places of that Province, which Count *Robert* and the *Greeks* had taken Possession of; and from thence he march'd to *Benevento*, whither Pope *Adrian* with his Cardinals, and a great Number of Barons had fled, to which Place he laid close Siege, and so harass'd that City, that the Pope, without the least Regard for the Barons of the Kingdom whom he had involv'd into these Difficulties and Dangers, seeing the Peril he himself was in, for not having accepted the advantageous Conditions of Peace which *William* had offer'd him, sent three Cardinals his Legates, to beg Peace of him. These were *Ubaldo* Cardinal of *Sancta Praxide*; *Giulio* Cardinal of *St. Marcello*; *Rolando* Chancellor of the Holy Church, and Cardinal of *St. Mark* <sup>3</sup>; and as *Gregory II.* wrote three Letters to *Pepin* in the Name of *St. Peter*, so they in the Name of the Prince of the Apostles, begg'd of *William* to forbear disturbing the Pope any more, and to preserve intire the Rights of God's Church.

<sup>1</sup> Capeceatrat. Hist. lib. 2.

<sup>2</sup> Anon. Cass. anno 1156.

<sup>3</sup> Guliel. Tirio apud Baron.

## S E C T. II.

*Articles of Peace settled with Pope Adrian, and Investiture given by him to King William; whereupon a Peace with the Emperor Emanuel follow'd.*

THE Legates were courteously receiv'd by the King, who willingly heard the Proposals of Peace which they laid before him, and he on his Part appointed Five Plenipotentiaries for settling the Articles. These were the High Admiral *Majone*, *Hugo* Archbishop of *Palermo*, *Romualdus* Archbishop of *Salerno*, *William* Bishop of *Calano*, and *Marinus* Abbot of *Monte Cassino*; who meeting with the Three Cardinals, agreed on the Articles of Peace, as they are recorded by *Baronius*, and as we shall relate them by and by; in which Peace the Barons were not only not comprehended, but all of them excluded, and it was only made betwixt the Pope and the King.

THEN *William* coming to the Church of *St. Mark*, which is without the Walls of *Benevento*, on his Knees at the Pope's Feet, receiv'd Absolution from the by-past

by-past Cenfures, and on his Part in Prefence of many Cardinals, Barons, and a multitude of other Spectators, did Homage to the Pope for the Kingdom, and swore Fealty; *Otho Francipane* read the Words of the Oath, and the Pope putting the Crown upon his Head, gave him Investiture, first by delivering to him one Standard for the Kingdom of *Sicily*, then another for the Dukedom of *Puglia*, and a Third for the Principality of *Capua*.

THE Investiture, which Pope *Adrian* at this Time gave to *William*, was the most ample, and by far the most advantageous of all that ever had been by other Popes given to the *Norman* Princes; for he not only invested him with the Kingdom of *Sicily*, the Dukedom of *Puglia*, and Principality of *Capua*, with all their Dependencies, as other Popes had done; but *Adrian* did what *Gregory VII.* and his Successors on no account would ever yield to, which was to invest *William* likewise with *Salerno*, *Amalphis* and *Naples*, with their Appurtenances, with *Marca*, and all the other Lands which he possess'd. This Investiture was not only given to *William*, but also to his Son *Roger*, whom his Father the preceding Year 1155, when he was but four Years of Age, had created Duke of *Puglia* and *Calabria*, and to all his Heirs, whom he by a voluntary Destination shall appoint to succeed him in the Kingdom; these are the Words of the Writ of Investiture, likewise recorded by *Baronius*; *Profecto vos nobis, & Rogerio Duci filio nostro, & hæredibus nostris, qui in Regnum pro voluntaria ordinatione nostra successerint, concedetis Regnum Siciliae, Ducatum Apuliae, Principatum Capuae, cum omnibus pertinentiis suis; Neapolim, Salernum, & Malphiam cum pertinentiis suis; Marchiam, & alia quæ ultra Marficam debemus habere, & reliqua tenementa, quæ tenemus a prædecessoribus nostris hominibus Sacrosanctæ Ecclesiæ jure detenta, & contra omnes homines adjuvabitis honorifice manutenere.* The King for his Part, promis'd to pay the Pope for *Puglia* and *Calabria*, Six hundred *Schifati*, and for *la Marca* Five hundred, as Quit-rent.

ON this Occasion there were many Articles agreed upon concerning Appeals, Elections, and other Things touching the Ecclesiastical Polity and Government of the Kingdom of *Puglia*. As for Appeals, it was stipulated, that if any Clergy-man in *Puglia*, *Calabria*, and the Lands of the Neighbourhood, shall have occasion of Complaint concerning Ecclesiastical Affairs, against another Clergyman, and which cannot be redress'd by the Chapter, Bishop, Archbishop, or other Ecclesiastical Person of that Province, it shall be lawful, if he shall think fit, to appeal to the Church of *Rome*. That if the Necessity or Advantage of the Church shall require it, Translations from one Church to another may be made. That the Church of *Rome* may freely perform Visitations and Consecrations in the Cities of *Puglia* and *Calabria*, and the adjacent Places, excepting however the Cities in which the King or his Heirs may happen to be at the Time, to which their Consent must be had. That the Church of *Rome* may freely send Legates into *Puglia* and *Calabria*, and the neighbouring Places, who are to behave themselves moderately, without invading or wasting the Possessions of the Church.

THAT in *Sicily* likewise, the Church of *Rome* may make Visitations and Consecrations; and that if the King or his Successors, shall call Ecclesiastical Persons from *Sicily*, either to be crown'd by them, or for other Affairs, they are to answer the Call, and he may oblige those he shall think fit to stay with him. As for other Matters, the Church of *Rome* shall have the same Privileges in *Sicily* that she has in the other Parts of the King's Dominions, excepting as to Appeals, and the Privilege of sending Legates, which shall not be sent without the Desire of the King or his Heirs. The *Roman* Church shall retain in the Churches and Monasteries of the King's Dominions, all that she retains in other Churches, such as the wonted Consecrations and Benedictions, and they shall pay to her the usual and establish'd Taxes.

CONCERNING Elections, it was settled, that the Clergy being conven'd, are to elect a Person whom they shall judge worthy, and to conceal him, until they divulge him to the King, who shall approve of him, unless he find him to be in a Confederacy with Traitors and Enemies to the King and his Heirs, or for any other Cause, whereby he thinks him unworthy of his Assent. Such were the Articles of this Peace sign'd at *Benevento* in the Month of *June* 1156, and as they concern the Ecclesiastical State, we shall have occasion to mention them in another Place.

THE Barons of *Puglia*, contrary to all their Expectations, seeing themselves thus deserted by the Pope, and left a Prey to the King's Wrath, were so terrified, that they

they immediately made their Escape. Count *Roberto da Bassarvilla*, and Count *Andrea da Rupe Canina*, with some others, fled to *Lombardy*, and shelter'd themselves under the Emperor *Frederick's* Protection, who employ'd them in the War which at that Time he had with the People of the *Milaneſe*; but *Robert* Prince of *Capua* with his Followers, likewise endeavouring to make his Escape out of the Kingdom, in paſſing through the Territories of *Riccardo dell' Aquila* Count of *Fondi* his own Vaſſal, where he thought himſelf ſafe, was taken with all his Men as he croſs'd the *Garigliano*, and deliver'd up to the King<sup>1</sup>; by which Piece of Treachery Count *Riccardo* was reſtor'd to *William's* Favour; but he did not eſcape the Infamy of his Treachery. The Prince with one of his Sons, and a Daughter, at the Admiral's Deſire, were ſent Priſoners to *Palermo*, where the Prince had his Eyes put out, and ſoon after died in Priſon. Such was the End of *Robert* Son of *Giordano* II. Prince of *Capua*, deſcended of the moſt noble Blood of the *Normans*, after he had ſo often loſt and recover'd his Principality, which was altogether extinguiſh'd in him, and united to the Kingdom of *Puglia*, as it continues to this Day: Another Son of his nam'd *Giordano*, after this Miſfortune of the Father, fled to *Conſtantinople*, and put himſelf under the Protection of the Emperor *Emanuel*, who afterwards ſent him Ambaſſador to *Alexander* III. in the Year 1166, as ſhall ſhortly be related<sup>2</sup>.

AFTER all theſe Matters were over, the Pope went to *Compagna di Roma*, and the King having defeated the *Greeks*, baniſh'd ſome of his Enemies, imprifon'd others, and put the reſt to death, or reſtor'd them to Favour, gave the Government of *Puglia* to *Simon* the High Steward, Brother-in-Law to *Majone*, and having thus quieted the Tumults of the Kingdom, he return'd to *Palermo*.

*WILLIAM* was no leſs ſucceſſful in the War which ſhortly after he made with the Emperor *Emanuel*; for he equipt a great Fleet, and gave the Command of it to *Stephen*, *Majone's* Brother, who fought that of the *Greeks* on the Coaſt of *Peloponneſus*, and obtain'd a compleat Victory over them. *Emanuel* was ſo much ſtruck with this Victory, that he was deſirous of Peace with *William*, and having ſent Ambaſſadors to him for that end, it was at laſt concluded, and all the *Greeks* that were in *Sicily* were ſet at liberty, and though hitherto neither *Emanuel*, nor any of his Predeceſſors by any means could be brought to give *William* the Title of King, nevertheless from this Time forward he acknowledg'd him as ſuch<sup>3</sup>; and this Peace was made ſo firm and ſolid, that 'tis certain from this Time forth there were never any Wars heard of betwixt the *Normans* and the Emperors of the Eaſt.

THUS *William* having reſtor'd Tranquillity in his Kingdom, and made Peace with the Pope, and the Emperor of the Eaſt, in theſe firſt Years of his Reign, he acquir'd the Title of Great; and there was good Reason to hope, that this Peace would have been durable, if it had not been diſturb'd by *Majone*; for the King attributing all theſe prosperous Events to his Conduct and Prudence; the Admiral was arriv'd at that pitch of Greatneſs, that he ſeem'd rather to be King, than Admiral of *Sicily*; which gave freſh Provocation to the Malecontent Barons to hatch thoſe Plots and Tumults, of which we ſhall give an account by and by.

<sup>1</sup> Camil. Pel. ad Anon. Caſſ. ann. 1156. Ugo. Falcan.

<sup>2</sup> Acta ejusdem Pontificis apud Baron. Camil. Pel. in Stem.

<sup>3</sup> Jo. Cinnam. de reb. geſt. Jo. & Emanuel. Comn. lib. 4. Paulo poſt, & Regem cum appellavit, cum prius non eſſet.





## C H A P. I.

*The Emperor Frederick, being offended at the Pope for the Peace he had made with William, return'd anew into Italy. Held a Diet in Roncaglia, and restor'd the Regalia in Italy.*



IN the mean time the Emperor *Frederick*, being inform'd by the Counts *Robert* and *Andrew*, and others of the King's Rebels, who after the Conclusion of the Peace, had fled to *Lombardy*, that the Pope by secret Articles had made Peace with *William*, and excluded all others, was very much offended at *Adrian*, and complain'd of him to all the German Princes and Prelates; whereupon the Bishops of *Germany* did not stick to write a Letter to the Pope on that Subject, wherein among other Things they upbraided him with this Peace<sup>1</sup>.

AND the Emperor himself in a Letter to *Eberard* Archbishop of *Saltzburg*<sup>2</sup>, complain'd of this Peace; and therefore from this Year 1158, declar'd himself as much an Enemy to the Pope, as he was to *William*, and being afraid lest these two joined together should abolish the Authority of his Empire in *Italy*, he began to be more severe upon the Cities of *Lombardy*; for which end he resolv'd to go to *Italy* as he did, but full of high-flown and extravagant Notions; and being arriv'd in *Lombardy*, after having defeated the People of the *Milaneſe*, and subjected their City of *Milan*, according to the Custom of his Predecessors, he summon'd a Diet in *Roncaglia* for settling the Articles of Peace, and taking the State of that Province into Consideration. It was at this Time, that *Frederick* on his March, passing by a fine Castle, ask'd whose it was? and being told who the Owner was, some of his Flatterers said, It's your own, Sir, for the Dominion of the whole World, and even of private Possessions, belongs to the Emperor: Some of the Emperor's Retinue, who could not bear such impudent Flattery, objected against the Answer; inſomuch that it occasion'd a great Debate, which the Emperor order'd to be decided by the wise Men, and Lawyers of the Cities of *Lombardy*.

SOME Years before, during the Empire of *Lothaire*, the Pandects having been found in *Amalphis*, and, as we have said, *Irnerius* having imploy'd all his Skill in explaining, and publicly teaching them, his School had bred up many, who, after his Example, gave themselves wholly to the Study of the Pandects, and the other Books of *Juſtinian*. Whence it came to paſs, that in the Cities of *Italy*, many, encourag'd by the Novelty, Elegancy, and Wiſdom of theſe Laws, imploy'd all their Study in learning them; ſo that from *Irnerius's* School, as from the *Trojan* Horſe, came forth many Civilians, and the Study of the *Roman* Jurisprudence was moſt frequent, and Scholars and Profeſſors were equally numerous; but ſeeing this Study began in an Age of Ignorance, when without the Help of other *Latin* Books, the *Roman* Hiſtory and Learning, theſe Laws could not be well underſtood; they who firſt taught them, without theſe Means, fell into many childiſh Errors, not through their Fault, but that of the Age; for ſome of them were Men of admirable Genius, and

<sup>1</sup> Epist. apud Inveges lib. 3. hist. Paler. Hæc & alia utpote de concordia Rogerii, & Willielmi Siculi, & aliis quæ in Italia factæ sunt conventionibus, quæ ab ore Imperatoris audivimus, &c.

<sup>2</sup> Inveges loc. cit. neque eam pacem tenere, neque ea teneri vellemus; quoniam ipse prior violasset in Siculo, ipse sine nobis reconciliari non debuisset.

tion of Learning and History have been eclips'd, yet the World was never quite destitute of Men of good Parts; for Nature is a punctual Observer of her own Laws, and has distributed Endowments with an impartial Hand.

FOR these Reasons it being found in some Laws of the Pandects, that the Emperor *Antoninus* <sup>1</sup>, call'd himself Lord of the Universe, and that *Ulpianus* <sup>2</sup> writes, that as the People of *Rome* could give the Slaves of private Men their Liberty, so it was likewise in the Power of the Emperor to do the same; and it being also found in the Code <sup>3</sup>, that *Justinian* said, every thing belong'd to the Prince; these Civilians believ'd that the same might be said of *Frederick*, so it was an easy Matter to persuade him, that he was Lord of the whole World, and consequently of the Right of private Persons. In these Times many Civilians had been brought up at *Irnerius's* School; such as *Placentino* in *Montepessulo*, who was the first that taught the Roman Jurisprudence in *France*. *Bagarotto*, and *Giovanni Bassano*, flourish'd in *Bologna*, and *Antonio Lyo* in *Padua*; but there were four Civilians in *Bologna*, who distinguish'd themselves above all the rest, and for their Learning made themselves so famous, that the Emperor *Frederick* made them of his Council, and took their Advice in his most weighty Deliberations, and, according to *Radevicus* <sup>4</sup>, made them his Assessors, as the antient Roman Emperors did by our Civilians.

THESE were *Bulgaro*, a Native of *Pisa*, who at first taught Law in *Bologna*, and by the Emperor *Frederick* was made Prefect of that City: *Ugolino*, who likewise flourish'd in *Bologna*, and was Author of the Tenth Collation, and Collector of the Books of Fiefs, and the Constitutions of *Conrade*, *Lothaire* and *Frederick*, which he annex'd to the Ninth Collation of the Authentick, as shall be told by and by. *Martino*, likewise famous at this Time, who wrote some Glosses on the Pandects, which were afterwards call'd into Question, and rejected; and *Giacomo*, who was also of *Frederick's* Council. There were likewise at this Time other two in *Milan*, to wit, *Oberto de Orto*, Great Advocate in the Court of *Milan*, and *Gerardo Negro*, or, as some call him, *Cagapisto*; these two compil'd the Feudal Customs, which, with the other Laws of the Emperors concerning Fiefs, they put in writing, as shall be told.

THE Emperor being come to *Roncaglia*, *Bulgaro* and *Martino* were appointed to dispute this Case: *Bulgaro* condemn'd the Flatterers; but *Martino*, whether out of Fear or Love, sided with *Frederick*, and said that the Emperor was not only Lord of all the World, but of every thing belonging to private Persons; and the Emperor being of the same Opinion, the Dispute was determin'd in *Martino's* Favour <sup>5</sup>. Whence it came to pass that the Civilians of later Times maintain'd *Martino's* Opinion, and *Bartolo* did not stick to say, that whoever believ'd otherwise was a Heretick.

THIS Dispute might easily have been decided according to *Seneca*, by distinguishing betwixt private Right and publick and sovereign Empire: This positive Decision in *Frederick's* Favour, was the Occasion of most pernicious Consequences both to him and all *Lombardy*; for founding on this Maxim, he impos'd very severe Laws and Conditions, both on the Nobility and Cities of *Lombardy* in this Diet. He prohibited all Assemblies, and City Corporations, and especially the Power of electing Magistrates, and, contrary to former Custom, put Officers of his own making to govern the Cities: he impos'd severe Penalties on the Cities, and those who should contravene these Laws; and gave them Peace on very rigorous and severe Conditions, as may be seen in his Constitution which he made in *Roncaglia*, inserted in the fifth Book of Fiefs <sup>6</sup>.

BUT he did not long enjoy the Fruits of this Peace, for he was no sooner return'd to *Germany*, than *Lombardy* revolted, so that he was forc'd to come back to *Italy*, and besiege *Milan*, which, after a long Siege, and a gallant Defence, was at last taken and utterly ruin'd, and reduc'd to a Village, and all *Lombardy* being subdued, underwent a terrible Slavery.

<sup>1</sup> L. Deprecatio, D. ad L. R. de jactu.

<sup>2</sup> Ulp. L. Barbarius, D. de Off. Prætor.

<sup>3</sup> L. Bene à Zenone, C. de Quadrien. præscript. omnia Principis esse.

<sup>4</sup> Radevicus L. 2. de gest. Frid. c. 5. Cujac.

lib. 1. de Feud. tit. 12. Alfeserra lib. 3. cap. 14.

<sup>5</sup> Gloss. in. L. bene à Zenone, & in præfat. dig.

<sup>6</sup> Constit. hac adictali de pace tenenda, L. 5. Feud.

IT was at this Time, that, besides his having more strictly than *Lothaire*, forbid the Alienation of Fiefs by his Constitution <sup>1</sup> which we read in the Feodal Books, he resolv'd to restore the *Regalia* and *Fiscalia*, which had been long forgot, and in Disuse in *Italy*; for which end he oblig'd the Bishops, Nobles and Cities of *Italy* to set them on Foot again, and restore them to him <sup>2</sup>.

IT was decreed, that all contain'd in the *Roman Division in bona Communia, Publica, Universitatis, & Nullius* should belong to the Prince, and nothing remain to others, but what they had an exclusive Right in. Therefore Princes claim the Property of the Sea, navigable Rivers, Streets, Fields, Walls and Ditches of Cities, and generally every thing that comes not under Commerce, and even that, when it has no Owner. And though *Frederick* did not reckon up all these in his Constitution *de Regalibus*, nevertheless he mentions the most remarkable and considerable *Regalia*, such as the publick Buildings and Armories, which he calls *Armarie*, High-ways, navigable Rivers, and those by which they are made Navigable, and all the Profits arising from the Navigation of them. Harbours, Toll, Money, Fines, waif Goods, the *Augaria* and *Parangaria*, the Use of Ships and Carts, extraordinary Collections, Silver Mines, Salt-pits; Mines out of which Pitch is dug, for according to *Pliny* <sup>3</sup>, Pitch is Fossile, Fishings, Game, Treasure, the making of Magistrates, for administering Justice and other *Fiscalia*, which he does not mention in the Constitution, wherein he names only the Principal, which for a long Time had been in Disuse in *Italy*.

WHENCE it came to pass, that what *Frederick* did in *Italy*, was imitated by other Princes in their Dominions, such as our *William*, who not content with what *Frederick* had establish'd concerning Treasurer, conformable to *Adrian's* Constitution; which was, that if a Treasure was found by Accident, either in a publick or religious Place, the Half should belong to the Finder: He made a more severe Law, that in whatever Place, and in what Manner soever found, all should belong to the King; of which Constitution, when we come to treat of the other Laws of this Prince, we shall take notice.

FREDERICK having reduc'd *Lombardy* into such Slavery, and being lifted up with high, whimsical Notions, was disgusted at the Pope for having made Peace with *William*, which was like to turn to a Quarrel in good Earnest; for the Bishop of *Leudun* as he was returning from *Rome* to *Germany*, was, by the Emperor's Order, made Prisoner: *Adrian*, who valued himself as much upon being Pope, as *Frederick* did upon being Emperor, wrote some Letters to him by Cardinal *Rolando* Chanceller of the Holy Church, and *Bernardo* Cardinal of *St. Clement*, in which he admonish'd him to set the Bishop at liberty, and among other things, he put him in mind of the Favours he ow'd him, and besides that he held the Empire as *Beneficium Ecclesiæ Romanæ*. One may easily imagine with what Spite and Indignation *Frederick* receiv'd such a Wipe: He was in such Rage and Fury, that he not only refused to comply with the Pope's Demand; but inveigh'd so bitterly against him, that he was forc'd to send other two Cardinals to pacify him, and to retract what he had written, by saying, that by these Words he did not mean, that the Empire was a Fief of the Church, but that the Word *Beneficium* imply'd only *pro bono, & facto junctum* <sup>4</sup>. These Cardinals had much ado to pacify him; and though shortly after, a new Quarrel happen'd betwixt them, because *Frederick* frequently hinder'd the Pope's Ministers from gathering in the Ecclesiastical Revenues, and besides, he would have a certain *Guido* to be elected Bishop of *Ravenna*; nevertheless after various Treaties, they were once more made Friends.

BUT *Adrian* died soon after in *Alagna*, in the Month of *September* 1159 <sup>5</sup>. His Death occasion'd new Troubles and Commotions in *Rome*, by a Schism in electing a Successor; for the greatest part of the Cardinals elected Cardinal *Rolando* Chanceller of the Holy Church, who took the Name of Pope *Alexander III.* and at the same time *Giovanni Pisano* Cardinal of *St. Martin*, and *Guido da Siena* Cardinal of *St. Calistus*, with the Assistance of *Otho* Count of *Placentia*, and Count *Guido*, *Frederick's* Ambassadors, who were then in *Rome*, elected *Octavianus* Cardinal of *St. Cecilia* Anti-pope, and gave him the Name of *Victor IV.* and they had the Bold-

<sup>1</sup> Const. Frid. de Feud. non alien. lib. 5.

<sup>2</sup> Guntherus. Abbas Vespertensis. Radevicus

3. c. 41. & 4. cap. 5.

<sup>3</sup> Plin. hist. lib. 16. cap. 12.

<sup>4</sup> V. Sigon. de Regn. Ital. lib. 12. anno 1158.

<sup>5</sup> Gul. Tit. de bello Sacr. lib. 18. Radevic. de vita Frid. Imp.



nefs to besiege *Alexander*, with the College of Cardinals in *St. Peter's* Tower ; for what with Money, and what with the Emperor's Favour, the Anti-pope had made many Friends in *Rome* : Whereupon *Odone Fraugipane* and other noble *Romans*, inrag'd at such an Indignity, reliev'd the Pope and Cardinals, and convey'd them out of *Rome* to a Place of Safety, and after the usual Manner *Alexander* was solemnly crown'd ; and *Ottavianus* remain'd in *Rome*, whither *Alexander* in the second Year of his Pontificate return'd ; but seeing he could not stay there in Safety, because of the Anti-pope's Power, having left *Gialio* Bishop of *Præneste* his Legate, he went to *Terracina*, in order to take Shipping for *France*.



## C H A P. II.

*The Barons of the Kingdom of Puglia conspire against Majone. Matteo Bonello kills him ; and a new Conspiracy is hatch'd, in order to dethrone King William, and to set Roger his Son, a Child of Nine Years of Age, upon the Throne.*



IN the mean time King *William*, in opposition to the Emperor *Frederick* his Enemy, no sooner heard of *Alexander's* Election, than he sent his Ambassadors to pay him Homage, and acknowledge him for the true and lawful Pope ; and understanding afterwards that the Pope had a mind to go to *Terracina*, in order to imbark for *France*, he sent four Gallies well arm'd to that City, to be at the Pope's Command, in which he and the Cardinals imbark'd, and were advanc'd but a little way from the Harbour, when a violent Storm overtook them. This Alliance and Friendship betwixt *William* and *Alexander* was of such Advantage to the King, that it sav'd him from a mischievous Plot, which *Majone* was hatching against him, for *Majone*, still intent how to effectuate his ambitious Designs, by the means of wicked Men, endeavour'd to corrupt *Alexander* with a great Sum of Money, that, after the Example of *Zachary*, he might remove *William* from the Kingdom as uselefs and wicked, hated by the People, and unfit for such a great Charge, and invest him with it, just so as *Chilperic* was serv'd in *France*, who was dethron'd, and *Pepin* put in his Room '. But Pope *Alexander* perceiving the Villany of *Majone*, and his Thirst after Government, abhorr'd his Impudence : This horrid Enterprize, being nois'd abroad, and divulg'd in *Sicily* and *Puglia*, hasten'd his Ruin ; for it being publickly said, that the Admiral had either put the King to death in his Palace, or had imprison'd him, or confin'd him to some Island, in order to usurp the Kingdom, many Cities of *Puglia* furiously inrag'd at such a Report, began to mutiny '. The first was *Melpbis*, to which soon after some other Cities join'd, and firmly resolv'd neither to obey the Letters, nor any Orders sent by *Majone*, nor to admit within their Bounds any Officers sent by him. Many Counts and Barons, who were jealous of the Tyrant's Power, made the same Resolutions, and inrag'd themselves to use their utmost Efforts for putting the Admiral to death, and never to lay down their Arms till he was either dead or banish'd. For which end a great Band of arm'd Men over-run all *Puglia* and *Terra di Lavoro*, to oblige the other

<sup>1</sup> Hugo Falcand. Ut amoto Rege Siciliæ, Admiratus in ejus loco succederet. Baron. ad

<sup>2</sup> Hugo Falcand.

Cities to join them, which they actually did. The Heads of this Association were *Gionata di Valvano* Count of *Consa*, *Boemondo* Count of *Manopello*, *Filippo* Count of *Sangro*, *Ruggieri da Sanseverino* Count of *Tricarico*, *Riccardo dell' Aquila* Count of *Fondi*, *Ruggieri* Count of *Cerra*, and Count *Gilberto*, the Queen's Cousin, to whom the King had lately given the County of *Gravina*<sup>1</sup>. Besides these *Mario Borrello*, a Man of admirable Eloquence, got the City of *Salerno*, wherein he resided, and had many Followers, to join them, and the City of *Naples* likewise did the same. Count *Andrea di Rupe Canina*, who liv'd in *Campagna di Roma*, hearing these Reports, enter'd into *Campagna*, took *Aquino*, *Alife*, and *S. Germano*, Cities situated on the Skirts of *Monte Cassino*, and having march'd up the Hill, boldly attack'd the Monastery, but was repuls'd by those within<sup>2</sup>.

IN the mean Time the King being appriz'd of this Association of the Barons and Cities of the Kingdom of *Puglia*, was grievously offended, for he had such a tender Love for, and Confidence in *Majone*, that he could never be persuaded of his Villany, and treasonable Design to rob him both of his Life and Kingdom; therefore by particular Messengers and Letters he expressly commanded the associated Barons and Cities to give over their Undertaking, because he was convinc'd of the Admiral's Fidelity, and that he aim'd at nothing but his Service; but these Messengers and Letters were of no Effect, for believing them to be of the Admiral's dictating, they plainly declar'd to the King, that they would by no means suffer themselves to be govern'd and commanded by *Majone*. No less was the Admiral hated by the *Sicilians*, who being nearest the Danger, durst not discover themselves as yet, tho' they lik'd the Commotion of the Barons of *Puglia*.

NOW the Admiral, contrary to his Expectation, seeing the Power of the Conspirators daily increasing, began by all Means possible to put a Stop to it; he got the King to write to the Cities of *Amalphis* and *Sorrento*, which continued as yet in their Allegiance to him; he did the same to *Taranto*, *Otranto*, *Brindisi*, and *Bartolotta*, admonishing them not to give ear to such Reports, nor to believe the Stories of these treacherous Counts, nor to embark themselves in company with his Rebels. But these Letters were as little minded, because they look'd upon them as design'd for the Service of *Majone* the Traytor, and not for the King's. *Majone* likewise wrote to his Brother *Stephen*, who was President of *Puglia*, boldly to oppose the Designs of Count *Robert*, and by large Promises to gain a Party. Besides he sent the Bishop of *Mazzara* Ambassador to *Melphis* in *Puglia*, in the Name of the King to reclaim that People; but the Bishop acted quite contrary, for he encourag'd them to persist in their Undertaking against the Tyrant, by telling them more of his Villany than they knew. Upon which *Calabria*, following the Example of the neighbouring *Puglia*, likewise began to rise in Arms, which struck greater Terror into *Majone*; whereupon he bethought himself of sending a Man of such Authority as might be able to quell all these Commotions, and after mature Deliberation, he judg'd *Matteo Bonello* to be fittest for such a Business. *Bonello* was a Man of noble Blood, and extremely rich; but what he most excell'd in, was the Beauty of his Countenance, his Strength of Body, and great Courage; therefore he was not only famous and remarkable in *Sicily*, but likewise in *Calabria*, where he had most noble Kindred; and, on account of his so great Endowments, was much belov'd by the Admiral, who design'd him for a Husband for one of his Daughters, yet an Infant<sup>3</sup>. But his inconstant, rash, and changeable Temper, and his Self-conceitedness, eclips'd all these noble Talents; and tho' *Bonello* was so much belov'd by the Admiral, yet he hated the Admiral mortally, because, that he might get him to marry his Daughter, he had put a Stop to his Marriage which he intended (disdaining the mean Birth of the Admiral) with *Clementia* Countess of *Catanzara*, bastard Daughter, as is said, of King *Roger*, and Widow of *Ugone di Molino* Count of *Molise*, whom *Bonello* lov'd exceedingly, on account of her Beauty, and she was no less enamour'd with him; so that *Majone* standing in the way of their mutual Affection, was mortally hated by them both.

IN the mean Time *Bonello* having receiv'd the necessary Orders for his Departure, and taken Leave of the King, pass'd the Straits of *Messina*, and went to *Calabria*, where on a set Day, in a Meeting of the Barons of the Province, he endeavour'd

<sup>1</sup> Capeceatrat. lib. 2.  
Hugo Falcand.

<sup>2</sup> Idem.

by many Arguments (dissembling the Sentiments of his Heart) to persuade them, that the Admiral was innocent of all the Crimes laid to his Charge. But *Ruggerio di Martorano* of the Family of *Sanseverino*, a Man of great Knowledge, and much esteem'd, rose up, and in the Name of all the rest answer'd him with so much Force and Energy, that he not only brought him over to their Party, but likewise imbolden'd him, by telling him that he was the fittest Person to recover all their Liberties, by putting the Tyrant to Death, the Result of which would be, that they would all concur to get his Marriage with the Countess of *Catanzaro* accomplish'd; whereupon he enter'd into their Measures, and firmly promis'd, that in a short Time he would dispatch the Admiral out of the Way.

BUT a very weighty Incident hasten'd *Majone's* Ruin; for he having prepar'd every Thing in order to murder the King, and the Day appointed for such a fatal Tragedy drawing near, he resolv'd first to consult the Archbishop about proper Methods to prevent an Insurrection of the People when the Fact should come to be divulg'd, and likewise how they were to govern the Kingdom afterwards; whereupon great Disputes arose betwixt them, for the Admiral pretended that the Guardianship of the King's young Children, and the keeping of the Treasures, and all the Royal Palace ought to be intrusted to him; on the contrary, the Archbishop claim'd all these to himself, because, said he, by that Means the People would not mutiny, as they certainly would do, if they should see the Admiral take the Charge of the Royal Family, for they would be apt to suspect that the Children would be murder'd, seeing every Body was persuaded that he aspir'd to the Kingdom; which could not be suspected in Prelates, or other Ecclesiastical Persons, who aim not at any such Thing, therefore of Necessity the Children and Treasure must be put into their Hands; but the Admiral flatly oppos'd it, as a Thing quite contrary to his Intentions, and said, that he did not deserve such Treatment at his Hands, seeing he had rais'd him to such Grandeur: In fine, after some bitter Words, they parted declar'd Enemies. Whereupon the Archbishop was soon after in Disgrace at Court, for the Admiral persuaded the credulous and covetous King to force the Archbishop to pay him 700 Ounces of Gold, which he ow'd him; the Archbishop perceiving that all these bad Offices proceeded from *Majone*, began to hate him in earnest, and of dear Friends they became bitter Enemies, and fought to do one another all the Mischief in their Power. The Admiral resolv'd to poison the Archbishop, who, aware of his Design, was on his Guard, and at the same Time exhorted the Great Men, Soldiers, and common People to rise and put *Majone* to Death. In the mean Time *Matteo Bonello* return'd to *Palermo*, and having made the Admiral, who was now begun to be jealous of him, easy, by giving him to understand that he had soon quieted the Commotions of *Calabria*, he went privately to wait upon the Archbishop, who was lying sick a Bed, and gave him an Account of what had pass'd till that Time, the Archbishop advis'd him to put his Design immediately in Execution, because Matters of such Importance being delay'd, were in Danger of being discover'd; whereupon *Bonello*, fully resolv'd, wanted nothing but a fit Opportunity to strike the Blow; and Fortune conspiring to hasten the Admiral's Death, it was not long before a convenient Occasion offer'd.

*MAJONE* had caus'd Poison to be given to the Archbishop by one of his Domesticks, whom he had corrupted with Gifts and great Promises, which had occasion'd his present Sicknes; but because the Poison had been weak, he was afraid that by proper Remedies he might recover his Health; and impatient that he should be so long a dying, he caus'd another much stronger Potion, and of a quicker Operation to be prepar'd, of which he took a Vial, and went to visit the Archbishop, and having plac'd himself near the Bed, began to ask him how he did; and then told him, that if he would follow the Advice of his Friends, he should soon recover his Health, for he had a Medicine, which out of Love to him he had caus'd to be compos'd in his own Sight, and had brought it along with him; but the Archbishop perceiving the Trick, told him, that his Disease had brought him so low, and his Stomach was so weak, that he not only abhor'd all Potions, but with Difficulty could take any Food; yet notwithstanding this Answer, the Admiral, seeming not to understand that the Archbishop had discover'd the Treachery, impudently press'd him to take the Potion; but he reply'd, that he would refer the taking of it to another

<sup>1</sup> Hugo Falcand.

Day; then they began to talk together with much Confidence and Affection, and sought to betray and destroy one another with brazen-fac'd Dissimulation, and as Fortune would have it, they both obtain'd their Ends; for *Majone* by the Archbishop's means was murder'd that same Night, as we shall presently relate, and the Archbishop died soon after of the Poison formerly given him by the Admiral's means, tho' he had the Satisfaction to see his Enemy die before him. While the Archbishop was discoursing with the Admiral, he sent the Bishop of *Messina*, who was sitting by him, to tell *Matteo Bonello*, that this Night would be a fit Time for putting his Design in Execution; whereupon *Bonello*, already resolv'd upon the Crime, assembled some arm'd Men, and having encourag'd them, he posted them in different Places, that *Majone* might not escape any where, and he himself, with a good Number of them, lay in wait for him at the Gate of *St. Agatha*, thro' which he would probably pass in returning to the Royal Palace; and having acquainted the Archbishop that all was in Order, and Night come on, he expected the Admiral, who at last took Leave of the Archbishop, and departed. But immediately some of his Attendants perceiving the Snare that *Bonello* had laid for him, turn'd back and acquainted *Majone* with it, who terrified with the imminent Danger he was in, order'd them to tell *Bonello* to come and speak with him; but *Bonello*, finding that he was already discover'd, had no mind to dally, drew his Sword, attack'd him briskly, and said, *I am come here to kill thee, and by thy Death to put an end to thy Wickedness, and to dispatch out of the World an Adulterer and Defiler of the King's Bed*; the Admiral put by the first Thrust that *Bonello* made, but was run through and dispatch'd with the Second<sup>1</sup>; his numerous Attendants leaving him without offering the least Resistance. Thus ended the ambitious Designs of *Majone da Bari*, High Admiral of *Sicily*, who, being of a very mean Extract, was by Fortune rais'd to great Honour; and, if I may be allow'd to compare small Things with great, he very much resembled *Sejanus*. Both of them being born of mean Parentage, by means of their Patrons liv'd long in great Splendor; both of them capable of the greatest Villainy, were Enemies to the Royal Family, and the Nobility of their Master's Dominions; both of them Adulterers and Defilers of the Royal Bed, with the Consent of their Masters Wives; the one got the Son of his Emperor to be murder'd, and the other (tho' he could not bring it about) design'd to murder his King; both of them endeavour'd to usurp their Masters Dominions, which themselves govern'd, and both of them came to an unlucky End, tho' the manner of their Deaths was different; for *Tiberius*, by his own Penetration having found out the Treason, caus'd *Sejanus* to be put to Death by the Hands of the common Hangman; and *Majone* through the Stupidity of *William*, who minded nothing, was kill'd by Conspirators, who could no longer bear his Villany.

IN the mean Time *Bonello*, not knowing what the King would do, nor thinking himself safe in *Palermo*, retir'd to *Cacabo* his own Castle, and there fortified himself and Followers; the People of *Palermo* hearing of the Admiral's Death, discover'd the extreme Hatred they bore him, and began to tear his dead Carcass to pieces, some stabbing it, others, with a thousand ignominious Reproaches, deriding it. It being now late in the Night, King *William* was surpriz'd at the unusual Noise he heard, but *Odono* his Master of the Horse having told him all that had pass'd, he was grievously offended, and said, that if the Admiral had fail'd in his Duty to him, it was his Business, and no Body's else, to punish him; and the Queen, out of the Love she bore the Adulterer, being more offended than the King, was terribly inrag'd against *Bonello* and the other Conspirators. But the King, afraid of greater Disturbance among the *Palermitans* on this Occasion, and lest they should insult the Relations of the Deceas'd, and plunder their Houses, and those of the Admiral, order'd a strong Body of arm'd Men to guard and walk Rounds in the City. The next Day the King took care to appoint *Errico Aristippo* Archdeacon of *Catania*, and one of his Favourites<sup>2</sup>, a Man of peaceable and mild Disposition, and very learn'd in the *Latin* and *Greek* Languages, to exercise the Office of High Admiral, till he should dispose of it otherwise, by whose Advice the Affairs of the Kingdom began to be manag'd; and the new Admiral and Count *Silvestro* having discover'd to the King the Conspiracy which *Majone* had hatch'd against him, were at great Pains to allay the mortal Hatred he had conceiv'd against *Bonello*, but he could never be per-

<sup>1</sup> Anno 1160. Camil. Pellegr. in Castigat. ad Anon. Cassin.<sup>2</sup> Hugo Falcand.

suaded to pardon him, till among *Majone's* Treasure, the Scepter, the Crown, and the other Emblems of Royalty were found; which being evident Proofs of his Villany, the King was pacified, and immediately caus'd the two *Stephens*, one of them the Brother, and the other the Son of *Majone*, with *Matteo* the Notary, his intimate Friend, to be put into Prison, and likewise order'd all the Deceased's Treasure, that could be found, to be carried to the Royal Palace, and caus'd *Andrea* the Eunuch, and many others of the Admiral's Domesticks to be put to the Torture, and threaten'd *Stephen* the Son with the same, if he did not discover where the rest lay conceal'd; by their Information a great Sum of Money was found in the Custody of the Bishop of *Tropea*, which being demanded by the King, was deliver'd. Afterwards *William* sent Messengers to *Cacabo* to tell *Bonello*, that now, being appriz'd of the Admiral's Villany, he was oblig'd to him for having put him to Death, and therefore he might come very safely to him. *Bonello* upon this Message, trusting to the Love of the Barons and People, and the Assistance of his Followers, came immediately to *Palermo*, where he was met by a vast Multitude both of Men and Women, who with great Demonstrations of Joy welcom'd him, and conducted him to the Royal Palace, where he was kindly receiv'd by the King, and restor'd to his Favour. And having taken Leave of the King, he was honourably accompanied by the greatest Men of the Court, and the same Crowd of People to his own House; and he became so famous and renown'd, not only in *Palermo*, but over all *Sicily*, that he gain'd the Love and Esteem of every Body.

BUT see the Instability of worldly Things, this his so great Happiness, soon became his Ruin; for the Eunuchs of the Royal Palace, who, together with the Queen, had been Partners in *Majone's* Conspiracy against the King, much displeas'd at *Bonello's* Prosperity, and afraid lest some Time or other he should call them to account, began by several Means to put him in Disgrace with the King, and make his Power to be suspected by him, by telling him that *Bonello* had a mind to be Master of *Sicily*, and for that end was currying Favour with the Barons and People; and for carrying on the same Design, had unjustly murder'd the Admiral, who was the Person that had the King's Safety and Interest most at Heart, all being manifest Untruths that were laid to his Charge; and that the Crown and other Royal Emblems, found amongst his Treasure, had been provided by the Admiral in order to be presented to his Majesty the ensuing Month of *January*, as a new Year's Gift. The King, by being addicted to the Pleasures of a Court, and an unactive Life, was become so indolent and stupid, that, excepting the Pains he took to gather Wealth, which made him lay heavy Taxes upon his Subjects, and got him the Name of *Wicked*, he was quite another Man than he had been formerly; and was now so foolish and credulous, that it was an easy matter to make him believe all that was laid to *Bonello's* Charge, so that he began to hate him, and to believe that he had murder'd *Majone*, in order the more easily to take away his Life. And tho' it was easy for the King to crush *Bonello*, yet seeing the *Palermitans*, who were still in a State of Commotion, and not quite pacified, had such a Regard for him, he thought fit not to meddle with him. However he began to require a great Sum of Money of him, which for a long Time had been owing to the Crown, and never demanded of him, as being *Majone's* Son-in-Law. Therefore *Bonello* seeing himself all of a sudden fu'd for an old Debt, that had been quite forgot, and that he was rarely call'd to Court, and had not the same Reception there as formerly, began to be surpriz'd, and to revolve in his Mind what could be the Occasion of so sudden a Change; and what increas'd his Jealousy and Fear, was to see *Adinolfo* the Chamberlain, formerly a Creature of *Majone's*, much in Favour with the King, and that both he and his other Enemies impudently shew'd him the Hatred they bore him. And about this Time the Archbishop dying of the Poison given him by the Admiral, *Bonello* was both depriv'd of his Advice and Assistance, and more avowedly persecuted by his Rivals; all which he look'd upon to be evident Marks that the King had alter'd his Mind with respect to him, and that therefore his Enemies had the Assurance to lie in wait for his Life. Wherefore he resolv'd to acquaint *Matteo Santa Lucia*, his Cousin, and many other *Sicilian* Barons, who being invited by his Letters had come to *Palermo*, with the whole Matter; he told them that the King, instead of rewarding him for saving his Life, by killing the Admiral, was now, at

<sup>1</sup> H. Falc. ut eadem in Kal. Januarii strenarum nomine, juxta consuetudinem ei transmitteret.

the Instigation of the Queen and the Eunuchs, pressing him to pay an old Debt, and persecuting him to that Degree, that he was in Danger of his Life ; therefore he begg'd of them not to desert him in such a dangerous State, but to associate themselves with him for defending him against his Enemies. This Speech of *Bonello* wrought more upon the Barons than he could have expected ; for finding them all at his Disposál, after various Consultations, they concluded to strike at the Head of all these Mischiefs, either by putting the King to Death, or in Prison, and making his Son *Roger*, a Boy of nine Years of Age, King, who, on account of the Virtues that began to appear in so tender an Age, like his Grandfather, could not fail to prove an excellent Prince ; but not thinking it fit to take so weighty an Affair upon themselves alone, they brought over to their Party, *Simon* the bastard Son of King *Roger*, who mortally hated his Brother, for having taken from him the Principality of *Taranto*, which his Father had left him, and in lieu thereof given him the County of *Policastro*. They likewise brought over *Tancred* the Son of *Roger* Duke of *Puglia*, who, tho' a little Valetudinary, yet was a Man of great Judgment and Courage, and kept in a manner Prisoner in the Royal Palace by *William* ; and they also ingag'd to be of their Party, *Roger* Count of *Avellino*, the King's Cousin by his Grandmother *Adelasia* ; and their Design of making the Infant *Roger* King, was to let the *Sicilians* see that they had no mind to deprive *William's* Children of the Kingdom, but himself who was a Tyrant. Having brib'd *Gavaretto*, who kept the Keys of the Prisons, and who was often intrusted by *Malgerio* with the Charge of the Castle, they agreed, that on a fix'd Day all the Prisoners should be set at Liberty, provided with Arms, and acquainted with the Signal that was agreed upon, when every Thing was ready for putting their Design in Execution. After this *Bonello* went to his Castle *Mistretto*, not far from *Palermo*, to lay up Provisions there, and in some other Places belonging to him, whither they might retire in case of any cross Accident, and forbad his Associates to do any Thing, but lie snug till his Return ; and if any Thing of Moment should happen, he desir'd to be acquainted by Letters, and he would immediately return with a strong Body of arm'd Men. Whilst *Bonello* was thus employ'd in the Country, it happen'd that one of the Conspirators discover'd the Matter to a Soldier his Friend, by thinking to ingage him in the Plot ; the Soldier being let in to the whole Design, thank'd his Friend, and said he would consider of it till the next Day, when he would give him his Answer ; immediately the Soldier went to another of his Friends, who happen'd to be one of the Conspirators, to whom he told the Story with Indignation, and said, to prevent such a piece of Villany, which would be a lasting Infamy upon the *Sicilians*, he was resolv'd to discover the whole to the King. This Friend of his, dissembling the Matter, seem'd much offended at such a Thing, but he went immediately to Count *Simon*, and the other Heads of the Conspiracy, and told them what had happen'd through the Indiscretion of one of their Friends, and that they had best consider that Night what they were to do, because the next Morning the King would be appriz'd of the whole Matter. Therefore terrified at their imminent Danger, and not having Time to acquaint *Bonello*, they resolv'd to put their Design immediately in Execution ; for which end they sent Word to the Keeper of the Prisons, to set all the Prisoners at Liberty the next Day, because they could delay no longer ; the Keeper return'd them answer, that it should be done against Three a Clock next Day, when the King would be in the Chamber of Audience, conferring with the Admiral Archdeacon of *Catania*, on the Affairs of State, where, without any Noise or Resistance, they might either kill or imprison him as they thought fit ; this so distinct and faithful Answer of *Gavaretto*, put new Life into the Conspirators, who had been much dishearten'd, partly on account of *Bonello's* Absence, and of those that had gone with him to *Mistretto*, and partly because they were forc'd to do in a hurry, what, after mature Deliberation, and in a proper Time, they had resolv'd to execute.

THE next Day *Gavaretto* at the Hour appointed punctually perform'd his Part, for he set at Liberty *William* Count of *Principato*, with all the other Noblemen, whom he had before provided with Arms, and conducted them to the Place where he had posted the other Conspirators, and Count *Simon* their Head, who having been bred up in the Palace, knew all the Apartments of it, so that he went directly to that where the King was discoursing with the Admiral. But the King seeing Count *Simon* his Brother, and *Tancred* his Nephew advancing towards him, was much offended that they should offer to come into his Presence without his License, and wonder'd



wonder'd how his Guards came to let them pass; but when he saw that they were follow'd by a great Body of arm'd Men, perceiving what they would be at, and struck with the Fear of Death, he had a mind to make his Escape, but was quickly seiz'd, and while they were reproaching him with his Tyranny, he observing *William* Count of *Lefina*, and *Roberto Bovenfe*, bold and cruel Men, ready to fall upon him with their drawn Swords, begg'd those that held him not to suffer him to be murder'd, for he would immediately renounce the Kingdom. Had it not been for *Riccardo Mandra*, who stept in betwixt them, and calm'd their Fury, they certainly would have put him to Death; his Life being thus sav'd, he was shut up into close Prison, and having put a Guard upon the Queen and her Children in their own Apartment, they search'd and plunder'd the Palace of all the precious Jewels and rich Furniture, not sparing even the Honour of the Queen's Maids<sup>1</sup>. They kill'd all the Eunuchs that came in their Way, they went to the City, where they plunder'd the rich Merchandizes of the *Saracens*, that were either in their Shops, or the Custom-House. After all this was over, Count *Simon* with his Followers took *Roger* Duke of *Puglia*, *William's* eldest Son, carried him out of the Palace, and to shew him to the People, mounted him on a white Horse, and marching through the Streets of *Palermo*, with chearful Voices they proclaim'd him King, which, out of Respect to his Grandfather, was answer'd with loud Acclamations of the People; but his Coronation was delay'd till *Bonello*, who was hourly expected, should arrive. *Walter* Archdeacon of *Ceffalu*, the Child's Preceptor, publicly inveighing against the Cruelty and other Misdeeds of *William*, told the People, that they ought to swear to obey Prince *Simon*, who would govern the Kingdom till the young King should be of Age; by *Walter's* Means many swore such an Oath, others refus'd to do it, tho' none had the Boldness to oppose the Conspirators, because some of the Bishops, who were then in *Palermo*, and had great Authority in the Kingdom, openly approv'd of these Proceedings; and others by their Silence gave their Consent to them: The Commonalty being told that the whole had been brought about by *Bonello's* Means, were easy. But seeing he delay'd to come, *William* Count of *Principato*, and *Tancred* Count of *Lecce*, went to *Mistretto* to bring him and the arm'd Men that were with him to *Palermo*, lest the *Palermitans* should change their Mind, and set the King at Liberty, as they afterwards did.

AFTER they had waited three Days, the King still in Prison, and had no Tidings of *Bonello*, *Romualdo* Archbishop of *Salerno*, *Roberto* Archbishop of *Messina*, *Riccardo* Elect of *Syracusa*, and *Giustino* Bishop of *Mazza*, began to encourage the *Salernitans* to set him at Liberty, saying, it was a very ugly and shameful Thing to suffer their Sovereign to be so ignominiously used, and the Treasure laid up by the good King, for the Defence of the Kingdom, to be thus robb'd and wasted<sup>2</sup>. These Words, spoken at first in Presence only of a few, were soon spread abroad amongst the Commonalty; whereupon, as if they had been call'd from Heaven, or led on by a brave Captain, they took up Arms, and besieg'd the Palace, requiring those within at their Peril immediately to set the King at Liberty. The Conspirators astonish'd and confounded at so sudden a Change, began at first to make a gallant Defence, but finding it would be to no purpose for a handful of Men to pretend to stand out against an inrag'd Multitude, out of cruel Necessity they had recourse to the King, whom they took out of Prison, and capitulated with him for Liberty to go where they should think fit; then they conducted him to a Balcony to be seen by the People. But the *Palermitans* seeing their King in that Condition, became more furious, and by all Means resolv'd to break open the Gates, and be reveng'd of the Conspirators, who would certainly have been put to Death, if the King had not beckon'd to them with his Hand, telling them that they had given sufficient Proof of their Loyalty in setting him at Liberty, and that they might lay down their Arms, and allow those who had made him Prisoner, to go freely where they pleas'd, because he had consented to it; upon which they all obey'd, and left the Passage out of the Castle free; the Conspirators march'd out, left *Palermo*, and retir'd to *Catago*.

<sup>1</sup> Hug. Falcand.

<sup>2</sup> Idem, Indignum esse, satisque miserabile, | in carcere detineri, neque Populum id debere  
Regem a paucis Prædonibus turpiter captum, | pati diutius.





## C H A P. III.

*King William being set at Liberty, takes upon him again the Government of the Kingdom. The Death of Roger his eldest Son. New Commotions in Palermo and Puglia, which at last are quieted by the Death of Bonello, and of the other Conspirators.*



HIS Adventure was the Cause, in a short Time, of great Mischiefs to Sicily, for not only a great many noble Barons lost their Lives on that account, and a great Part of the Royal Treasure was purloin'd, but Duke Roger likewise, who had hitherto given notable Indications that he would prove an excellent Prince, died; for during the Tumult of the People, having rashly thrust his Head out of a Window that fac'd those who were besieging the Palace, he was wounded with an Arrow, shot, as was then commonly reported, by *Dario* the King's Porter; however, the Wound would not have prov'd Mortal, had it not been, that the King, his Father, seeing him go merrily along before him after he had been set at Liberty, vex'd that he had been prefer'd to him, and not minding that his Son had had no Hand in it, struck him unmercifully with his Foot on the Breast: Roger having told his Mother what had happen'd, died soon after.

THE King being sensible of the shameful Action, and his other Misfortunes, forgetful of his Dignity, stripp'd himself of the Royal Garments, lamented his wretched Condition, and almost distracted, did nothing but mourn bitterly, open'd his Doors to whoever was pleas'd to enter, and related to them his Misfortunes, which drew Tears even from his Enemies. But at last, by the Advice of his intimate Friends, and many Prelates who had come to comfort him, he order'd the People to be assembled in the Court of his Palace, whither he went down, and first gave them Thanks for their Loyalty; then exhorted them to continue in their Fidelity; and taking all that had befallen him as a just Punishment which God had deservedly afflicted him with, said, from that Time forth he was resolv'd to lead a better Life; but his Grief and Tears hindering him to proceed, *Riccardo* Elect of *Syracusa*, a Man of great Learning, and wonderful Eloquence, explain'd more fully to the People what the King had said, who, in Testimony of his good Will towards them, granted them at that Time many Privileges and Immunities, which was a Thing so much the more agreeable, as it was given when they least expected it.

WHEN *Bonello* receiv'd the News of the King's being set at liberty, he was inwardly vex'd and displeas'd, though he pretended the contrary, because he had no hand in it, and the King also temporizing, us'd the like Dissimulation, yet his being at *Cacabo* with so many Barons, could no longer be dissimbled; for Count *Simon*, *Tancred* Count of *Lece*, *William* Count of *Lessina*, *Alexander* Count of *Conversano*, *Ruggiero Sclavo*, and all the rest that had imprison'd the King, had join'd *Bonello* at *Cacabo*, and had a good Body of arm'd Men with them; therefore *William* sent Messengers to *Bonello* to demand what that Meeting and those Soldiers meant, and whether he was embark'd in the Designs of the Conspirators, and how he came to shelter them in his Castle? to which Message he answer'd, That it would be the Height of Cruelty in him to expose so many great Men, who had had recourse to him, to his

his Indignation, and that he could not forbear to tell him, that if he would narrowly examine his own Actions, he would be surpriz'd, how so many illustrious Men have been able to bear the Yoke of the many grievous Laws he had impos'd upon them, for destroying their Liberty; especially that Law which obliges their Daughters to live in perpetual Virginity, they not being allow'd to marry till they are past child-bearing, that the Fiefs may devolve to him; so that if he had a mind that he, *Bonello*, and the Conspirators should live peaceably, he must abrogate those Laws which had been lately made for depriving them of their Liberties, and restore those commendable Usages, introduc'd into the Kingdom by his Forefathers *Roger Count of Sicily*, and the famous *Robert Guiscard*, otherwise they would endeavour to do themselves Justice by Force of Arms<sup>1</sup>. This bold Answer much displeas'd the King, who immediately sent them Word, that he would rather chuse to lose both his Life and Kingdom, than out of Fear of them, yield to what they requir'd; but if they would lay down their Arms, and be at his Devotion, they might ask any reasonable thing, and he would grant it them. To which they would by no means consent, but march'd straight to *Palermo*, which put the Citizens into a terrible Fright, because they would probably hinder Provisions from coming to the City. On the other hand, the King having assembled a good Body of Troops, laugh'd at what they could do; yet for Peace sake, he sent anew to *Bonello*, *Roberto da S. Giovanni*, a Canon of *Palermo*, a Man of a bright Character, and untainted Loyalty, who wrought so effectually and dextrously, that he brought both Parties to an Agreement, by which the King pardon'd the Conspirators, and gave them arm'd Gallies to transport themselves out of the Kingdom, whereupon some of them with Count *Simon*, went to *Greece*, and others to *Jerusalem*. The King restor'd *Bonello* to favour, and likewise pardon'd *Roger Count of Avellino*, as well because he was very young, as at the Request and Tears of his Grandmother *Adelasia*, the King's first Cousin, who lov'd him dearly, he being the only remaining Heir of this County; and he kept *Riccardo Mandra*, who had sav'd his Life, near his own Person, and created him High Constable of *Sicily*<sup>2</sup>. But the Misfortunes of *Sicily* did not end here; for *Ruggiero Sclavo*, Son of Count *Simon*, and *Tancred Count of Lecce*, with many others of their Associates, who would not enter into the Agreement with the King, began to possess themselves of many Towns, and to lay Waste all the Country about *Syracusa* and *Catania*. Which Proceedings struck Terror in the Court, and the King being persuaded that all was done by *Bonello's* Directions, shut him up in Prison; and though the *Palermitans* at first made an Uproar, and endeavour'd to set him at liberty; yet the fickle Mob, afraid of the King, soon lost Courage, and minded him no more, for *Bonello* being put in a dark Prison under Ground, had his Eyes put out, the Sinews above his Heels cut, and was condemn'd to perpetual Imprisonment, where, soon after, lamenting his Misfortune, he died of Grief. The King likewise crush'd the other Conspirators, and in a short time quieted *Palermo* and all *Sicily*.

*WILLIAM* now wanted to quell the Commotions of *Puglia*, rais'd by some Barons, who had been Partisans of the Admiral *Majone*, and especially *Roberto di Bassavilla Count of Loritello*, who, joining with the Counts *Gilberto* and *Boemondo*, possess'd himself of many of the King's Towns in *Puglia* as far as *Oriolo*, a Castle situated on the Confines of *Puglia* and *Calabria*. From thence he went to *Terra di Lavoro*, where he endeavour'd to be Master of *Salerno*; but that not succeeding, he march'd to *Benevento*, which immediately surrender'd; from thence returning to *Puglia*, he took *Taranto*. *Calabria* was likewise in Confusion, where all the most powerful Barons were Enemies to the King, and sided with Count *Roberto*, among the rest *Clementia Countess of Catanzaro*, in order to oppose the King, had reinforc'd *Taverna* with a strong Garrison. *William* finding all the Provinces of the Kingdom of *Puglia* in this Condition, in order to suppress these Commotions, resolv'd to go thither at the Head of a good Army; and before he set out, under a sham Pretence, he sent for *Ruggiero Sanseverino*, call'd *di Martonaro*, a Baron much respected in *Calabria*, whom he look'd upon to be his bitter Enemy, because he had

<sup>1</sup> Hug. Falcand. Ut his, aliisque perniciosis legibus antiquatis, eas restituat consuetudines, quas Avus ejus Rogerius Comes a Roberto

Guiscardo prius introductas, observaverit, & observari præceperit.

<sup>2</sup> Hug. Falcand. Panormi retinens, militibus suis Comestabulum præfecit.

stuck close by *Bonello* in the late Troubles, and for that Crime only, caus'd him to be imprison'd, and his Eyes to be put out.

IN the mean time he went to *Calabria*, and laid close Siege to *Taverna*, and tho' the Countess *Clementia* with her Mother, and *Alferio* and *Tommaso* her Uncles, together with the Inhabitants, defended themselves gallantly, yet it was taken at last, and destroy'd, and the Countess with her Mother sent Prisoners to *Palermo*, and *Tommaso* and *Alferio* were immediately hang'd. Count *Roberto* hearing that *Taverna* was taken, went presently to *Taranto*, and having encourag'd the Citizens to make a stout Defence, and put a new Garrison in the Town, in order to shun *William's* Army he went immediately into *Abbruzzi*. But *William* march'd strait to *Taranto*, and soon made himself Master of that City, and caus'd some of Count *Roberto's* Soldiers, whom he found there, to be hang'd. He recover'd all the Places of *Puglia* and *Campania*, as fast as he had lost them. Then hearing, that *Roberto di Bassavilla* with a Part of his Forces, had march'd into *Abbruzzi*, he presently sent *Riccardo di Soria* with a good Body of Troops to make him Prisoner; but he being appriz'd of it, fled the Kingdom, and went to the Emperor *Frederick* in *Germany*. The other Barons seeing the King so successful, likewise fled, some to *Romagna* and some to *Abbruzzi*. *Ruggieri dell' Aquila* Count of *Avellino*, also made his Escape, for tho' the King had formerly pardon'd him, yet he had incur'd his Displeasure in marrying, without his Consent, the Sister of *Guglielmo da Sanseverino*, who, for the same Reason, likewise fled to shun the King's Resentment. After all this was over, the King went to *Salerno*, which he grievously oppress'd, by extorting a great Sum of Money from the Inhabitants; from thence he embark'd and return'd to *Palermo*. Thus *William* by his Severity, having restor'd Peace in his Dominions, wearied with the past Troubles, resolv'd for the future to lead a more peaceable and quiet Life; and having committed the Government of his Kingdom to *Matteo Notajo di Salerno*, and *Henry* Bishop of *Syracusa*, an *Englishman*, he gave himself up to the Ease and Pleasures of a Court, and never minded the Affairs of his Kingdom any more.



## C H A P. IV.

*After the Death of Victor the Anti-pope, Alexander III. is acknowledg'd for true Pope, and returns to Rome; and King William, after having appeas'd some Disturbances that happen'd in his Palace, in the Year 1160, dies in Palermo.*



URING these Commotions in the Kingdoms of *Sicily* and *Puglia*, others much more remarkable happen'd in *France* and *Italy*, betwixt Pope *Alexander* and the Emperor *Frederick*; for *Alexander*, after having continued some time in *Alagna*, went to *Genoa*, and from thence took Shipping and went to *Provence*: *Victor* the Anti-pope, who stay'd in *Segna*, hearing of *Alexander's* Departure, went immediately into *Lombardy* to *Frederick*, to acquaint him that *Alexander* had gone to *France*: The Emperor no sooner heard of it, than, being afraid lest *Lewis* King of *France* should receive him as true Pope, he sent *Henry* his Ambassador to *France*, to desire an Interview with *Lewis* near *Avignon*, for settling the Affairs and reforming the Abuses of the Church. The Emperor seeing that the Anti-pope had not so strong

strong a Party as *Alexander*, resolv'd on this Occasion to endeavour to get them both depos'd, and to make a new Pope, left *Alexander*, his open Enemy, at last should be acknowledg'd by all for true Pope; *Lewis*, a simple Man, and easily impos'd upon, was persuad'd, with a small Retinue, to come to the appointed Place, and *Frederick*, with a great Army, arriv'd the Day following, which very much perplex'd both the Pope and the King, who were too late in finding out his deceitful Intention; and they would have been in a sorry Condition, if *Henry* King of *England*, a gallant and most religious Prince, who had smelt *Frederick's* Designs, had not landed in *France* with a strong Army to relieve *Alexander* and *Lewis*. This seasonable Arrival of an Army, equal to that of *Frederick*, baulk'd his Design, in so much that after various Conferences, the Emperor, angry at his Disappointment, went to *Germany* with his Anti-pope; and *Alexander* having escap'd this Danger, was acknowledg'd and respected by the Kings of *England* and *France*, and all their Kingdoms, for true Pope. And having accompanied these two Kings to *Paris*, he compos'd some Differences that were between them, and got them to enter into a League and Fellowship. *Alexander* this Year 1163, assembled a General Council in *Tours*, in which all the Bishops of *England*, *Scotland*, *France*, *Spain* and *Ireland*, with some *German* Prelates, were present, wherein he re-establish'd many Things, and reform'd some Abuses with respect to Church Government. In the mean time the Anti-pope, for all that the Emperor could do, was not own'd by the *German* Bishops; so that he return'd to *Italy*, and went to *Lucca*, where he died soon after. Nevertheless the Schism was not at an end, for by the means of *Rinaldo*, *Frederick's* Chancellor, another Anti-pope quickly started up, which was *Guido da Crema*, who took the Name of *Pascal III*. The *Romans* having heard of the Death of the Anti-pope, immediately sent Ambassadors to *France* to invite *Alexander* back, begging him to return to *Rome*, where they would receive him with all the Affection and Respect imaginable; whereupon the Pope being sensible that his Presence was necessary in *Rome* for the Good of the Church, took Shipping, and escaping the Snares which the *Pisans*, at the Emperor's Desire, had laid for him with their Gallies in order to make him Prisoner, he arriv'd safely at *Messina*, with all his Cardinals and the Archbishop of *Mentz*: As soon as King *William*, who was then at *Palermo*, had Notice of his Arrival, he sent his Ambassadors to wait upon him, and in his Name to offer him rich Presents, and five arm'd Gallies, in which he embark'd, and first went to *Salerno*, and from thence in the same Gallies arriv'd in the *Tyber*, and landed at *St. Paul's* Church, whither all the People and Clergy of *Rome* came to meet him, and in great State convey'd him to the *Lateran* Palace<sup>1</sup>.

BUT while *William* thought himself secure from all Danger, by an unforeseen Accident, he was like to lose his Life; for some few Prisoners, in Despair of ever obtaining their Liberty, through the Malice of *Matteo Notaja*, who prov'd as cruel and tyrannical as *Majone*; and wearied with the Uneasiness and Horror of a Prison, made an Attempt to make their Escape, or put an End to their Miseries. For which end, having brib'd the Keepers, at a Time when the Palace was least frequented, they got out, and though they were but a few, they boldly attack'd the Door-keepers of the Palace, and having enter'd, put all in Confusion, and endeavour'd to seize the King, or his Children; but a great Number of Soldiers with *Odono*, the King's Master of the Horse coming on the Noise, after a small Resistance, they were at last all put to Death one after another, and their Bodies expos'd to be eaten by the Dogs. This Adventure made the King very uneasy, and considering that the Prisoners of the Castle had put him twice in Danger of his Life, he caus'd those that remain'd to be taken out, and carried to the Castle on the Sea-shoar, and other Forts of the Island. And after this he gave himself up to such Ease and Quiet, that he expressly forbid his Domesticks to acquaint him with any thing that could give him the least Disturbance; so that his Ignorance of the Affairs of his Kingdom encourag'd *Gaito Pietro*, and the other Eunuchs of the Palace grievously to oppress and abuse the *Sicilians*, both in their Persons and Goods, whence they took Occasion to call the King, *William the Wicked*, which he was found so much the more to deserve, by how much better his Successor prov'd. The King altogether addicted to his Pleasures, bethought himself that his Father

<sup>1</sup> Romuald. Achiep. de Salern. in Cronic. apud Baron.

Roger had built two stately Palaces in *Palermo*, therefore he resolv'd to build a Third, that should far exceed those of his Father, not only in Magnificence and Nobleness of Structure, but likewise in the Fineness of the Gardens, and the Beauty of the Fountains and Fish-ponds which surrounded it on all Hands. But this Work was scarcely finish'd, when Death, which puts an end to all human Designs, prevented his Enjoyment of it; for in the Year 1166, the beginning of *Lent*, he fell sick of a Flux, which troubled him extremely, whereupon he devoutly took the Sacraments of the Church, reliev'd many Prisoners, and likewise remitted a new Tax which he laid upon the Cities and Lands of *Puglia*; and having call'd for all the great Men of his Court, and the Archbishops of *Salerno* and *Reggio*, he made his Will, by which he left *William* his eldest Son Heir of his Kingdom, and to *Henry* his other Son he confirm'd the Principality of *Capua*, with which he had formerly invest'd him<sup>1</sup>; and he left the Queen Regent of the Kingdom, till the Sons should be of Age; and he enjoin'd her, that in all Affairs of State, she should take Advice of the Bishop of *Syracusa*, *Gaito Pietro* and *Matteo Notajo*; and the Disease increasing, he call'd for *Romualdo Guarna* Archbishop of *Salerno*, his near Kinsman, who, according to those Times, was very knowing in Physick, and though he prescrib'd many Medicines proper for his Disease, yet he would take none of them but those that pleas'd himself, which hasten'd his Death, for on the *Saturday* before the Octave of *Easter*<sup>2</sup>, he was seiz'd with a violent Fever, which soon after carried him off at the Age of 46, after he had reign'd Sixteen Years, two Months and three Days, from the Time of his being crown'd King of *Sicily*, when his Father was still alive.

THE Queen being afraid lest the sudden News of the King's Death might occasion some dangerous Commotion amongst the *Palermitans*, caus'd it to be conceal'd, till the Arrival of the Barons who had been already sent for to be present at the Coronation of the new King. After it had been hush'd up for a few Days, the Death of the Father, and the Reign of the Son were publish'd at the same Time; and the Corps was honourably carried to *St. Peter's Chapel*, where, for three Days successively, the funeral Solemnities were pompously and magnificently celebrated, at which all the Barons and Bishops that were in *Palermo* were present; and in process of Time the Corps was transported to the Church of *Montreale*, which the King his Son caus'd to be built, where the Queen made a stately Tomb to be erected, which is to be seen at this Time without any Inscription.

WILLIAM, according to *Romualdo*, was a Prince of a noble and graceful Aspect, exceeding covetous, and most intrepid in War: He often vanquish'd his Enemies both by Sea and Land; but in Peace was very indiscreet, and beyond measure a Lover of Ease, and indolent. His Inclination to Cruelty, and his too great Desire of heaping up Money, and his Lavishness in spending it, made him appear wicked in the Eyes of the People: As for the rest, he esteem'd and caress'd his Friends, and rais'd them to great Honours, and liberally rewarded them: On the other hand, he was a bitter Persecutor of his Enemies, many of which he put to a cruel Death, and others he banish'd: He was very Religious, and a Lover of Divine Worship, and he had a great Regard for the Popes, with whom he had no Disputes, excepting in the beginning of his Reign with *Adrian*.

<sup>1</sup> Pellegr. in Castigat. ad Anonymum Cassin. | in the Month of May. Fazzello says, it was the  
anno 1172. ex Hugone Falcando, & Romualdo. | 9th of May.

<sup>2</sup> The Chronicle of Fossanova says, that it was





## C H A P. V.

*The Laws of King William I.*

ALTHOUGH some of this Prince's Laws seem'd grievous to his Subjects, on account of the great Desire he had to heap up Riches; nevertheless all the rest were very good and useful, insomuch that *Frederick II.* caus'd them to be inserted in the Volume of his Constitutions, compil'd by *Pietro delle Vigne*, and order'd them and those of *Roger* to be observ'd. We have Twenty-one of the Laws of this Prince in the Volume of the Constitutions, which must be distinguish'd from those which *William II.* publish'd afterwards, that they may not be confounded, as some Writers have done, who have taken them all to be *William I.*'s.

THAT, which we read in the first Book, under the Title *de Usurariis puniendis*, and which, in some Editions, bears in the Rubrick the Name of *Roger*, and in some others that of *William*, as we have said, is neither *Roger's*, nor, as *Andrea d'Isfernia*, *Afflicto*, and some of our Writers have believ'd, *William I.*'s. It was publish'd long after by *William II.* his Son; for this Law ordains, that all Causes concerning Usury, that shall be brought before his Court, be decided, and determin'd according to the Pope's Decree lately publish'd in *Rome*, meaning the Decree which was made against Usurers in the *Lateran Council*, celebrated in *Rome* by *Alexander III.* and inserted by *Gregory IX.* in his *Decretals*<sup>1</sup>; so that *William I.* cannot be the Author of it, for this Council was celebrated by *Alexander* in the Year 1180, according to *Antonio d'Agostino*, or, as the most accurate Writers say, in 1179, when *William the Wicke* was dead, who, as we have seen, died in the Year 1166, and *William II.* was reigning in *Sicily*, who, altogether differing from his Father, hated Usurers and their abominable Pelf, and would have Usury to be judg'd by the Canons of the *Lateran Council*, and not by the Civil Law. 'Tis worthy of Observation, that in these Times the secular Judges took Cognizance of the Crime of Usury, and it did not belong to the Ecclesiastical Judges, as they afterwards pretended; for *William* only ordain'd, that his Judges should decide such Causes not by the Civil Law, but according to that Decree, which, without this Constitution, would not have been obligatory upon his Subjects, because the Ecclesiastical Canons had not as yet acquir'd that Force and Authority in the Courts of Justice, which, by long Custom, they afterwards obtain'd in the new Dominions of Christian Princes; but that they might be observ'd in the Tribunals, and have the Force of Laws, the Prince was forc'd to command it.

IN like Manner the other Constitution, which we read in the same first Book, under the Title *Ubi Clericus in Maleficiis debeat conveniri*, ought to be attributed to *William II.* and not to *William I.* This, with another, which we read in the third Book, under the Title *de Adulteriis coercendis*, was made by *William II.* at the Desire of *Walter* Archbishop of *Palermo*<sup>2</sup>, by which the Persons of the Clergy of his Kingdom, with respect to criminal Matters, were exempted from secular Jurisdiction, and subjected to that of the Church, which was to judge them according to the Canons and Ecclesiastical Laws; excepting only the Crimes of Felony, and

<sup>1</sup> Decret. lib. 5. tit. 16. cap. 6.<sup>2</sup> Tutini degli Ammir. pag. 41.



those, which for their Heinousness, concern'd the King's Majesty, the Cognizance of which he would have to belong to his own Courts.

NEVERTHELESS the other Constitutions which follow in the same first Book, under various Titles, are *William I's*. We have the first under Title 59, by which Officers are forbid to imploy others to officiate for them in their Employments, and particularly the Lord Chief Justice, and other inferior Justices were not to appoint Deputies for exercising their Offices, and the Offenders were to be punish'd capitally. The second is under the Title *De juramentis non remittendis a Bajulis*, whereby any of these Officers, who, out of Favour, or for Money, dispensed with the Oaths, or other Proofs in Law Suits, which by the Judges they had been order'd to take, were fin'd in a Pound of Gold. The third under the Title, *De Officio Magistri Camerarii*, was made to prevent Confusion amongst the Officers, and to inform each of them of their Duty in their several Stations. By which Constitution it was ordain'd, that the High Chamberlain should take Cognizance in Civil Matters only, and not in Feodal, which belong to the High Court, and the Chief Justices; and that the Differences that might arise betwixt Bailiffs and Tax-gatherers under his Jurisdiction, should be decided by him; and that Appeals of Causes decided by the ordinary Judges, should be brought before him, whose Decrees he might either confirm or annul, as he should think just: From whom there was no Appeal to the Chief Justice as formerly, but only to the King.

THE Fourth, under the same Title, orders the High Chamberlain, with the Advice of the Bailiffs to make Assizes of all vendible Things, in every City and Place under his Jurisdiction.

THE Fifth, which we read under the Title *De Officio Secreti*, is Local, and regards the Province of *Calabria*, whereby it is ordain'd, that the Office of Secretaries and Tax-gatherers of that Province should be perform'd by the Chamberlain thereof. And in the Sixth, which follows, the said Secretaries and Receivers of the Rents are particularly injoin'd to have a watchful Eye on the Treasures that should be found, and to apply them to the King's Use, and to take Care of all Shipwrecks, because if the Masters of the Vessels were dead, and had no lawful Heirs, the Goods belong'd to the King. And they were likewise to take Care of the Goods of those who died Intestate, and had no lawful Successors, and to give the third Part of the Price of their hereditary Estate to the Poor, to pray for the Soul of the Deceas'd, and all the rest was to be apply'd to the King's Use.

THE Seventh, under the same Title, ordains the Justices, Chamberlains, Castellans and Bailiffs, to be diligent in assisting and advising the said Secretaries and Receivers, in every thing that was for the King's Advantage.

THE Eighth, which we read under the Title *De præstando Sacramento Bajulis, & Camerariis*, deserves to be minded; for the King prescribes to the Chamberlains and Bailiffs, how they ought to administer Justice to his Subjects. He ordains them to administer it according to his own Constitutions, and those of his Father *Roger*, and wherein those fail'd, according to the approv'd Customs of his Dominions, and lastly, according to the common *Longobard* and *Roman* Laws; which is a Proof, that in this Prince's Time the *Longobard* Laws were in Force, and observ'd in this Kingdom, and were look'd upon to be as much the common Laws, as the *Roman* were. Whence it came that the first Works which we have of our Lawyers, are upon the *Longobard* Laws, and that *Carlo di Tocco*, Contemporary with this *William*, who, in the Year 1162, made him Judge of the High Court<sup>1</sup>, was at the Pains to comment upon them; in doing of which he made use of the Pandects, and others of *Justinian's* Books: not that these had acquir'd the Force of Laws in this Kingdom; but because the *Longobard* Laws were not reputed so barbarous and unpolish'd, seeing many of them were conformable to the Laws of the Pandects, which had inhand'd the Study of many, who began to despise the *Longobard* Laws. Neither did *William* mean any other thing by the common *Roman* Laws, but those that, before the Pandects were found in *Amalphis*, had continu'd by Tradition amongst our Country-People; for tho' in the other Cities of *Italy*, as being publickly taught in their Academies, they began to be quoted in the Courts of Justice, yet hitherto in these our Provinces, there being as yet no publick Schools till the Time of *Frederick II.* they not only had not acquir'd any Authority of Laws, nor were quoted in the Courts; but

<sup>1</sup> Top. de Orig. M. C. cap. 10.



they were not so much as taught, and explain'd, as they were in *Bologna, Milan*, and the other Cities of *Italy*; and Causes were for the most Part decided according to the *Longobard* Laws, as is clear from those two Sentences formerly mention'd by us, and recorded by *Pellegrinus*, the one in the Reign of King *Roger*, the other in that of *William II.* And this is so certain, that it was not so much as allow'd to have recourse to the Laws of the *Pandects*, when the *Longobard* fail'd; which is evident from the Commentaries of the said *Carlo di Tocco*\*, wherein he has this Question, As the Child succeeded to the Mother, whether, or no, could the Mother succeed to the Children? he says, that the *Longobard* Laws have establish'd nothing on this Head, whence the Mother, as a *Cognate*, ought to be excluded; for according to these Laws the *Agnates* only succeed, and that therefore a new Law behov'd to be made to make her capable to succeed to her Children, just as was practis'd amongst the *Romans*, who, in order to make a Mother capable to succeed, were forc'd to establish it by a *Senatus consultum*. What need then would there have been of this new Law, if the Defect of the *Longobard* Laws could have been supplied by the Laws of the *Pandects*? In the Time then of this *William*, the common Laws of the *Romans* were not those that were contain'd in the *Pandects*, but those that had continued among the People, which, after the *Roman* Empire was extinct, they kept up rather as ancient Usages, than as written Laws, the Books of *Justinian* not being known in these Provinces for many Ages after, and it was very long before they recover'd their ancient Authority and Force in them, which was owing rather to Custom than any Constitution of a Prince commanding it, as shall be clearly seen in the Course of this History.

*WILLIAM's* ninth Constitution, which we read under the same Title, runs all upon the Duty of the High Chamberlains and Bailiffs. It prescribes the Number of Bailiffs and Judges in each City and Place of the Province, and orders the Chamberlains not to put these Offices to Sale, but to give them to deserving and faithful Persons, over whom they were to have a watchful Eye, and observe their Proceedings; and to see that Justice was faithfully administred, and the Provinces well govern'd.

THE Tenth, which we have under the Title *De quæstionibus inter Fiscum & Privatum*, ordains the High Chamberlains to take Cognizance of all Causes, excepting Feodal, both Personal and Real, betwixt the Exchequer and private Persons, with the Assistance of the Justices, in the Presence of the Attorney General.

THE Eleventh, under the Title *De cognitione Causæ coram Bajulis*, gives Power to the Bailiffs to take Cognizance, within their Jurisdiction, of all Civil Causes, as well Personal as Real, excepting Feodal Causes; and to take Cognizance of petty Larceny, and other lesser Crimes, which were not punishable with Mutilation of Members.

THE Twelfth, which we read under the Title *De fure capto per Bajulum*, orders the Bailiffs, when they have taken any foreign Thief, to deliver him over with the Goods into the Hands of the Justices; and if he belong to the District, they are likewise to deliver him over to the Justices, but his moveable Goods are to be consign'd in the Hands of the King's Treasurer of that Place.

THE Thirteenth, under the Title *De Bajulorum Officio*, enjoins the Bailiffs to see that a just Price be put upon vendible Things, and irremissibly to exact the Fines of those who shall sell contrary to the Assizes, or who shall be found to have false Weights and Measures.

THE Fourteenth, under the Title *De pœna negantis depositum, vel mutuum*, punishes severely Pawnbrokers, or those who refuse to restore to the Owners, Goods lent or pledg'd.

THE Fifteenth, under the Title *De Clericis conveniendis pro possessionibus, quas non tenent ab Ecclesia*, deserves more Attention than all the rest. In it is decided, that if the Clergy be sued for any Possessions, Tenements, or other Goods belonging to their Patrimony, which has not come to them by the Church, but some other way, such Causes fall under the Cognizance of the Secular Court of the Place where the Possessions are situated, tho' they should object against it; only the Secular Judges are forbid to seize on their Persons, or imprison them; but they are to put their Sentence vigorously in Execution against the Goods in Question. At the Time

\* Carol. de Tocco in l. si Sorores 25. verb. si propinqui in fin. de Succes. lib. 2. tit. 14.

that this Law of *William's* was publish'd, it seem'd to be no ways irregular or extravagant; nor even since, in the Time of *Marino Caramanico*, an ancient Commentator on these Constitutions, who found no Fault with it. But in after Ages, when the Canon Law of the Decretals began to instil other Maxims into the Minds of our Lawyers, it appear'd to be very odd and monstrous. *Andrea d'Isernia*, who wrote in these Times, did not stick to say that such a Constitution was good for nothing, but ought to be look'd upon as null and void, as levell'd against Ecclesiastick Persons, and the Immunity of the Church. He adds, that the Legislator is mistaken, that considers the Quality and Circumstances of the Goods, and not of the Person, forasmuch as Goods take their Quality from the Persons, and these are sued, and not the Goods. He likewise calls those ignorant, who say that the Pope and the Church of *Rome* approv'd of these Constitutions; for he says the Confirmation does not appear, and tho' it should appear in general Terms, yet it could not be said that the Pope had approv'd of this Constitution, and if he had been requir'd to approve of it in particular, he would have refus'd to do it. But from what we have said in the preceding Books, when we had occasion to treat of the Ecclesiastical Polity, we may easily perceive how little Truth is in what *d'Isernia* advances.

THE Sixteenth, which is the last of this Prince, by *Pietro delle Vigue* plac'd in the first Book of the Constitutions of the Kingdom, under the Title *De Officio Castellanorum*, contains nothing else, but an Order to the Castellans, and their under Officers, not to exact any Thing from Prisoners that have not remain'd a Night in Prison; and if they did remain a Night, they were to pay half a *Tarine*, and no more.

WE have none of King *William's* Laws in the Second Book, but in the Third we first meet with the Seventeenth, under the Title *De Dotariis constituendis*, whereby 'tis ordain'd, that Wives, after the Death of their Husbands, in order to secure their Dowries to the Heirs, shall swear Fealty to the Lords of the Baronies of whom their Dowries are held.

THE Eighteenth, which has for Title *De Fratribus obligantibus partem Feudi pro dotibus sororum*, allows Brothers who have no moveable or hereditary Goods, to mortgage a Part of the Fief for Portions to their Sisters; and moreover, if they have three or more Fiefs, to give one of them for that same Purpose; but in all these Cases, when either the Fief is mortgag'd, or alienated, or set apart for the Sisters Portions, the King's Consent must always be obtain'd. And besides, Matrimony cannot be contracted without his Assent and Permission, otherwise all is void and null; which, as we have said, gave Occasion to the Barons of the Kingdom to complain of the grievous Yoke impos'd upon them by this Law, which hinder'd their giving their Daughters or Sisters in Marriage without the King's Assent; but for all that, *Frederick*, for the Reasons we have already alledg'd, when we had Occasion to treat of *Roger's* Laws, would confirm it; for the Law was not grievous in what it prescrib'd, but in the bad use which *William* made of it, who, out of Covetousness to have the Fief devolve to himself, was inflexible, and would not give his Consent to such Marriages, whence proceeded those Complaints and Troubles which happen'd in the Reign of this Prince.

THE Nineteenth Law of *William*, under the Title *De Adjutoriis exigendis ab hominibus*, deserves to be carefully minded; for in it we meet with many Things worthy of Observation. First it checks the Covetousness of the Prelates, Counts, Barons, and other Feudatories, who, upon the most trifling Occasion, extorted exorbitant Subsidies from their Vassals; whence *William*, being resolv'd to ease them from this Oppression, settles the Cases wherein they could justly claim them. The Cases are these. I. For ransoming their Superior, when taken by the Enemy fighting under the King's Banner. II. When the Superior had a mind to enroll a Son in the Army. III. When he was to give his Daughter or Sister in Marriage. IV. When he was to buy some Place, that would be of Service to the King, or his Army. The Cases which he establishes, wherein the Prelate can justly claim Subsidies from their Vassals, are likewise very remarkable. I. For their Consecration. II. When they shall be call'd by the Pope to assist at any Council. III. For the Service of the King's Army, if they are in it. IV. When they shall be sent for by the King; where 'tis to be observ'd, that in these Times it was never call'd in Question if Princes could send for Prelates, nor did they make any Difficulty to obey such Calls, as they began to do in later Times; tho' in our Kingdom our Princes have

have always maintain'd that Power, and expell'd those who dar'd to disobey. V. If they shall be sent by the King any where for his Service, which frequently happen'd, for they were employ'd in the Affairs of the Crown. And Lastly, When the King had occasion to lodge upon their Lands. In all these Cases the Prelates were allow'd to exact Subsidies from their Vassals, but 'tis subjoin'd in the same Constitution, that they ought to do it moderately.

THAT other, which we read under the Title *De Novis ædificiis*, tho' in some Editions it bears the Name of Roger, and in others that of William, yet 'tis plain, that it belongs neither to the one nor the other. The Author of it was Frederick II. which is evident from these Words, *ab obitu divæ memoriæ Regis Gulielmi consobriini nostri*, by which Frederick means William II. who was his first Cousin, as being Son of William I. Brother of Constantia the Mother of Frederick.

THE Twentieth, under the Title *De Servis, & ancillis fugitivis*, by which William prohibits the entertaining of Servants who have deserted their Masters; and in case they be taken, he ordains them to be deliver'd up to their Masters, if they be known; if not known, he orders them to be deliver'd over to the Bailiffs, who are immediately to send them to his, the King's High Court, otherwise the Transgressors, even the Bailiffs themselves, are liable to lose their whole Substance, which is to be applied to the King's Use; but Frederick in the Constitution *De Mancipiis*, gives a Year for the Masters to recover them after they are sent to the High Court.

THE last, under the Title *De pecunia inventa in rebus alienis*. If these Laws which we have hitherto mention'd shew this Prince's Greediness to heap up Riches, and to impose so many pecuniary Mulcts, whereby he might enrich his Treasury, this, which we are now going to give account of, makes it much more evident. From the Year 1161. William had made Laws, that whoever should find a Treasure, it was to belong to the King. In this he ordains, that whoever should find Gold, Silver, precious Stones, and other such like Things, that were not his own, should immediately carry them to the Justices, or Bailiffs of the Place where they were found, who were presently to transmit them to his High Court, otherwise they were to be punish'd as Robbers. Declaring likewise in general, that whatsoever shall be found in his Kingdom, the Owner of which cannot be found, shall belong to himself. He would have what follows to be thought an Act of Piety, to wit, that if in the Space of a Year, any Person shall prove that he was the true Owner of the Goods found, they were to be deliver'd to him, but after that Time was expir'd, they were his own. Frederick II. in the following Constitution approves of the Law, and adds only this, that the found Goods were to be kept by the Justices and Bailiffs of the Counties where they were found, because he thought it was unjust to oblige the Owners to go to the High Court to prove that they were theirs, because it might cost them perhaps more than the Value of the Goods.

THESE are the Laws of William I. which Frederick was pleas'd to retain and add to his own, and those of his Grandfather; for the other, which we read under the Title *De Adulteriis coercendis*, whereby, if no Violence has been us'd, it is remitted to the Ecclesiastical Judges to take cognizance of the Adultery, with which the Empress Constantia comply'd by her Letter recorded by Ughellus, is neither Roger's nor this William's, but William II. his Son's, which will be clearly seen when we come to treat of the Laws of that Prince.

SOME likewise say, that it was William who first instituted the Tribunal of the High Court; neither is it to be doubted, that in the Year 1162. Carlo di Tocco, who commented on our Longobard Laws, was one of the Judges of this High Court. But as that is true, so neither can it be denied, that the High Court in King William's Time, was that which he erected in Palermo, the Place of his Royal Residence, but not that, which in the Reign of Frederick II. and that of Charles I. of Anjou, was establish'd in Naples. In William's Time Naples was no more look'd upon than any other City of the Kingdom; but Salerno, and Bari (before it was demolish'd) were the top Cities. And tho' some say that this Prince fortified Naples with two famous Castles, viz. the Capuan against the Aggressors by Land, and that of Uovo against those by Sea, yet others will have Frederick to be the Founder of them: But none can deny that Frederick II. began by Degrees to make this City the Head and Metropolis of all

<sup>1</sup> Barli, tom. 2. Cron. fol. 333.

the rest, as well by introducing the University, as the High Court and Mint, afterwards call'd *Camera Summaria* ; and that it was not a Royal Seat before the Reign of *Charles I. of Anjou*, when all the Affairs of the Kingdom were transacted in *Naples*, which at last rais'd it to be the Head and Metropolis of all the other Cities, as shall be seen in the Course of this History.

IN the Time of the last *Norman* Kings, there was not a City in these Provinces, that could be said to be the Head of the rest. Each Province had its own Justices, Chamberlains, and other particular Officers, none of which intermeddled with the Affairs of the others. Neither was the Number of Provinces in these Times increas'd to twelve, as it was afterwards (if we may believe *Sorgente* <sup>1</sup>) in the Time of *Frederick*, but our Country was divided into Districts, according to the Justices that were sent to govern them ; whence they took the Name of *Giustizierati*, or Jurisdictions, and afterwards into Provinces, and govern'd by *Præsides*, which will be better understood in the following Books of this History.

<sup>1</sup> Surg. Neap. illustr. cap. 24. n. 2.



**T H E**



THE  
CIVIL HISTORY  
Of the KINGDOM of  
NAPLES.

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BOOK XIII.

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THE Death of *William I.* and the Accession to the Throne of *William II.* his Son, made the whole Kingdom easy ; for the graceful Behaviour, and Generosity of the Youth, so gain'd him the Love and good Will of every Body, that even those who had been his Father's bitter Enemies, resolv'd to be most faithful to him, being satisfied that the Death of the Father had put an end to all their Troubles, and that they ought not to impute the Tyranny of the Father to the innocent Youth. In the mean time Queen *Margaret* his Mother, having assembled all the Prelates and Barons of the Kingdom, caus'd him to be solemnly crown'd in the Cathedral Church of *Palermo*, by *Romualdo* Archbishop of *Salerno* : At which Solemnity, besides the Prelates and Barons, a vast Number of the Inhabitants of the City were present, and after the Coronation was over, with great Marks of Love and Gladness, accompanied him to the Palace. And the Queen, because of his tender Age, not yet Twelve Years of Age compleat, who had taken the Charge of the Government of the Kingdom upon herself, in order to rivet in the People the Love they bore her Son, caus'd all the Prisoners to be set at Liberty, and order'd all those that had been banish'd by the King her Husband to be recall'd, and among the

the rest *Tancred* Count of *Lecce*, and remitted many heavy Taxes that had been impos'd upon the People, for which end she wrote to all the Chamberlains of *Puglia*, not to exact for the future that insupportable Burden, call'd *Redemptionis*, which had reduc'd these Provinces to the utmost Despair<sup>1</sup>. She restor'd to their Baronage, those who had been depriv'd of it, and granted it to many others, and with a liberal Hand, made many Donations to sundry Churches.

BUT her having, contrary to the last Will of her Husband, indiscreetly advanc'd *Gaito Pietro*, and made him Superior in the Government to *Matteo Notajo*; and the Elect of *Syracusa*, by giving him the whole Charge of the Kingdom, occasion'd new Disturbances at Court; for the other Courtiers envying his Greatness, presum'd too much upon the King's Youth, and little minding the unsettled Government of a Woman, they began to make a Revolution in the King's Family, which was carried on by the Advice of *Gentile* Bishop of *Agrigento*, who having ingratiated himself with the Archbishop of *Reggio*, contriv'd the Ruin of the Elect of *Syracuse*, and at the same time brib'd *Matteo Notajo*; and they put Matters into such Confusion, that *Gaito Pietro* was forc'd to fly for Protection to the King of *Morocco*. But these Quarrels (after various Turns, which *Falcando* gives us at length) being over, and the Elect standing his Ground, soon after Ambassadors from *Emanuel* Emperor of the East arriv'd in *Palermo*, to renew the Peace with the young King, and offer him *Emanuel's* only Daughter in Marriage, and the Empire for her Portion; the Ambassadors were kindly receiv'd, and the Peace renew'd; but the Marriage could not then be concluded, on account of the many Difficulties that occur'd in the Treaty.

IN the second Year of *William's* Reign some Troubles happen'd both in *Sicily* and *Puglia*, not occasion'd by foreign Powers, but by the Quarrels of the Courtiers, and some Barons, who got the High Chancellor *Stefano di Parzio*, Son of Count *di Parzio*, a Kinsman to the Queen (who had invited him out of *France*, and, after many Turns, had given him the Charge of the Government) to persuade the King to leave *Palermo*, and go to *Messina*, where he would be at hand to settle Matters in *Puglia*. But these Commotions in *Sicily* and *Puglia* were but Trifles, and easily suppress'd, in comparison of those in *Lombardy*, and of the War ready to break out betwixt Pope *Alexander III.* and the Emperor *Frederick Barbarossa*; for both *Sicily* and *Puglia* were soon restor'd to a peaceable State. The Eyes of every Body were now fix'd upon the Emperor *Frederick*, who, with a great and powerful Army had march'd into *Italy*, to make War upon Pope *Alexander* and the Romans, who, in a disorderly Manner, charging a Body of *Frederick's* Army too boldly, were routed, a great many kill'd, and as many taken Prisoners, the rest with Difficulty having got within the Walls of *Rome*. The Pope, and all the People were in great Perplexity, and the Emperor, who had already taken *Ancona*, hearing of this Victory, and being determin'd to march into *Puglia*, came with the rest of his Army directly to *Rome*<sup>2</sup>, and having made a brisk Attack upon the Gate of Castle *St. Angelo*, he afterwards assaulted *St. Peter's* Church, but not being able to take it easily, he set fire to it; which so terrified those within, that they immediately surrendered, and *Alexander*, struck with Fear, quitted the *Lateran* Palace, and fled to the House of *Frangipani*, where he with all the Cardinals fortified themselves in a Tower of the *Chastulary*.

THE Emperor the Sunday following, at a solemn Mass in *St. Peter's* Church, caus'd himself to be crown'd with the Royal Crown, by his Anti-pope *Odone da Crema*, and the Monday, being the Feast of *St. Peter in Vinculis*, the same Anti-pope crown'd him with the Imperial Crown, together with his Wife *Beatrice*.

OUR *William* maintain'd the same Friendship and Correspondence with the Pope, as his Father had done, insomuch that *Alexander* was not in the least offended that *William* had been crown'd without his Knowledge, which his Prodecessors would not have taken in good Part; and having heard of the great Straits the Pope was in, and *Frederick's* Resolution to march into his Kingdom of *Puglia*, immediately dispatch'd from *Messina*, where he now was, two of his Gallies with a great Sum of Money to *Alexander*, in order to bring him from *Rome*; the Gallies unexpectedly arriving in the *Tyber*, much comforted the Pope, who, unwilling as yet to leave the City, kept the King's Ambassadors with him for Eight Days, and then sent them

<sup>1</sup> Hug. Falcand.

<sup>2</sup> Baron. ad an. 1167.

back to their Master with a sincere Acknowledgment of so seasonable a Relief. He gave part of the Money to the *Frangipani*, and part of it to *Pier Leoni*, that thereby they might be enabled the more resolutely and bravely to defend the City. But perceiving afterwards, that the Emperor was resolv'd to turn him out of the Papacy, and that the *Romans* began to stagger, having put on a Pilgrim's Habit, with a few of his Followers he left *Rome*, and fled to *Gaeta*, whither being soon follow'd by his Cardinals, he re-assum'd the Pontifical Habit, and went to *Benevento*.

BUT soon after, *Frederick* was forc'd to return to *Germany*, for his Army being seiz'd with a deadly Pestilence, in the Space of eight Days, the greatest Part of his Soldiers, and the principal Barons that he had brought along with him died, amongst which were *Frederick* Duke of *Bavaria*, Count *Vaſton*, *Bercard* Count of *Arlemonte*, the Count of *Sesia*, *Reinald* Archbishop of *Cologne*, with his Brother, and the Bishop of *Verdun*; so that he arriv'd in *Germany* with a small Number.

IN the mean Time new Troubles and Commotions had arisen in *Sicily*, still occasion'd by the Courtiers, and the old Domesticks of the King's Household, which, not being to the Purpose of our present History, we willingly pass over in Silence; so much the rather, that they have been minutely transmitted to Posterity by *Ugone Falcando*, and with great Care lately collected by *Francesco Capecelatro*, in his History of the *Norman Kings*, and by *Agostino Inveges* in his History of *Palermo*. At this same Time happen'd likewise the famous Conspiracy of the *Sicilians*, against *Stefano di Parzio* the Chancellor, whom they oblig'd at last to leave *Palermo*, and fly to *Palestine*, where he died: The History of this Conspiracy is written by *Peter of Blois*, Archdeacon of *Battona*, a most renown'd Man, who came out of *France* to *Sicily*, with *Stefano*, and was for a Year the young King's Preceptor, and then his Secretary and Counsellor; and being elected Archbishop of *Naples*, his Enemies took that Opportunity to get him to be remov'd from Court, upon which he renounc'd the Archbishoprick. Being Valetudinary he continued some Time in *Sicily* after the Chancellor's Departure; and tho' he was intreated by *William* to spend the rest of his Days there, promising still to have a great Regard for him, yet such was the Abhorrence he had to the *Sicilians* and their Ways, and their ill Usage of the Chancellor, that by no means could he be persuaded to stay. He was one of the most learned Men of this Age, and we have as yet many of his Works, and a Volume of Letters<sup>1</sup>. *Ugone Falcando*, a *Sicilian*, having begun his famous History from the Death of King *Roger* in the Year 1154, brings it down to this present Year 1170. where *Peter* begins his learn'd History of fifteen Years, with so much Elegancy, that 'tis surprizing, how, in so rude Times, he could write so politely.

IN this Interim died in *Rome*, *Guido da Crema*, the Antipope, call'd *Pascal III.* who, by the Means of the Emperor *Frederick*, had been created in the Place of *Octavianus*; and his Faction, not willing to submit to *Alexander*, this Year 1170. immediately chose a Third, who was a certain *John* Abbot of *Strumi*, a *Hungarian*, whom they call'd *Callistus III.* tho' *Alexander*, who staid in *Benevento*, was then acknowledg'd for true Pope by all Christians, excepting the Emperor and some of his *Germans*. *Alexander* left *Benevento* and went to *Rome*; but the *Romans* being offended with him, because he had receiv'd into Favour the Count of *Tusculo* their declar'd Enemy, would not receive him, whereupon he return'd to *Gaeta*, where he remain'd for a long Time; from thence he went to *Alagna*, where he fix'd his Residence.

IN the mean Time the Emperor *Emanuel* sent new Ambassadors to King *William*, who concluded a Marriage betwixt him and *Juramutria* their Emperor's Daughter, and fix'd the Time for conducting her by Sea to *Puglia*; and the King, with his Brother *Henry*, Prince of *Capua*, soon after went to *Taranto* to receive the Bride; but the perfidious *Greek*, for what Reason 'tis not known, slighting the contracted Marriage, did not send the young Lady. Some<sup>2</sup> make no mention of this Fact, but say, that *William*, in order not to disgust the Pope, refus'd this Marriage. However that may be, *William* left *Taranto*, and went to *Benevento*, from whence he sent the Prince his Brother, who had been taken ill, to *Salerno*, from thence to go to *Palermo* in the Gallies for the Recovery of his Health, which did not avail him, for he was no sooner arriv'd, than he died, in the Thirteenth Year of his Age, Anno 1172. He was with great

<sup>1</sup> V. Chioccar. de Archiep. Neap. anno 1168. P. Tirin. tom. 3. in S. Script. in indice auct.

<sup>2</sup> Pirri, according to Inveges, lib. 3. hist. Pal. Rex nec Emanuelis Græci Imperatoris filiam, Icoramutriam nomine, ducere voluit.



Pomp interr'd in the Sepulchre of his Grandfather Roger, in the Cathedral of *Palermo*, and from thence some Time after transported to the Church of *Monreale*, where his Tomb is to be seen at this Time <sup>1</sup>.

IN this *Henry* ended the *Norman* Princes of *Capua*, who held this Principality 114 Years, reckoning from the first, who was *Richard* Count of *Aversa*, in the Year 1058, to this *Henry* Son of *William* I. in this Year 1172, when their Succession fail'd; for *William* II. having no Sons, he could not continue the Custom of his Father and Grandfather Roger, who made one of their Sons Prince of *Capua*; and tho' 'tis probable that King *Tancred* would have continued the same Custom, yet wanting Children, and being involv'd in Wars, and living but a short Time after, could not do it. And the Kings his Successors, abolish'd this Principality and Dynaſty altogether; for tho' in the Publick Deeds they kept up the Name of Principality, which was continu'd to be practis'd to the Year 1435. in the Reign of Queen *Joan* II. <sup>2</sup>; nevertheless, excepting the Name, the Principality was quite extinct, and those who afterwards possess'd *Capua*, were neither in Dignity nor Dominion to be compar'd with these Princes.

*HENRY*'s Death very much afflicted *William*, who soon after went to *Sicily*, where having assembled a strong Army, he gave the Command of it to *Gualtieri di Moat*, afterwards his Admiral <sup>3</sup>, and sent him to *Alexandria* in *Egypt*, to assist the Christians against *Saladin*. And this King resolving to out-do his Predecessors in Piety, employ'd a Part of the Treasure which they had heap'd up, in building a magnificent Church upon an Eminence call'd *Monreale*, not far from *Palermo*, which he beautified with Marble and *Mosaick* Work; and having endow'd it with great Revenues, consisting of many Cities, Castles, and rich Farms, and furnish'd it with rich Vestments, and costly sacred Utensils, he dedicated it to our Lady, under the Name of *Santa Maria Nova*, and gave it to the Fathers of the Order of *S. Benedict*. Neither ought we to forget in this Place, that the first who had the Charge of this Church were the Monks of the Monastery of the Cave, who were invited from our Provinces to *Sicily* by *William*; and who, on account of their great Sanctity, were much respected by the *Norman* Princes, especially King *William*. This Church soon became famous, for besides the Sanctity of the Monks employ'd in Divine Services there, by the Advice of *Matteo* Great Protonotary of *Sicily*; now, according to *Riccardo da S. Germano*, Vice-Chancellor of the Kingdom, *William* obtain'd of Pope *Alexander* III. that the said Church should be subject to no Archbishop, Bishop, or any other Ecclesiastical Person, but to the Pope alone, and afterwards got it to be erected into an Archiepiscopal See by Pope *Lucius* III. *Matteo* did all this out of Spite to *Walter* Archbishop of *Palermo*, in whose Jurisdiction this Church was, who in process of Time knew well how to revenge himself, as shall be told. The first Archbishop of *Monreale*, was *William* a Monk of the Monastery of the Cave, who had formerly been Prior of it. This Place, on account of this famous Church, drawing many People to live in it, in a short Time became a renown'd and rich City; and at this Time its Prelate is one of the richest and most considerable in *Sicily*.

<sup>1</sup> Camil. Pellegr. in Stem. Princ. Cap. Norm. & in Castig. ad Anonym. Cassin. anno 1172.

<sup>2</sup> Idem, in Dissert. in 3 par. in Append.

<sup>3</sup> Capececlatr. hist. lib. 3.





## C H A P. I.

William II's. *Marriage with Joan, Daughter of Henry II. King of England. The Emperor Frederick's Army defeated by the People of the Milaneſe; whereupon the Emperor made Peace with Pope Alexander III.*



IN the mean Time the Emperor *Frederick* of *Suevia* had march'd again into *Italy* with a great and powerful Army, and begun a cruel War in *Lombardy*; and while he was carrying on this War with alternate Success, conſidering that the King of *Sicily* was very powerful, he endeavour'd to break off the Friendſhip betwixt him and the Pope, and to get him to enter into an Alliance with himſelf; for which end he ſent *Trifan* his Chancellor, this Year 1176. to offer *William* his Daughter in Marriage, and to perſuade him to enter into a perpetual League<sup>1</sup>. But the King conſidering, that this Marriage and this Peace would be very diſagreeable to *Alexander*, and detrimental to the Affairs of the Church, rejected the Emperor's Offer. *Frederick* highly inrag'd at this Rebuff, immediately wrote to *Germany* for a Reinforcement of Soldiers for ſubduing the *Lombards*, who were making a brave Reſiſtance, and order'd *Trifan* his Chancellor to attack the Kingdom of *Puglia* with his Army. In the Beginning of the Summer *Philip* Archbiſhop of *Cologne*, with many other great *German* Barons, and a ſtrong Body of gallant Soldiers, join'd the Emperor near the *Alps*, and march'd towards the *Milaneſe*, in order to burn and deſtroy that Country; but being met by the Army of the Confederates, a cruel and obſtinate Battle enſu'd, in which the *Germans* were defeated, and the greateſt Part of them kill'd, and *Frederick* being diſmounted, was in great Danger of his Life, and with much ado, with a few of his Men, got into *Pavia*, where he found the Empreſs, who not having heard any News of him for four Days, had given him over for Dead, and was bitterly lamenting the Loſs of him<sup>2</sup>. *Trifan*, who had come to attack *Puglia*, and was encamp'd about the Village of *Celle*, being met with by *Tancred* Count of *Lecce*, who had been recall'd from Exile, and was in great Favour with the King, and *Roger* Count of *Andria*, with many other Barons, and a good Body of the Natives of *Puglia*, was repulſ'd, and forc'd to return without being able to do any Thing.

IN the mean Time *William*, who had been diſappointed in his Marriage with the Daughter of the Emperor of the Eaſt, and had refus'd the Daughter of the Emperor of the Weſt, being now Twenty-three Years of Age, and left alone, began ſeriously to think of Marriage; ſo that by the Advice of the Pope, he ſent *Elia* Biſhop of *Troja*, *Arnulfo* Biſhop of *Capaccio*, and *Florio Camerota* the Juſtice, to *Henry II. King of England*, to demand *Joan* his Daughter in Marriage; the Ambaſſadors were kindly receiv'd by the King, who having conven'd his Barons in Parliament, with their Advice he conſented to the Demand, and concluded the Marriage<sup>3</sup>. And the Lady immediately ſet out, accompanied with the Archbiſhop

<sup>1</sup> Romuald. Arch. de Salern. apud Baronium: Ut ipſe Imperatoris filiam in uxorem acceptam, cum eo pacem perpetuam faceret.

<sup>2</sup> Sigon. de R. Ital. anno 1176.

<sup>3</sup> Roger. Hovenden's *Annals* of England.

of *Tork*, and other *English* Lords as far as the City of *S. Egidio*, where she was receiv'd by *Alfano* Archbishop of *Capua*, *Riccardo* Bishop of *Syracusa*, and *Roberto* Count of *Caserta*, with Twenty-five Gallies, under the Command of *Gualtieri di Moac* Admiral, and conducted to *Naples*, where they celebrated the Feast of *Easter*. But the young Lady loathing the Sea, went by Land through *Salerno* and *Calabria*, and having pass'd the Straits of *Messina*, landed at *Palermo*, where she was magnificently receiv'd by the King her Husband, and the Marriage being solemniz'd, she was crown'd Queen of *Sicily*.

IT was at this Time that the Archbishop of *Palermo*, who had perform'd all these Functions, taking hold of this favourable Juncture, begg'd of the King, that the Crime of Adultery might be punish'd by the Bishop of the Diocess where it was committed, and that the Prelates might take Cognizance of the Offences of the Clergy; so that at his Request that Constitution was made by *William*, which we read in the Volume of our Constitutions, under the Title *De Adulteriis coercendis*, which by a Mistake of our Writers is attributed to *William I.* his Father. But if we may give credit to *Inveges*<sup>1</sup>, who has recorded a Privilege granted by *William* some Years before, dated in *April 1172*, and directed *Comitibus, Justiciariis, Baronibus, Et universis Bajulis, qui sunt in Parochia, Et Diocesi Archiepiscopatus Panormi*, by which the King ordains, that the Crime of Adultery be tried within the Jurisdiction of *Walter* Archbishop of *Palermo*. And indeed in the Reign of Queen *Constantia*, we find, that the Cognizance of this Crime belong'd to the Ecclesiasticks, which afterwards came to be disus'd, and they had only the Cognizance of the Crimes of the Clergy of their own Diocesses.

AT this Time the Kings were wont to appoint Dowries for their Wives, so that *William* appointed Queen *Joan* her's; and in the Supplement made by the Abbot *Giovanni*, to the Chronicle of *Sigisbert*, we have the Writ appointing this Dowry<sup>2</sup>, wherein the Cities of *Monte S. Angelo* and *Vesti*, with their Tenements and Appurtenances, are granted to this Queen for her Dowry; and besides, the King gave her the Estate of Count *Gaufredo*, to wit, *Lefina, Pescisci, Vico, Caprino, Varano, Hchitella*, and all that the Count had in the County of *Monte S. Angelo*. She likewise got *Cadelaro, Santo Chierico, Castel Pagano, Bisentino, and Conaro*. As also the Monastery of *S. Giovanni in Lama*, and the Monastery of *Santa Maria di Pulsano*, with all the Tenements which the said Monasteries held in the foresaid County of *Monte S. Angelo*.

THE Emperor *Frederick*, after having receiv'd so great an Overthrow from the People of the *Milaneze*, began seriously to consider, that he was not able to maintain a War against the *Lombards*, when he had both the Pope and King *William* his Enemies; therefore, at the earnest Desire of his Barons, who protested that they would no longer follow him, if he did not reconcile himself with the Pope; he plainly, without any Fraud, resolv'd to make Peace with *Alexander*; and because the Negotiations of this Peace, and the Pope's going to *Venice*, are variously related by the Modern Writers, who having stuff'd their Histories with many Fables, have pav'd the Way for Painters to take the same Liberty, therefore we shall trace the most accurate Writers, and especially the most exact *Capecelatro*, and *Agostino Inveges*, who have more narrowly than others, search'd after these Events in contemporary Authors, and particularly from the History of *Romualdo* Archbishop of *Salerno*, who was present at the Treaty as King *William's* Ambassador; and it ought not to seem tedious, if we give a minute Narrative of these Transactions, as they really happen'd, because they will be found not to be extraneous or foreign to our Purpose, but rather very proper or pertinent to it.

THEREFORE *Frederick* being resolv'd to make Friends with *Alexander*, sent his Ambassadors to *Atagna*, the Place of his Residence, to ask Peace of him; the Ambassadors were the Bishop of *Magdeburg*, the Archbishop of *Mentz*, the Elect of *Worms*, and the Protonotary of the Empire, four Men of great Worth, and who had been often employ'd in such Affairs. These having laid open their Commissions to the Pope, after various Conferences, which lasted fifteen Days, at last in a manner adjusted the Differences betwixt him and their Master; but when they insisted that all the Differences betwixt the Emperor and the People of the *Milaneze*, and the Cities of *Lombardy*, might be made up, they found they could not put the last

<sup>1</sup> Inveg. hist. *Palerm.* tom. 3. A. 1172.

<sup>2</sup> V. Hovenden Ann. Angliæ. *Capec.* hist. lib. 3.

Hand

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Hand to the Peace, without the Presence of the Emperor, and Deputies of the said Cities; therefore it was concluded, that the Pope should go immediately to *Lombardy*, to have an Interview with *Frederick*, and that free Passage, and a Safe-Conduct should be given by each Party, to all that had a mind to go to the Place where the Meeting should be appointed, and to remain there, and depart at their Pleasure, without any Molestation. For which end the Pope sent Cardinal *Ubaldo* Bishop of *Ostia*, *Rinaldo* Abbot of *Monte Cassino*, Cardinal of *S. Marcellino*, and *Pietro* of the Race of the Counts of *Marfi*, to take the Oath of the Emperor, and of the Confederates, that they would observe the Safe-Conduct, and to agree upon a Place for the Interview; and it was appointed by both Parties to be in the City of *Bologna*. The Pope likewise sent his Legates to desire King *William* to send some of his Barons in his Name to be present at this Interview; because he did not intend to conclude a Peace with the Emperor, if he, who had been so stedfast a Supporter of the Interest of the Church, was not also comprehended<sup>1</sup>; upon which Message, the King presently sent *Romualdo* Archbishop of *Salerno*, Author of this Relation, and *Ruggerio* Count of *Andria*, High Constable, to be present in his Name at all that should be transacted. Then the Pope left *Alagna*, and by the Way of *Campania* came to *Benevento*, and from thence went to *Siponti* and *Vesti*, where, with many Cardinals, and the said Ambassadors, he took Shipping in the Gallies ready prepar'd for him by King *William*, and had a pleasant Voyage to *Venice*, where being honourably receiv'd, he was lodg'd in the Monastery of *S. Niccolo del Lito*, and the next Day was conducted by the Doge and the Patriarch, and a great Number of Bishops, with a vast Multitude, to the Church of *St. Mark*, and from thence went to the Patriarch's Palace, which had been magnificently prepar'd for his Lodging and Entertainment.

THE Emperor *Frederick* hearing of the Pope's Arrival in *Venice*, sent thither the Bishop of *Magdeburg*, the Elect of *Worms*, and his Protonotary, to desire that he would be pleas'd to pitch upon another Place for the appointed Interview, because he, the Emperor, had a great many Enemies in *Bologna*. To which *Alexander* answer'd, That that Place had not only been fix'd upon by him, the Emperor, but also by the Ambassadors of both Parties, and by all the confederated *Lombards*, therefore, without the Consent of all, he could not alter it; but, that the common Peace might not be retarded, he caus'd all the Deputies to be conven'd in *Ferrara*, whither he likewise went himself, and call'd a Meeting in the great Church dedicated to *S. George*; where, in the Presence of them all, he made a long Speech about the Affairs of Peace. And the Emperor having sent seven Ambassadors, the Pope appointed as many Cardinals, and the confederated *Lombards* deputed the Bishops of *Turin*, *Bergamo*, and *Como*, the Elect of *Asti*, *Gerardo* Poſce a *Milanese*, *Goezzo* a Judge of *Verona*, and *Alberto* *Gammara* a *Brescian*, who, after various Disputes, at which King *William's* Ambassadors were also present, with common Consent agreed, that the Interview should be in *Venice*.

THE Pope immediately dispatch'd *Ugone da Bologna*, and Cardinal *Ramieri*, with some *Lombards* to the Doge, and People of *Venice* (the Government being then lodg'd in the Nobility and People, and not as now in the Nobility only<sup>2</sup>) to desire them to engage themselves, that he, and all those in Company with him for treating of a Peace, might freely enter their City, remain in it, and depart at their Pleasure, without suffering any Damage or Detriment in the least, and that they would not suffer the Emperor to enter without the Pope's Consent; the *Venetians*, without taking much Notice of the last Part of the Demand, granted *Alexander's* Request; and he immediately left *Ferrara*, and return'd to *Venice*. Now the Congress for a Peace was open'd, but many Difficulties and Differences arising, it was not likely to be easily concluded; therefore the Pope, that the Trouble they had already been at might not prove fruitless, propos'd, that there should be a Truce with the *Lombards* for six Years, and with the King of *Sicily* for fifteen; to which the rest agreeing, the Emperor's Consent was only wanting to finish it; and the Chancellor having gone to the Emperor with this Proposal, at first he reject'd it; but he afterwards consented, upon Condition that the Pope should restore to the Empire the Estate of the Countess *Matilda*, which *Alexander* would by no means agree to; thus was the

<sup>1</sup> Romual. Archiep. Salern. Nequaquam cum Imperatore sine Rege Wil. pacem facere.

<sup>2</sup> V. Lo Squittinio della liberta Veneta di M. Velfero.

Time spun out ; for the Emperor was at *Pomposo*, near to *Ravenna*, and a great deal of Time was spent in sending Messengers on every Incident that happen'd, and waiting their Return ; therefore, at the Request of the Chancellor, and the rest of the Emperor's Ambassadors, the Pope consented that *Frederick* should come to *Chiozza*, a Place distant only Fifteen Miles from *Venice*, and that without his Liberty he should come no nearer. But *Frederick* was no sooner arriv'd at *Chiozza*, than some of the Populace of *Venice* went to wait upon him, and tell him not to delay to come to the City, because by his Presence the Peace would be concluded to his Advantage, and they would do their utmost to let him in.

IN the mean time the Pope had sent his Legates to *Chiozza*, to tell the Emperor, that if he was resolv'd to make a Truce for Six Years with the *Lombards*, and for Fifteen with King *William*, they would take his Oath, and then with his Blessing he might come to *Venice*. But *Frederick*, pleas'd with what the Populace had offer'd him, and waiting till they should perform their Promise, pretended that it was a new Proposal, and requir'd Time to be consider'd ; thus from Day to Day he delay'd giving his Answer ; so that the Cardinals suspecting that the Emperor was hatching some Trick, were so much puzzled, that they knew not what was fit to be done ; and the Populace of *Venice*, resolving to perform their Promise to *Frederick*, assembled in the Church of *St. Mark*, mutinied against the Doge, and cried out, that it was a shameful Thing, to suffer the Emperor to be scorch'd with the Heat of the Season, tormented with Gnats and Fleas, by not allowing him to enter *Venice*, which Injury would stick in his Stomach, and some time or other be retaliated upon them and their Children ; and therefore the Republick ought immediately to invite him to come, and they would have it so ; the Mob having thus spoken with great Boldness, the Doge answer'd them, that the Senate had sworn to the Pope, that the Emperor should not be suffer'd to enter *Venice* without his Consent ; but this Excuse not weighing with the Mob, he was forc'd to give way to them, and to send some of their own Number to tell the Pope, that they had a Mind to bring the Emperor into *Venice* ; accordingly they went, and finding the Pope asleep, without a moment's Delay, irreverently awak'd him, and having insolently told him their Errand, it was with great Difficulty that the Pope could persuade them to delay the Emperor's coming till the next Day.

THE News of this Fact was quickly spread over all the City, and the *Lombards* and others, who were there negotiating the Peace, afraid, that if the Emperor should come into *Venice* against the Pope's Will, he would make them all Prisoners ; and now distrusting the Faith of the *Venetians*, they all left that City, and went to *Trivigi*. But King *William's* Ambassadors, nothing startled at what had happen'd, went immediately to the Pope, and bid him take Courage and be afraid of nothing, for they had four well arm'd Gallies, with which they would carry him, in spite of the *Venetians*, whither he thought fit, and this would be a Warning to him not to trust to the *Venetian* Faith another Time ; then they went to the Doge's Palace, where having found him with a great many *Venetians*, they began to upbraid them with the Favours their Master had done them, which did not deserve such Usage, and said, if they had known that they were to allow the Emperor to come into their City without the Pope's Leave, they would have return'd to give their Master an Account of the Wrong done him, who knew how to do himself Justice. But the Doge little minded this menacing Speech, though he endeavour'd to soften the Ambassadors with smooth Answers, by assuring them, that they needed not to be afraid of the Emperor's coming ; yet they return'd to their Lodgings in great Wrath, and at parting told the Doge, that they would use all Means to get their Master to revenge himself suitably to the Injury done him ; and order'd the Gallies to be ready to depart next Morning. This Conversation being told amongst the *Venetians*, frighted them terribly, for they were afraid that if the Ambassadors should go away in such Disgust, King *William* would imprison all the *Venetians* that were in his Dominions. Therefore a great Number of those who had Relations in *Puglia*, in a tumultuous Manner, went to the Doge, and told him, that for pleasing the Emperor, from whom they reap'd no Advantage, it was not fit to incense the Ambassadors, and their Master King *William*, from whose Dominions they drew so great Profit, which would indanger both the Lives and Estates of their Relations, who were settled there ; moreover they desir'd the Doge to let them know, who they were that

that had advis'd to allow the Emperor to come to *Venice*, before he had concluded the Peace with the Pope, that they were ready with their Arms to revenge it.

THE Doge and Senate, finding this obstinate Resolution, and fearing that if the Citizens should once take up Arms, the Result would be Sedition, sent some Persons of Distinction to beg of the Pope to pardon the Trouble he had met with, and by all means keep *William's* Ambassadors from departing: But these seeming fix'd in their Resolutions, notwithstanding the Intreaties of the Pope and the Doge, occasion'd, that the next Morning a Proclamation, by order of the Republick, was publish'd on the *Rialto*, forbidding the Emperor's coming into the City so much as to be mention'd by any Person, till the Pope should first order it.

AS soon as *Frederick* was appriz'd of this at *Cbiozza*, seeing himself disappointed, he began to speak more favourably of the Peace to the Cardinals that were with him; and besides, the Chancellor, and the other *German* Barons having told him plainly, that it was necessary to make Peace with *Alexander*, and to acknowledge him for lawful Pope; they at last persuaded him to send *Henry* Count of *Dieffa*, with the Cardinals to *Venice*, to promise upon Oath, that as soon as he should enter the City, he should swear and confirm the Truce with the Church, the King of *Sicily*, and the *Lombards*, exactly in the same Terms, as it had been stipulated by the Deputies of both Parties.

THIS being executed by the Count, the *Venetians*, by order of the Pope, went with Six Gallies to wait on the Emperor, and conducted him to the Monastery of *St. Nicolas*, and the next Day *Alexander* hearing of his being come, went with all the Cardinals, King *William's* Ambassadors, and the *Lombard* Deputies, to the Church of *St. Mark*, and sent three Cardinals to *Frederick*, to absolve him, and all his Barons from the Censures of the Church. Then the Doge, with the Patriarch, accompanied by all the chief Noblemen of *Venice*, went to *St. Nicholas's* Church, and having taken the Emperor aboard of their Gondolas, in great Pomp, conducted him to *St. Mark's* Church; where a great Multitude had conven'd to see this famous Sight: And *Frederick* as soon as he landed, immediately fell down at *Alexander's* Feet, who was sitting in his Pontificalibus, amidst the Cardinals and other Prelates, in the Portico of the Church, and laying aside the Loftiness of Imperial Majesty, he threw off his Mantle, and prostrated himself before him, with his Body extended on the Ground, humbly adoring him: At which Action the Pope being mov'd, with Tears in his Eyes, rais'd him from the Ground, kiss'd and bless'd him; and then the *Germans* singing *Te Deum*, they both enter'd the Church; from thence, after having receiv'd the Pope's Benediction, he went to lodge in the Doge's Palace, and the Pope, with his Followers, return'd to his former Lodging.

THUS in the beginning of *August* of this Year 1177, the Truce betwixt *Frederick* and the *Lombards* for Six Years, and betwixt him and King *William* for Fifteen, was concluded, ratified and sworn to, not only by *Frederick*, but also by the Count of *Dieffa*, and Twelve Barons of the Empire, in the Name of *Henry* his Son. On the other Side, it was likewise sworn to by the Archbishop *Romualdo*, and *Ruggiero* Count of *Andria*, King *William's* Ambassadors, who promis'd that their Master should ratify it in two Months Time, and it was also sworn to by Twelve of his Barons: For which end *Frederick* sent Ambassadors to *Sicily*, who arriv'd at *Barletta* the Ninth Day of *August* this Year 1177, from thence they went to *Palermo*, and were honourably receiv'd by the King, who in his Name deputed *Ruggiero dell' Aquila*, and Eleven other Barons, to fulfil his Oath; and the Deputies of the Cities of *Lombardy* having taken the same Oath, the Congress broke up, and every one return'd joyfully to their own Lodgings.

THE Peace betwixt the Pope and *Frederick* being thus settled, the News of it soon reach'd the Anti-pope's Faction, who likewise yielding, came and threw themselves at *Alexander's* Feet, renounc'd the Schism, and were graciously receiv'd into his Favour: And *John* Abbot of *Strumi*, the Anti-pope, by his Faction call'd *Callistus* III. the Year following 1178, having left *Monte Albano*, whither he had retir'd, came to *Tuscolo*, whither the Pope had gone from *Venice*, and also prostrated himself at his Feet, and ador'd him as true Pope, which put an end to the Schism that had lasted for Seventeen Years running; and the Pope created *John*, Archbishop and Governor of *Benevento*, where soon after he died of Grief.

IN the mean time the Pope and Emperor had left *Venice*, the Emperor, who went first, had gone to *Ravenna*, and the Pope being conducted by four *Venetian* Gallies,

Gallies, landed at *Siponto*, and from thence by the way of *Troja* and *Benevento*, went to *Alagna*: And shortly after, being invited by the *Romans*, on the Feast of *St. Gregory*, he made his Entry into *Rome*, and was receiv'd with great Pomp. And the Emperor, after a short Stay at *Ravenna*, went to *Lombardy*, and from thence to *Germany*.

THUS ended these Transactions, which are variously reported by the Modern Historians, and particularly by some *Sicilians*, who have so stuff'd their Volumes with innumerable fabulous Stories, that *Agostino Inveges* himself, a *Palermitan*, gives no manner of Credit to them. I could find no better Voucher for such Facts, than *Romualdo* Archbishop of *Salerno*, of Royal *Norman* Blood, and a Prelate of great Worth, who, as King *William's* Ambassador, was personally present at all the Transactions, and who, in his Chronicle, has transmitted them to Posterity, and deserves to be more credited than any other Writer on that Subject.

## S E C T. I.

### *The Dominion of the Adriatick Sea.*

ALL that Story then, of *Alexander's* going to *Venice* in the sham Habit of a Pilgrim, is Fabulous; and what is yet more ridiculous, is, that he continued there for a long Time disguis'd, and serv'd as a Cook. And what these Writers make *Alexander* say to *Frederick*, when he prostrated himself at his Feet, and *Frederick's* Answer, was no less absurd. The Sea-fight, which they have invented betwixt the *Venetian* Fleet, and that fictitious one of the Emperor, who, at that Time, had no Naval Forces, and their having made *Orbo* his Son Admiral, who, according to *Sigonius*, could be no more than five Years of Age, and a Thousand other forg'd Adventures, unhappily maintain'd by *Cornelio Frangipane*, in that *Allegation*, which is now printed in the sixth Tome of the Works of *P. Paolo* the *Servite*, are all Dreams.

AND what they have written of Pope *Alexander's* having granted on this Occasion to the *Venetians*, the Dominion and Keeping of the *Adriatick* Sea, from whence the Solemnity of marrying that Sea every Year on *Ascension* Day, has its Rise, is no less Romantick; as if it had been in *Alexander's* Power to give the Dominion of the Seas, as other Popes pretended to give that of the Land; such Extravagance is not to be credited of *Alexander*, who was very moderate, and knew very well the Bounds of his Power, and if *Frederick* was averse to him, and had often Disputes with him, it was only because he unjustly would not acknowledge him to be true Pope; and the Cities of *Lombardy* taking advantage of this Discord, gave Rise to so many Quarrels and Mischiefs wherewith the Church of *Rome* was miserably afflicted for Seventeen Years.

THIS Truth was well known to that most grave Historian *Guicciardini*<sup>1</sup>, who likewise writes, that this Grant of *Alexander's* is not to be found in History, nor supported by any Testimony, but that of some *Venetians*, which, being in their own Cause, and of such Consequence to them, deserves no Credit. But the *Venetians* who are more wise, and knowing in the Transactions of past Times, have even rejected this false Opinion of their Country-men, and their famous Divine and Counsellor of State *Fra. Paolo* the *Servite*, in his Treatise of the Dominion of the *Adriatick* Sea, has endeavour'd at large to prove, that the *Venetians* are Lords of the Gulf, not by the Grant of *Alexander*, or other Popes or Emperors, but by a Title coetaneous with the Republick, and by the Lawyers call'd *Pro de relicto*; pretending, that the last Emperors of the West being diverted by various Undertakings, and wanting Naval Forces to defend the Gulf, abandon'd it, and did not trouble themselves about the Possession of it, whence it came to pass, that the *Venetians* growing afterwards powerful at Sea, and finding the Gulf without a Master, possess'd themselves of it, and have ever since maintain'd the Dominion of it against all Opposers.

<sup>1</sup> Guicc. lib. 8. hist. Ital.

BUT

I



BUT allowing the Dominion of the Sea, like that of the Land, to be acquirable, and not repugnant to Nature, as the incomparable *Hugo Grotius* argues at large in his *Mare liberum*; and granting what *John Selden* writes to the contrary in his Book, which in opposition to *Grotius*, he intitled *Mare clausum*; our Forefathers, surely on better Grounds, claim'd the Dominion of the *Adriatick* Sea, as belonging to the Kings of *Sicily*, and not to the Republick of *Venice*, by a much better Title than the *Venetians* pretend to; for no Prince ever abandon'd that Gulf, but always had it in his Head to recover it when lost, as soon as he found himself able to compass it; the *Normans* had conquer'd it from the *Greeks*, who, upon the declining of the Western Empire, were Masters of all those Gulfs that surrounded these our Provinces; and 'tis beyond all Controversy (as is clear from the preceding History) that to the Time of *Charles the Great*, the *Greek* Emperors were Masters of the *Adriatick*, and frequently sent their Fleets thither, to maintain their Dominion in *Puglia*, against the Invasion of foreign Nations; yea, the *Venetians* often join'd with the *Greeks* against *Charles the Great*, and *Pepin* his Son, who were seeking to wrest from them the Dominion of the *Adriatick*; and *Pepin* was once so inrag'd against the *Venetians* for assisting the *Greeks* with Men and Money, that after having chas'd them out of the *Adriatick*, and destroy'd their Fleet, he pursu'd them to the very furthest Creeks of the Gulf, and took a great Part of their City, which was then made up of many small Islands; and the *Venetians* would have been utterly ruin'd, and subjected to the Dominion of *Pepin* King of *Italy*, if *Charles the Great*, his Father, had not disapprov'd of it, given them Peace, and laid the Blame of their Confederacy with the *Greeks* on the Dukes, and not on the *Venetians*¹.

THIS War however prov'd very advantageous to the *Venetians*, for a great Part of those People that liv'd upon the Banks of the many Channels and Shores (which were subject to *Venice*, and were Parts and Members of that City) leaving their Habitations, came and settled upon Sixty small Islands about *Rialto*, which being join'd together by Bridges, in Time became a great and magnificent City, where the supreme Authority was lodg'd in the Dukes and Senate.

THE *Normans* having afterwards driven the *Greeks* out of *Sicily*, *Puglia* and *Calabria*, 'tis not to be doubted but our Princes, at their Pleasure, scour'd the *Adriatick* Sea with strong Fleets; for, not to mention a Hundred other Instances, in the Year 1071, when the famous Duke *Robert Guiscard* was invited by his Brother *Roger* to come to his Assistance, in the Siege of *Palermo*, he, as *Lupus Protospata* writes², went with a powerful Fleet of 58 Ships, and cross'd the *Adriatick*. And after all these Provinces came under the Dominion of the *Normans*, the famous King *Roger I.* not content with such great and boundless Conquests, became much more powerful at Sea than the Emperors of the East themselves, and carried his victorious Flag not only into *Dalmatia*, *Thrace*, and to the very Gates of *Constantinople*; but his powerful Fleet cross'd over to *Africa*, where he conquer'd both Cities and Provinces. There was not a Prince in the World in his Time, that was superior to him in Naval Forces, with which he had frequent Occasions to fight against those of the Emperor of the East (who was also powerful at Sea) and always came off victorious. His Power at Sea may likewise be known, by the many Fleets which he maintain'd; for one Admiral not being sufficient to have the Charge of them, he was forc'd to make many, over which he put one, who was therefore call'd *Admiratus Admiratorum*; such as *George* of *Antioch*, High Admiral in the Reign of *Roger*, and *Majone* in that of his Son *William*. And so great was the Power of these *Norman* Kings in those Days at Sea, that there was no Harbour in their Dominions, that (besides the Provincial Admiral) had not other inferior Officers subordinate to the Admirals, whose Business was to oversee the Building and Repairing of the Ships and other Vessels, and to assign them Stations for the Protection and Freedom of Commerce, and Security of the Sea Ports along all the Coasts of their Dominions; and there being many Harbours on the Coast of *Puglia*, which is of the greatest Extent on the *Adriatick*, (in which the Fleets from *Sicily* were wont to shelter themselves) that Gulf, in the Reigns of *Roger*, the Two *Williams*, and their Successors, was alwas guarded by the Ships and Fleets of these Kings; but the Ports most frequented in Time of Naval Expeditions, were those of *Vesti*, *Barletta*,

¹ V. Paul. Emil. de reb. Franc. lib. 3.

² Anno 1071. mense Julii. Dux transievit Adriatici Maris pelagus, perrexitque Siciliam cum 58 navibus.

*Trani, Bisceglia, Molfetta, Giovenazzo, Bari, Mola and Monopoli*, besides those of *Brindisi, Otranto, Gallipoli and Taranto*, almost all in the *Adriatick*; the Pilgrimages to the Holy Land, were often made from the *Adriatick*. The Fleets of the Emperors *Frederick* and *Henry*, stopp'd in the Ports of the *Adriatick*; and the Army for *Syria* was transported from thence, and in fine, all the Expeditions to *Greece* and the *Levant*, went from this Gulf.

AND though in the Reigns of the Princes of the Family of *Anjou*, the Power of the Kings of *Sicily* was not so great, yet the Two *Charles's* of *Anjou*, and the other Kings of that Race maintain'd powerful Fleets at Sea, insomuch that they had the Command of that Gulf at their Pleasure.

IN later Times, and particularly under the Kings of the *Aragon* Family, when our Sea Forces were much decreas'd, and on the contrary, those of the *Venetians* much increas'd; the *Venetians* having the Freedom of the Gulf, without being disturb'd by the Fleets of any neighbouring Prince, pretended to the Dominion of it, and took upon them to give Laws to those who navigated it; not to suffer arm'd Fleets to enter it; to claim all Prizes taken in it, and that none could carry on Commerce there without their Permission; and by the Weakness of the neighbouring Princes, they came to that Height of Boldness, as not to suffer other Fleets to navigate the Gulf, insomuch that to the great Reproach of the *Spaniards*, when *Mary*, the Sister of King *Philip IV.* was to be married to *Ferdinand* King of *Hungary*, the Emperor's Son, and came to *Naples* with a great Number of Gallies, and a Pomp suitable to such great Princes, in order with the same *Spanish* Fleet to pass thro' the *Adriatick* for *Trieste*; the *Venetians*, that it might not incroach upon their pretended Right to that Sea, oppos'd it so stiffly, as to tell the *Spaniards*, if they would not accept of their Offer, to convoy them with their Fleet, they might depend upon it, that the Queen must fight her Way through their Fleet to her Wedding; they were forc'd shamefully to submit, and the Queen, by the way of *Abruzzo*, went to *Ancona*, where she was receiv'd by *Antonio Pisani* with Thirteen light Gallies, and landed at *Trieste*<sup>1</sup>. To this low Pass were our Sea Forces reduc'd in the Reigns of the late Kings of *Spain*; but with regard to the preceding Ages, and especially the Time of the *Norman* Kings, those of *Sicily*, on better Grounds, could boast of the Dominion of that Sea, than the *Venetians*. Whence with us, amongst the Manuscripts of the Royal Prerogatives, recorded by *Chioctarelli*<sup>2</sup>, we find one of the controverted Points is, whether the Dominion of the *Adriatick* Sea belong'd to the *Venetians*, or to the Kings of *Naples*.

<sup>1</sup> Nani Historia Veneta, lib. 8. A. 1630.

<sup>2</sup> Chioc. in Indice, tom. 21. var. 5.





## C H A P. II.

*The Expedition of the Sicilians into Greece. The Marriage of Constantia to Henry King of Germany. The Death of King William, and his Laws.*



U T to return to our *William*, there are very few of this wise King's Actions remaining upon Record; for Archbishop *Romualdo's* History ending here, and there being no other Authors of these Times, excepting the Chronicle of the Anonymous Monk of *Cassino*, which is preserv'd in *Monte Cassino*, on which *Camillus Pellegrinus* made some Notes; and some short Passages written by *Riccardo da S. Germano*, *Roberto del Monte*, and *Nicetas* a Greek Author; all the other Actions of this glorious King, for the Space of Eleven Years, are almost buried in the Darkness of Antiquity. Some Things with great Care, have been search'd into by *Capecelatro*, and the most accurate *Inveges*, whom we shall follow as the best Vouchers.

I N the mean time Pope *Alexander* being fix'd in *Rome*, resolv'd in some measure to remedy the by-past Disorders, for which end, in the following Year 1179, according to the Anonymous Monk of *Cassino*, and *Pellegrinus*<sup>1</sup>, he conven'd a Council in the *Lateran* Church, wherein were present Three hundred Bishops, besides Abbots, and a great number of other Prelates<sup>2</sup>. In this Council many Heresies that had crept in amongst Christians, were condemn'd: Many Decrees were made for suppressing the Covetousness of those, who lent Money upon Usury, by fixing lawful Interest; and many others for remedying the late Confusions in the Church of *Rome*.

B U T the next Year 1180, *Alexander* bent his Thoughts upon a more glorious Enterprize: He wrote to all Christian Princes, Bishops and Prelates of the Church, exhorting them to go to *Palestine*, and recover the Holy Land from *Saladin* the *Soldan* of *Babylon*, a wise and gallant Prince, who had succeeded his Father *Saracoon*, and was opposing the Christians of these Parts. *Henry* King of *England*, and *Philip* King of *France*, first prepar'd great and numerous Armies for this Expedition; but *Alexander*, who, to his Praise, had mov'd the Christian Princes to this Undertaking, did not see it put in Execution, for about the End of the following Year 1181, in the Month of *September*, he died in *Rome*, after he had been Pope for Twenty-two Years. He was succeeded by *Ubaldo da Lucca*, Cardinal of *Ostia*, who took the Name of *Lucius* III.

T H E Emperor *Emanuel* had died a little before in *Constantinople*, and was succeeded by *Alexius* his Son. In the mean Time our *William*, for Reasons recorded by *Roberto del Monte*<sup>3</sup>, having made a Truce for Ten Years with the King of *Morocco*, in the Year 1183, came from *Palermo* to our Provinces, where he visited *Monte Cassino*, and by the Way of *St. Germano* and *Capua*, return'd to *Palermo*<sup>4</sup>.

A B O U T this Time was born in *Assisi*, a City of *Umbria*, *Francis*, whose Father was *Pietro Bernardone*, a Man of a mean Condition; this *Francis* acquir'd the Fame of a great Saint, and founded the Order of *Minor Friars*, which prov'd so prolifick a Plant, that in process of Time it fill'd our Kingdom with so many

<sup>1</sup> Pellegr. in Castig. ad Anon. Cassin. A. 1179. |

<sup>2</sup> Guliel. Tirio lib. 21. cap. 26.

<sup>3</sup> Robert. de Monte ad ann. 1180:

<sup>4</sup> Pell. ad Cast. Anon. Cassin. anno 1183.

Monasteries

Monasteries of that Order, that their Number was not inferior to that of the Order of *S. Benedict*, of which we shall have Occasion to discourse, when we come to treat of the Ecclesiastical Polity of this Century.

SHORTLY after, this same Year 1183. Queen *Margaret* died in *Palermo*, who being a Lady of great Wisdom, had had a large Share in the Government of the Kingdom, both during the Reign of her Husband, and that of her Son. She was by the Order of *William* buried with great Pomp in the Church of *Monreale*, lately built by him, close by her two Sons *Roger* and *Henry*. She was a Lady of extraordinary Piety, for she not only founded an Abbey on the Skirts of Mount *Etna*, but enrich'd it with many Possessions, and gave it to the Monks of *S. Benedict*; she also gave a kind Reception to the Adherents of *Thomas* Archbishop of *Canterbury*, who had been banish'd by the King of *England*.

IN the mean Time *Saladin* bore hard upon the Christians in *Palestine*, and with continual Wars had reduc'd them to a very miserable Condition; whereupon *Baldwin*, and the other Princes that were there, sent the Patriarch of *Jerusalem*, the Archbishop of *Tyre*, and other Ambassadors to *Rome*, to solicit a sudden and powerful Assistance against so cruel an Enemy. The Ambassadors were kindly receiv'd by Pope *Lucius*, who sent them to *Henry* King of *England*, and *Philip* King of *France*, who, together with *William* King of *Scotland*, and many great Lords and Barons of *France* and *England*, took upon them the Cross, and made every Thing ready for a Voyage to *Syria*. But while the Pope was daily pressing their Departure, he was seiz'd with a severe Sickness, and died in *Verona* the 7th of *December* in the Year 1185, and was honourably buried in the Cathedral of that City, and quickly succeeded by *Lamberto Crivello*, a *Milanese*, who call'd himself *Urban III*.

MEAN while great Insurrections and Tumults happen'd in *Constantinople* against the *Latin* Inhabitants, by the Means of *Andronicus the Tyrant*, who resolving to deprive *Alexis* of the Empire, enter'd the City with an Army, furiously attack'd the *Latins*, and with Fire and Sword, sparing neither Age nor Sex, he cruelly burnt them, together with their Habitations; and the Churches, Priests and Monks had the same Fate. This cruel and barbarous Usage of the *Latins* excited our *William's* Resentment; for the Tyrant, not content with these Barbarities, had caus'd the Youth *Alexis* to be strangled with a Bow-string, and had taken Possession of the Empire; therefore *William*, this Year 1185, assembled a great Army in *Sicily*, of which he appointed Count *Tancred* General, who was afterward the fourth King of *Sicily*, and sent it against the *Greeks*, in a Fleet commanded by *Margaritone* his Admiral, who took and pillag'd *Durazzo*, *Thessalonica*, and many other Places, where the inrag'd *Sicilians* committed all manner of Cruelty, without regard to any Thing, *Andronicus* not daring to come out to oppose them, and put a Stop to so much Mischiefe. The *Greeks* seeing themselves so barbarously treated by the *Sicilians*, and that *Andronicus* did not seem to be much concern'd about their Miseries, began to hate him to that pitch, that they rais'd a Mutiny in *Constantinople*, and immediately depos'd him; and the incens'd Mob, who never stop till they have gone to the utmost Excess, not content with having depos'd him, slew upon him, and put him to a shameful and cruel Death. *Isachius Angelus* immediately took Possession of the Empire, and having assembled the *Greek* Forces the best way he could, attack'd the *Sicilians* with such Fury, that, according to *Nicetas Coniata*, a *Greek* Writer, he put them to flight, and drove them out of *Greece*.

BUT the Want of Children very much afflicted King *William*; for being now nine Years married to Queen *Joan*, and she still barren, he began seriously to think of the Mischiefs his Kingdom would be expos'd to after his Death, if before-hand he did not provide a Successor. There was no lawful Issue of the *Norman* Kings left, but *Constantia* the posthumous Daughter of his Grandfather King *Roger*; as for *Tancred*, whom many Years before he had recall'd from *Greece*, and invested with the County of *Lecce*, which belong'd to *Robert* his Mother's Father, he made no account of him, but look'd upon him as a Bastard, tho' he was the Grandson of *Roger*; yet, as we have said, was not born in lawful Wedlock. Therefore this Prince was courted by many; and *Sigomius* says, that this same Year 1185, the Emperor *Frederick*, who in the Year 1177. had enter'd into a fifteen Years Truce with *William*, sent to demand her in Marriage for his Son *Henry* King of *Germany*. *William*, who had lost all Hopes of having Children, and being advis'd by *Gualtieri* Archbishop of *Palermo*, consented to the Match; the Archbishop hatching Mischiefe  
against

against *Matteo* Vice-Chancellor of *Sicily*, by whose Means the Church of *Monreale* had been substracted from his Jurisdiction by King *William*, as we have said, thought this would be the only way whereby he might be able to crush *Matteo* his Rival, as *Riccardo da S. Germano* observes; for the Dominion of the Kingdom being to go to another Family with *Constantia*, it was his Business to have the Marriage, already agreed to, concluded with *Henry* of *Suevia*, King of *Germany*, who when he should come to be King of *Sicily*, would be thankful to him for the Favour, and turn out *Matteo*. In a Word, he brought Matters so about, that at last he got *William* to conclude the Marriage with *Henry*; and this Year 1186, being 32 Years of Age, she was conducted from *Palermo* to *Milan*, where *Henry* was, and where the Marriage was celebrated with great Pomp and Magnificence.

BUT this being a Piece of History which the Modern Historians have intermix'd with many Fables, in order to set it in a true Light, it will be proper to discover all their Errors. Some say that *Constantia* was many Years a Nun in the Monastery of *S. Salvatore* in *Palermo*, being put there by her Father *Roger*, by reason of a fatal Prophecy of the famous Abbot *Giovachino Calabrese*, who, while she was yet a Child, said, that on her account there should be a great Fire kindled in *Europe*, that would prove the Ruin of her Family.

OTHERS, considering that this Story clash'd with what the Authors of these Times with one accord have written, that *Constantia* was born after *Roger's* Death, so that the Abbot *Giovachino* could prophecy nothing concerning her at *Roger's* Desire before she was born, say, that the Prophecy was made at the Desire of her Brother *William*, and not of her Father; and that her Brother being afraid of the unlucky Prediction, in order to frustrate it, shut up the Child in the foresaid Monastery.

*BERNARDO GIUSTINIANO*, Nephew of *S. Laurence*, says, that the King married *Constantia* to *Henry*, by the Instigation and Command of Pope *Alexander III.* whereas *Alexander* died in the Year 1181. *S. Antoninus* Archbishop of *Florence*, writes, that *Constantia* being grown old in the Monastery, Pope *Clement III.* in order to exclude *Tancred* from the Succession of the Kingdom, and to gratify *Henry*, caus'd her to be privately taken out of the Monastery, and dispensing with her Vows, married her to *Henry*, whereas *Clement III.* was not elected Pope till the Year 1188. *Fazzello* commits a greater Blunder, when he says, that the Instruments and Decrees of Pope *Celestine* for dispensing with *Constantia's* Vows of Virginity, are as yet to be read in the *Roman* Archives, and Publick Decrees; whereas *Celestine* was not elected Pope till the Year 1191, and this Pope always stood up for *Tancred* in Opposition to *Henry*, as we shall relate by-and-by. But these fabulous Stories deserve no Credit, since the Authors of these Times make no mention of such Facts, which they ought not to have conceal'd.

*UGONE FALCANDO*, having occasion twice to make mention of *Constantia*, one of the Times he speaks of her as being educated and brought up in the Royal Palace, not in a Monastery: *Sic & Constantia primis a cunabulis in deliciarum tuarum affluentia diutius educata, tuisque instituta doctrinis, & moribus informata, tandem opibus suis barbaros ditatura ditescit.* And in another Place of his History, telling, that when the People of *Messina* revolted against *Odone Querello*, and kill'd him, they believ'd that the Chancellor *Parzio's* Faction had a mind to marry *Constantia* to *Gaufrido* the Chancellor's Brother, to give him a handle to possess himself of the Kingdom, he says, *Et Constantiam Rogerii Regis filiam uxorem ducere, inde sibi dandam occasionem existimans, ut videretur Regnum justius occupare;* he speaks nothing of her being a Nun, which he ought to have mention'd in both Places, if there had been any such Thing.

THE Abbot *Arnoldo* a contemporary Author, who gives us a particular Account of the pompous and magnificent Celebration of this Marriage in *Milan*, makes not the least mention of these Facts. Archbishop *Romualdo, Nubricensis*, the Appendix to the Abbot of *Usserg*, nor Pope *Innocent* in the third Book of his Letters, wherein he frequently mentions *Constantia*, speak nothing of her being a Nun; for had it

<sup>1</sup> Gio. Villani hist. 4. c. 19. Franc. Petrarca in lib. Augu. Bocacio de Clar. Mulier. Tolo-  
meo di Luca, Fr. Alberto, Paolo Reggio, Faz-  
zello, Mourulico, S. Antonio Archiv. di Fio-

renza, and others, recorded by Inveges Anno  
1154 & 1185.

<sup>2</sup> In vita B. Laur. apud Surinm in 8 Januarii.

<sup>3</sup> Antonin. par. 3. tit. 19. c. 9.

been no more but the Indecency of the Action, and as a Thing not usual, that a Nun should marry, they were oblig'd to take some Notice of it. And 'tis plainly inconsistent to say, that this Marriage was made with the Pope's Consent; forasmuch as the Pope was for *Tancred's* having the Kingdom; and he was so far from disapproving of the *Sicilians* having crown'd him King, that he presently gave him the Investiture of it, as shall be related.

*GOFFREDO DA VITERBO*, an Eye-Witness, speaking of *Constantia*, on account of the Peace made betwixt the Emperor and the *Lombards*, says, she was the posthumous Daughter of her Father, and that she was married to *Henry* at thirty Years of Age: These are his Verses;

*Fuit Regis Siculi filia sponsa sibi,  
Sponsa fuit speciosa nimis, Constantia dicta,  
Posthuma post patrem materno ventre relicta,  
Jamque tricennalis tempore virgo fuit.*

And reckoning that *Roger*, according to the Abbot *Roberto* and *Fazzello*, died in the Year 1154, and that she was born after her Father's Death; when she married, she could be no more than Thirty-one Years of Age. And according to *Inveges*, who says, that this Marriage was concluded in the Year 1185, she was only Thirty Years old.

AND in fine, *Riccardo da S. Germano*, whose Chronicle *Baronius* never saw, speaking of this Marriage, says plainly, that *Constantia* was brought up in the Royal Palace, and not in the Monastery of *S. Salvatore*, and makes no mention of her being a Nun; and says, that she was married to *Henry* by Means of the Archbishop *Gualtieri*, and not of the Pope: These are his Words, *Erat ipsi Regis Amita quædam in Palatio Panormitano, quam idem Rex, de consilio jam dicti Archiepiscopi, Henrico Alamannorum Regi filio Federici Romanorum Imperatoris in conjugem tradidit.* Which Author adds, that by the Advice of the same Archbishop, *Constantia* was appointed to be the undoubted Heiress of the Kingdom of *Sicily*: *Quo etiam procurante factum est, ut ad Regis ipsius mandatum, omnes Regni Comites Sacramentum præstiterint, quod si Regem ipsum absque liberis mori contingerit, amodo de facto Regni tanquam fideles ipsi suæ Amitæ tenerentur, Et dicto Regi Alemanniæ viro ejus.* Whereupon the King sent *Constantia* from *Palermo* to *Rieti*, accompanied with a great Train of Counts and Barons, where King *Henry's* Ambassadors with great Pomp receiv'd her, and conducted her to *Milan*, where she was receiv'd by the Emperor *Frederick* her Father-in-Law, and the Marriage was celebrated with great Splendor in the Gardens of *S. Ambrose* this Year 1186.

*WILLIAM* having thus concluded this Marriage with *Henry*, believ'd he had brought his Kingdom to a settled State; but it was soon disturb'd by the unhappy News of *Saladin's* Success in *Syria*; for having assembled a vast Army, he took the City of *Tiberias* in a trice, and then attack'd the Christian Army, which he defeated, and put to Flight, and made himself Master of the Holy Wood of the Cross. He made the King of *Jerusalem* Prisoner, and kill'd a great many of the Knights Templars and Hospitalers, and many Soldiers: *Fr. Terrico* Great Master of the Templars, the Count of *Tripoli*, and *Rinaldo da Sidone*, with a few Soldiers, escap'd with Difficulty by flight. By this Victory the Soldan was enabled to take *Arcon*, *Cæsarea*, *Nazareth*, *Bethlehem*, and all the neighbouring Places, and lay close Siege to the City of *Tyre*; and soon after having divided his Army, he march'd with a good Body of it to the Holy City of *Jerusalem*, which he took the fourth Day of *October* 1187. Such are the unspeakable Judgments of God; this City, which with so much Glory was reliev'd from the shameful Slavery of the Infidels by *Godfrey of Boulogne*, and other illustrious Italian, German, and French Captains, now, after the Space of Eighty-seven Years, returns again into the Hands of the Barbarians, without Hopes of ever being freed from their grievous and cruel Dominion.

THE Calamities of the East did not end here, but, to the great Detriment of the Christians, *Saladin* enter'd into a League with *Isachius Angelus* Emperor of *Constantinople*, who having got in a Present from *Saladin* all the Land of Promise, engag'd to assist him in the War with a hundred Gallies, and to stop all the *Latins* in their Passage to make War in *Syria*; Pope *Urban* upon hearing the fatal News of the Loss of *Christ's* Sepulchre, and the Holy Wood of the Cross, of the taking of *Jerusalem*,



*Jerusalem*, and of *Soliman's* League with the Emperor of *Constantinople*, was so grievously afflicted, that these Things should have happen'd in his Time, that he was seiz'd with a violent Sickness, of which in a few Days he died in *Ferrara* the 16th of *November* <sup>1</sup>, exactly forty Days after the taking of *Jerusalem*; and the next Day *Alberto* Cardinal di *S. Lorenzo* in *Lucina*, and Chancellor of the Holy Church, born in *Benevento* of the Family of *Morra*, was created Pope, and took the Name of *Gregory VIII*. This most religious Pope did nothing during his short Reign, but sollicite the Christian Princes to go to *Palestine* with a strong Army to assist the Christians; and while he was intent on so commendable a Work, he died in *Pisa*, having govern'd the Church not quite two Months; and twenty Days after his Death, in the same City, *Paulino Scolari* a Roman, of mean Parentage, Cardinal of *Palestine*, was elected Pope, and took the Name of *Clement III*.

THIS Pope, following the Footsteps of his Predecessors, wrought so effectually to get Relief sent to the Holy Land, by confirming the Indulgences granted for that end by Pope *Gregory*, that thereby, and his own Diligence, and that of *William* Archbishop of *Tyre*, who had gone to *France*, an Assembly met betwixt *Gisors* and *Trie*, in which were present *Philip* King of *France*, *Henry* King of *England*, with the Prelates and Barons of their Kingdoms, and *Philip* Count of *Flanders*, who having taken the Cross from the Hands of the Archbishop of *Tyre*, in the Year 1188. they set out upon so holy and glorious an Expedition; and for a Mark of Distinction among themselves, King *Philip* and his Frenchmen wore a Red Cross, and *Henry* and his Englishmen a White, and Count *Philip* with his Flemish took a Green. The Emperor *Frederick* no less willing to shew his Piety on this Occasion, was reconcil'd with the Pope, with whom he had had some Difference, and from the Hands of *Henry* Cardinal of *Albano* took the Cross, in order to go to *Palestine*, and made such Dispatch, that he was the first that went thither.

IT ought not to seem strange, that among so many Princes exhorted by the Popes to go to *Jerusalem*, our King *William* is not so much as mention'd, who, on account of the Richness of his Dominions, and their Vicinity to *Greece*, with which they had frequent Communication, and especially his powerful Sea Forces, was best enabled of all other Princes to go upon this Expedition; but (as Archbishop *Romualdo*, speaking of him to the Emperor at *Venice*, said) he was continually employ'd in so laudable a Work, by assisting with his Gallies the Pilgrims going to the Holy Sepulchre, and sending Relief to the Faithful, who were fighting there; so that there was no occasion to press him to a Work which was his constant Employment.

ON this Occasion 'tis said, that *Frederick*, before he went to *Palestine*, wrote that threatening Letter, full of serious and weighty Expressions, to *Saladin*, commanding him immediately to restore the Places unjustly possess'd by him in *Syria*; and that *Saladin*, with the like Haughtiness, answer'd all the Boasts and Menaces where-with his Letter was stuff'd, mocking both him and his Confederates. Both which Letters may be read in the Annals of *England*, written by *Roger* and *Mathew Paris*, and likewise inserted by *Capecelatro* in his History of the Norman Kings. Whatever Truth may be in these Letters, 'tis certain, that the Emperor having assembled an Army of a Hundred and fifty thousand Men, and a Fleet of Fifty-five Ships, the Year following set out for the Holy Land, but through the Treachery of the Greek Emperor (who, besides the League made with *Saladin*, was afraid that *Frederick*, by pretending to go to *Palestine*, might have a Design to take *Constantinople*, as had been falsely foretold by *Dositheus* the Monk) he was a whole Year in getting thither, having suffer'd grievous Hardships and Obstacles in passing through *Greece*, by the wonted Rapacity and Treachery of the Greeks.

BUT behold, a new, and unexpected Misfortune put *William's* Dominions in a terrible Convulsion and Disorder. This Prince, being scarcely come to the Age of Maturity, and who had govern'd his Dominions with so much Prudence and Justice, was seiz'd with a grievous Sickness in *Palermo*, in the Flower of his Age, not as yet Thirty-six Years compleat, and died in the Month of *November* this Year 1189 <sup>2</sup>, after he had reign'd Twenty-three Years. He was buried with great Pomp in the

<sup>1</sup> Inveges makes him die the 20th of October 1187.

<sup>2</sup> Riccardo da S. Germano fixes his Death in this Year, where he begins his Chronicle. A tem-

pore quo Gulielmus Rex Siciliae obiit. Pontificatus Clem. Anno 2. And Gulielmus Neobrigensis Anglus likewise writes, Guliel. Siciliae Rex mortuus est Anno 1189.



Church of *Monreale*, at the Foot of his Father's Tomb. 'Tis not possible to express the Grief of his Subjects, who by his many and excellent Virtues had enjoy'd Peace and Plenty. Every Man was at liberty to speak his Mind freely. The Taxes were not exorbitant, as in the Time of King *William* his Father; insomuch that not only *Frederick* II. but in later Times *Charles* II. of *Anjou*, in settling Peace and Tranquility in their Dominions, order'd that they should not be burden'd with Taxes, but be as easy in that Respect as they were in the Reign of this good King *William*. He not only exceeded in transcendent Virtues all the Kings of his Time, but likewise *Robert Guiscard*, and *Roger* his Grandfathers, Princes of great Renown. He, was according to *Riccardo da S. Germano*, the Flower of Kings, the Glory of Princes, the Mirror of the *Romans*, the Honour of the Nobility, the Support of Friends, the Terror of Enemies; the Life and Soul of the People; the Protector of the Poor and Strangers, and the Sanctuary of the Oppressed. His Reign was remarkable for the Regard that was had to the Laws and Justice; every Body was satisfied with his Lot, there was Peace and Security every where, the Traveller was not afraid of Robbers, nor the Seafaring Man of Pirates. But his Death proved very fatal and lamentable to his Dominions; for in the Reign of his Successor, *Henry* of *Suevia*, they suffer'd infinite Calamities, which serv'd as so many Foils to *William*'s happy Reign. He having had no Children by *Joan* Daughter of *Henry* King of *England*, left his Aunt *Constantia* his Successor<sup>1</sup>, to whom, and her Husband *Henry*, he had made the Barons take an Oath in an Assembly held for that Purpose in *Troja* of *Puglia*.

<sup>1</sup> Roger Hovenden in Annal. Anglic. apud Baron.

## S E C T. I.

### *The Laws of King WILLIAM II.*

**A**LTHO' *Pietro delle Vigne* has left us but few Laws of this Prince, in the Collection of our Constitutions, which he made by *Frederick*'s Order, yet they are all good and prudent.

THE First is that which we read in the first Book under the Title *De Usurariis puniendis*, wherein he commands, that Points relating to Usurious Contracts shall be decided according to the Decrees lately made in *Rome* by Pope *Alexander* in the *Lateran* Council; so that this Constitution is not *William* I's but II's. as we have already observ'd in treating of his Father's Laws.

THE Second, which we find in the same Book under the Title *Ubi Clericus in Maleficiis debeat conveniri*, is the same *William*'s. It was, as we have said, made at the Desire of the Archbishop of *Palermo*, by which he orders the Crimes of Ecclesiasticks, with regard to their Persons, to be judg'd by their Ordinaries according to the Canons and Canon Law, excepting the Crimes of Felony and such like, which are to be judg'd by the King and his High Court.

THE Third and last of that King's Laws, is that which we read in the third Book, under the Title *De Adulteriis coercendis*. This was likewise made by *William* at the Request of the Archbishop of *Palermo*. By it the Cognizance of the Crime of Adultery, if no Violence was us'd, is likewise referr'd to the Ordinary of the Place; which for a long Time was in Force, and observ'd in both the Kingdoms of *Sicily*; and in the Reign of *Constantia* we have a Writ, recorded by *Ugbellus*, by which she orders the same. But in process of Time it has been disus'd and laid aside; and now, with us, the Crime of Adultery, whether by Violence or otherwise, is judg'd by the Secular Judges, and the Ecclesiasticks are not to look upon it as a Crime belonging to a *Forum mixtum*, as shall be shewn more at large, when we come to treat of the Ecclesiastical Polity of the later Ages.

THESE are the few Laws which are left us of this wise and good Prince, in whose Reign the Laws of *Justinian*'s Pandects were of no Force or Authority, but the *Lombard* prevail'd, and Law Suits were decided according to them in the Courts of Justice. The most accurate *Pellegrinus* has left us a notable Instance of this, which he had dug out of the Rubbish of Antiquity, to wit, the Instrument

of

of a Sentence given in the Time of this *William* in the Year 1171, in a Dispute betwixt the Citizens of *Sessa*, and the Bishop and Citizens of *Teano*, about a Water-gang; which was decided in Favour of the Citizens of *Sessa*, according to the *Lombard Laws*, which *Pellegrinus* took the Trouble to mark on the Margin.

THE Death of *William* was soon after follow'd by that of the Emperor *Frederick*, who, after he had surmounted so many Obstacles thrown in his Way by the *Greeks*, and fought and defeated the *Turks* in many Engagements, took by Storm, and gave up to be plunder'd, the City of *Iconium*; but being come to the lesser *Armenia*, and incamp'd on a *Saturday* in the Evening in a Place call'd *Faradine*, the *Sunday* following, the fourth of *June*, he continu'd his March towards the River *Calep*, whither with great Difficulty in crossing terrible high Mountains, he reach'd that Day; and after he had din'd upon the Bank of the River, in a pleasant Valley, tir'd with the Trouble of continual Battles, and a whole Month's March, he had a Mind to refresh himself a little by bathing and swimming in the River; therefore he strip'd himself naked and went into the River, which was both deep and rapid, and was unfortunately drown'd; his Body was taken up, and carried to *Germany*, where he was buried with his Ancestors. But the Archbishop of *Tyre*, follow'd by *Sanfovino*<sup>1</sup>, gives a more probable Account of his Death; that in passing this River *Frederick's* Horse stumbled, and he being old and unweildy, was stunn'd with the Fall, but was catch'd hold of by his Servants, and carried ashore, where he soon died, and was buried in *Tyre*: 'Tis very unlikely that an Emperor stricken in Years, would indecently strip and throw himself into the River, and run the Hazard of being drown'd.

THUS died this glorious Prince, whose Death was a great Loss to the Christians of *Palestine*, and our Religion in those Parts; and here we see how incomprehensible the Judgments of God are; for as he had already begun by a successful Course of Victories, so he not only would have compleated the Recovery of all those Places, which *Saladin* had lately taken, but also have carried the Christian Religion to more remote Countries where the Cross of Christ was not known; but being a Supporter of the Schism against *Alexander III.* and a Persecutor of the other Popes, he became a Nuisance to the Church of God; and by a fatal and untimely Death, was snatch'd from the Faithful, even when he was engag'd in this Expedition, so pious and serviceable to the Christian Cause.

FREDERICK, (laying aside that Whim of his being Lord of the Universe, as the ancient *Roman* Emperors fancied themselves to be, which was owing to our Lawyers, and made his Government seem grievous and uneasy to the Cities of *Lombardy*, and the Popes) was a great and gallant Prince, and a Lover of Learning, and the learned Men of his Time. Whence the Study of the Law was then so much in Vogue, and so many Civilians appear'd in *Italy*, that being taken with the Novelty and Elegancy of the *Pandects*, and the other Books of *Justinian*, they began to explain them in the Academies; and *Utricus Ueberus*<sup>2</sup> writes, that *Frederick Barbarossa* was the first who not only granted to the Academies, Power to take Cognizance of the Causes, but likewise a Jurisdiction and Power over their Members and Students. And he had the Civilians in so great Esteem, that in imitation of the ancient *Roman* Emperors, he consulted them in his most weighty Affairs, and made them of his Council, and frequently made them Governors and Consuls of many Cities of *Italy*.

<sup>1</sup> Sanfovino delle cose di Constantinopoli, lib. 5. Nicetas Coniates fol. 74. a ter.

<sup>2</sup> Utric. Ueber. lib. 3. de Jur. Civit. c. 3. Auth. habita, C. ne filius pro patre.





## C H A P. III.

*Of the Compilers of the Feodal Books, and of their Commentators.*

T this Time was made by the Civilians of *Milan* that Collection of the Feodal Books, which in process of Time acquir'd so much Authority and Force in *Europe*, and all the Academies and Tribunals in the Christian World, that it was look'd upon as a Part of the Civil Law: these Feodal Books, which, with the *Novellæ* of *Justinian*, make up what is now call'd *Decima Collatio*, were added to the *Roman Laws*; not that they are truly a Body of the Civil Law, as *Giasone*, *Bartolus*, and some others of our Doctors thought them to be, for which *Molineus* has censur'd them<sup>1</sup>; but because their Authority was so great, that they deserv'd to be put on a Level with the *Roman Civil Law*.

BUT seeing this Part of the Law has not been handled by our Writers with that Care it deserv'd, forasmuch as an infinite Number of Disputes have arisen among them on that Head, by not knowing how to distinguish the Times when these Books acquir'd the Force of Laws in these our Provinces; therefore it will be necessary to handle this Subject in this Place, with all the Exactness our weak Parts are capable of, and to give an Account of the Fate of these Books in the latter Ages, and finish what we have to say on this Head.

IT may be easily gathered from the preceding Books of this History, that after Fiefs were introduc'd into *Italy*, there were no written Laws concerning them before *Conrade the Salick*. They were regulated according to the Usages and Customs of the Places; and seeing, as in other Things, the Customs of the Places were various and different, so it happen'd with respect to Fiefs, that in one Place of *Italy* they were regulated one way, and in another after a different manner. Thus in *Cremona*, *Pavia*, and *Milan*, a Vassal could alienate his Fief without the Consent of his Lord, but in *Mantua*, *Verona*, and some other Places they could not do so without the Consent of their Superior<sup>2</sup>.

IN *Placentia*, if a Superior gave Investiture of a Fief to one, with this Condition, that it should descend to his Successor, during the Vassal's Life he could not invest another with the same Fief; but the Practice was different in *Cremona* and *Milan*.

IN the Kingdoms of *Sicily* and *Puglia*, our Kings had particular Customs relating to Fiefs, different from those of the Cities of *Lombardy*. These Customs were set down in certain Books, which, by a corrupt Word, were call'd *Defetarii*, and were kept by the King in his Palace; and when *Palermo* mutinied in the Time of *William I.* and the Royal Palace was plunder'd, among other Losses which *William* lamented, that of these Books was one; and because *Matteo Notajo* was most expert in these Books, and had them almost all by Heart, among other Reasons that brought him out of Prison, one was, that he being well skill'd in the Affairs of the Court, and the Royal Chamber, he could easily make up the Loss of these Books, in which, as *Falcando* says, *Terrarum, Feudorumque distinctiones, ritus, & instituta Curia continebantur*; which he actually did. And *Inveges*<sup>3</sup>, from the Authority of the same *Falcando* relates, that King *William I.*'s Favourites, who manag'd the Affairs of his Court, such as *Riccardo* Elect Bishop of *Syracuse*, *Silvestro* Count of

<sup>1</sup> Molin. ad Consuet. Paris. tit. de Fiefs, | num. 24.

<sup>2</sup> Cujac. lib. 1. de Feud.

<sup>3</sup> Inveges Anno 1162. hist. Palerm. tom. 3. Marfi,

*Marfi*, and *Errico Ariftippo* Archdeacon of *Catania*, being ignorant of the Distinction of the Lands, Fiefs, Ufages, and Institutes of the Court, and of the Books of the Feodal Customs, which were call'd *Defetarii*, all which were now loft, perfuaded the King to take *Matteo Notajo* out of Prifon, and reftore him to his former Office; for he being Old, and having always been a Favourite of, and Affiftant to *Majone*, had great Skill in the Customs of the Kingdom, and could compofe *novos Defetarios*.

AND in this manner had they gone on in the Cities of *Lombardy*, and the Kingdoms of *Sicily* and *Puglia* till the Time of *Frederick I.* To thefe Customs *Conrade the Salick*, and other Emperors, added Conftitutions of their own concerning Fiefs, as we have formerly obferv'd, which were not as yet collected into a certain Volume. Therefore in the Time of *Frederick*, fome Lawyers of *Milan*, without any Command, refolv'd to collect thefe Customs and Conftitutions, in order to tranfmit them to Pofterity; and having, though confufedly, collected the Ufages of diverfe Cities of *Lombardy*, they at firft made up two Books of them; to which, according as thefe Customs came either to be approv'd of, or enlarg'd, or retrench'd by Imperial Conftitutions down to their Time, they added the Heads and Contents of them, with their own Interpretations; but not the intire Conftitutions.

AUTHORS differ about the Names of thefe Lawyers. Before *Cujacius* our Writers commonly believ'd that *Oberto de Orto*, Attorney General and Conful of *Milan*<sup>1</sup>, was Author of this Collection, who, with the Affiftance of *Gerardo del Negro*, alias *Capagifta*, likewise Conful of *Milan*, and a notable Lawyer, undertook this Work.

BUT the incomparable *Cujacius* has very well prov'd that *Oberto* was not the Author of the firft Book, for in it we find fome Opinions that difpleas'd *Oberto*, and which he rejected. And becaufe thefe Opinions are attributed to *Gerardo del Negro*, *Cujacius* takes him to be the Author of the firft Book, and not *Oberto*. Some, and among the reft *Montanus*<sup>2</sup>, not fatisfied with *Cujacius*'s Conjecture, maintain, that though *Gerardo*, or whatever Anonymous Perfon was Author of the firft, yet 'tis certain that *Oberto* was Author of the fecond Book, which he compil'd for the private Inftitution of his Son *Anfelmo*.

BUT feeing this fecond Book, according to the antient Divifion, contain'd not only the Opinions of *Oberto*, but alfo of other Lawyers of thefe Times, which were contrary to thofe of *Oberto*, 'tis not credible that *Oberto* was the fole Author of all that Book; for which Caufe we are much indebted to the Industry and great Care of *Cujacius*, who, to remove that Confufion, has divided it into more Books. Our antient Lawyers had fome Thoughts of doing the fame, but they forbore to do it, left it fhould occafion Confufion in the Citations; for feeing this Work was divided into two diftinct Books, the Citations would not have answer'd, if it had been divided into more.

BUT fo trifling a Reason did not weigh with *Cujacius*, who very prudently divided the Second into four Books. Thus according to this Divifion, the firft Book is *Gerardo's*; the Second, to the Twenty-fifth Title, is *Oberto's*. The reft of the Titles are divided into two other Books; the third Book begins from Title 23, where, *Obertus de Orto*, *Anfelmo filio fuo salutem*. The Fourth begins from Title 25, *Negotiam tale eft*, and 'tis clear from this very 25th Title, that it has been compil'd by different and uncertain Authors, in which *Cujacius* and *Montanus* agree. And in the fifth Book, he adds all the Conftitutions of the Emperors, relating to Fiefs, of which we fhall have occafion to difcourfe hereafter.

<sup>1</sup> Otho Frifing. de reb. gef. Frid cap. 12. lib. 2. feud. tit. 35. juxta antiq. Compilat.

<sup>2</sup> Montan. in Prælud. feud. ad. L. Imperialem, num. 3.

## S E C T. I.

*Of the Ufe and Authority of thefe Books in our Provinces.*

THESE Books compil'd by the *Milaneſe* Lawyers, had not the Force of Laws in our Provinces, nor any other Part of *Europe*, till in procefs of Time they were authoriz'd by the Cuſtom of the People, rather than by the Conftitutions of any

any Prince ; and their Authority was never absolute, excepting in Cases not repugnant to the particular Laws and Customs of the Nations.

'TIS very certain, that with us they did not acquire this Authority in the Reign of *William*, nor any of his *Norman* Successors. They were compil'd about the Year 1170, as the most accurate *Francesco d'Andrea* <sup>1</sup> very well proves, and not about the Year 1152, which was the first of the Empire of *Frederick I.* according to *Arthur Duck* <sup>2</sup> ; when there was a cruel War betwixt our King *William* and *Frederick* ; and when all manner of Commerce was stopp'd betwixt us and the *Lombards*, on account of the intestine War, that from the Time of *Lothaire*, continu'd betwixt our Princes and the Emperors of *Germany*, and which was not at an End, till the Year 1177, when the Fifteen Years Truce, lately mention'd, was concluded betwixt *William* and *Frederick* ; and these Kingdoms having their proper and peculiar Customs set down in the Books call'd *Desetarii*, there was no Necessity to have recourse to the *Longobard* Usages, when they had their own, whereby Fiefs were regulated.

'TIS probable that these Books were not known to our Lawyers till after the Year 1187, when *William the Good*, for the Quiet of his Subjects, concluded the Marriage betwixt his Aunt *Constantia* and *Henry* King of *Germany* ; which remov'd all Ground of Quarrel with the Emperor of the West ; but was not sufficient to prevent more cruel and obstinate Wars ; for after *William's* Death, which soon follow'd, the Barons of the Kingdom, who hated *Henry's* Government, because he was a Foreigner, elected *Tancred* to be their King, who got the Investiture of the Kingdom from the Pope, as we shall relate. Wherefore we may reasonably believe, that these Books began to be known among us, when *Henry*, in the Year 1194, made himself Master of the Kingdom by Right of his Wife *Constantia*, after having driven out the *Normans*.

THEY were then well known among us ; but had not acquir'd any Authority as Laws ; nor even when *Frederick II.* his Son publish'd his Constitutions, which he order'd to be compil'd by *Pietro delle Vigne* ; nor when the Pandects and other Books of *Justinian*, were, by his Order, read in our Schools (after the University was resettled in *Naples*) as they were in other Cities of *Italy* ; for our Authors are in a Mistake, who, on the Authority of *Odofredo* <sup>3</sup>, maintain, that these Books owe their Authority to *Frederick II.* as the first Emperor that approv'd of them, and sent them to the Professors of Law in *Bologna*, to be read publickly in the Schools, and that he commanded *Ugolino* to make the *Decima Collatio*.

OUR Writers are in the wrong to impute this to *Odofredo*, who never wrote, that *Frederick* sent the Feodal Books to *Bologna* ; and what occasion was there to send them to *Bologna*, seeing they had been known in that City for many Years, and the *Bolognians* not only read them, but *Bulgarus* had written his Glosses upon them there, where he was a Professor of Law in the Time of *Frederick I.* who made him Prefect of that City ? a Man well known in all the other Cities of *Lombardy*, as being a Native of that Country ; and many *Italian* Writers before the Time of *Frederick II.* besides *Bulgarus*, had already begun to comment upon them, such as *Pileus*, and others mention'd by *Arthur Duck* <sup>4</sup>, and *Andrea d'Isernia* <sup>5</sup>.

*ODOFREDO* in the Place quoted, writes only, that *Frederick II.* sent to the Doctors of *Bologna*, not the Feodal Books ; but his own Constitutions, and those of the Emperors of the West, after *Justinian*, that as *Irnerius* had inserted in the Code the *Novellæ*, that seem'd to be newly added or corrected ; so these Doctors were to do the same by these Constitutions, and to add them to the Code, not to the Feodal Books, under such Titles as should best suit them ; and accordingly they met at *St. Petronio*, and extracted many Things out of these Constitutions, which they added and adapted to the Laws of the Code under fit Titles : Whence we read in the Code, besides the *Authenticæ* of *Irnerius*, the *Auth. Cassa*, *Et irrita*, *C. de Sac. Eccl.* taken out of the Constitution of the same *Frederick*, *de Statut. Et Consect.* The *Auth. Sacramenta puberum*, *C. si adver. vendit.* taken out of the Constitution of *Frederick I.* *de pace tuenda*. The *Auth. habita*, *C. ne filius pro patre*, taken out of another Constitution of the same *Frederick I.* *de privil. bonor. art.* and some others <sup>6</sup>.

<sup>1</sup> Andr. in disp. Feud. cap. 2. §. 5.

<sup>2</sup> Arth. de Jur. Feud. lib. 1. cap. 6. num. 5.

<sup>3</sup> Odefr. in Auth. cassa, C. de Sacros. Eccl.

<sup>4</sup> Arthur. lib. 1. cap. 6. num. 12.

<sup>5</sup> Andr. in Præhud. num. 25.

<sup>6</sup> Pancirol. Thes. var. lect. lib. 1. cap. 90. Auth. omnes peregrini. C. comm. de Success. Auth. Item quæcunque communitas, & Auth. Statutus, C. de Episc. & Cleric. & alia, quæ postea remotæ fuerunt.

And

And this was the sole Charge given by *Frederick* to the Professors of *Bologna*. But *Odofredo* adds, that afterwards *Ugolinus*, one of these Professors, out of a Whim of his own, to the Body of *Justinian's Novellæ*, already divided into *novem Collationes*, whence it was call'd *Nona Collatio*, added the Feodal Book, and having collected all these Constitutions of the Emperors concerning Fiefs, inserted them in that Book, according to the Order they are now in, and which our Forefathers therefore call'd *Decima Collatio*; and *Odofredo* likewise declares, that in his Time, few had dispos'd these Constitutions in the manner *Ugolino* had done.

HENCE those are in a Mistake, who believe, that *Frederick II.* gave Authority and the Force of Law to the Feodal Books, and that from his Time they had acquir'd such Authority in our Kingdom, and other Dominions: For the most part all our best Writers have demonstrated, that they were not receiv'd by any Constitution of *Frederick*, or any other Prince; but that it far'd with them as with *Justinian's Books*: All their Authority was owing many Years after to the Use and Custom of the People, and the Connivance of Princes, who allow'd them to be publicly taught in the Academies, commented by their Lawyers, and quoted in their Courts of Justice; as *Molineus*<sup>1</sup>, who is look'd upon as the *Papinian of France*, well proves; but yet he censures *Odofredo* unjustly, as if he had led the rest into an Error, whereas this Author never said, that *Frederick* gave the Force of Law to these Books, nor that *Ugolino* collected them by his Order; as also he wrongfully blames *Bartolus*<sup>2</sup>, as if he had been the first, that had call'd *Ugolino's Collection*, *Decima Collatio*. This Appellation is very antient, and was commonly in use more than a Hundred Years before *Bartolus*, who declares so himself, and that all other Writers call'd it so before him.

ITS being call'd the *Decima Collatio*, and in process of Time, by the Custom of the People, getting footing in the Dominions of other Christian Princes, did not gain it such Authority as to be able to overthrow, and derogate from the Institutes, and peculiar Laws of these Nations; for it was receiv'd and approv'd of in so far only, as it did not clash with their own Municipal Laws and Customs. So *Cujacius* attests, with regard to the Kingdom of *France*, where these Feodal Laws were receiv'd, as they were practis'd in *Italy*; but they were not repugnant to the Laws and Customs of that Kingdom; just so as the *Romans* made use of the *Rhodian Laws*, which, with respect to maritime Affairs they imbrac'd, *Nisi qua in re juri publico Pop. Roman. adversaretur*, as the Emperor *Antoninus* testifies. And in our Kingdom especially, though it was one of the largest and most famous Parts of *Italy*, this *Collatio* did not take Place, till after *Frederick* had publish'd his Constitutions, and caus'd them to be collected by *Pietro delle Vigne*, many of which regarded Fiefs, and all Things belonging to them. But *Frederick* did not receive, nor approve of them; but in so far as they were not repugnant to the Constitutions, or in Matters not provided for, or omitted in the Constitutions; so that with us the Authority of the Constitutions took Place first, and then that of the Feodal Books, as was the Case of the *Longobard Laws*, with respect to *Justinian's Books*; but we observe, that after the Constitutions were publish'd in the Year 1231, there was a great Debate in the High Court amongst our Lawyers, whether or not these Feodal Books had the Force of Laws with us, even in what was not repugnant to our Constitutions, as is at length taken notice of in the Gloss<sup>3</sup>; whence we may gather, that even in these Times, it was doubtful, whether these Books had acquir'd the Force of Laws, and if that was uncertain, they were not look'd upon to be on a Level with the Laws. And if *Roffredo*<sup>4</sup> *Beneventano*, who flourish'd in the Time of *Frederick II.* speaking of these Feodal Customs, said, *Servari in Regno Apuliæ*, it was only because he was of that Opinion, contrary to the Sentiments of the other learn'd Men of the Kingdom; besides, 'tis not denied, but that in these Times they were observ'd, not as having the Authority of Laws, but of Reason, and in so far as they did not clash with our Constitutions.

BUT as that is true, so 'tis likewise most certain, that after *Frederick's* Time, under his Successors, and especially the Kings of the Family of *Anjou*, it was no

<sup>1</sup> Molin. Consuet. Paris. tit. 8. rubr. num. 103.

<sup>2</sup> Bart. in L. si quis vi, 17. sect. differentia, num. 4. D. de acqu. possess.

<sup>3</sup> Gloss. in Constitut. Ur de Successionibus de Success. Nobil. verb. injuriam nullus, verf. nec dicant aliqui.

<sup>4</sup> Roff. Beney. in his Quest. Sabatina.

longer disputed, it being evident, that they had acquir'd all their Force and Authority, in so far as they were not repugnant to our Constitutions; and they acquir'd the same in all the other Dominions of *Europe*, with respect to their Constitutions; and the Popes likewise gave them the same Force and Authority in their Ecclesiastical Tribunals; but in process of Time, the Study of that part of the Jurisprudence was so much cultivated and esteem'd, that ours exceeded all the Lawyers of other Nations, both on this and the other Side of the Mountains; and to this Day our Kingdom boasts, that the Laws concerning Fiefs never were, nor are yet so well understood, as by our Lawyers. We have an evident Testimony of this in the Dispute betwixt our *Andrea d'Isernia* and *Baldus*, who, being call'd to *Naples* by Queen *Joan I.* to a Consultation with *Andrea*, he expos'd his Ignorance so much in Feodal Matters, that he lost his Reputation, and in order to recover it, was forc'd in his old Age, to apply himself to that Study<sup>1</sup>. And we have seen by Experience, since, that the most hard and difficult Questions that ever could arise concerning that Matter, have never been handled so subtly, and with such Nicety and Learning, as by our Authors. And no other Nation can boast of having had so many Writers on that Subject, as the Kingdom of *Naples*.

<sup>1</sup> V. Card. de Luca de Emphyteusi, disc. 70. num. 12.

## S E C T. II.

*Authors, who have illustrated the Feodal Books.*

THOSE that first began to illustrate these Books were, *Bulgarnus*, *Pileus*, *Ugolinus*, *Corradino*, *Vicenzo*, *Goffredo*, and others<sup>1</sup>; but afterwards *Giovanni Colombino* out-stripp'd them all, inso much that *Jasow* says<sup>2</sup>, that none after him had the Boldness to comment upon these Books.

SOME have taken the Trouble to make Abridgements, and particular Treatises concerning Fiefs, and the first were *Pileus*, *Giovanni Fasoli*, *Odofredo*, *Rolandino*, the Two *Giovannis*, *Blansaco* and *Blanco*, *Goffredo*, *Giovanni Lettore*, *Martino Sili-gmano*, *Giacomo d'Arena*, *Giacomo de Ravanis*, *Ostiensis*, *Pietro Quessueal*, and *Giacomo Ardizone*, and afterwards *Zazio*, *Robuffo*, *Annotone*, *Rosental*, and an infinite Number of modern Authors.

BUT among all those, who have illustrated the Feodal Books with ample Commentaries, our Lawyers have excell'd. 'Tis true, *Giacomo di Belviso* was the first; but our *Andrea d'Isernia*, who, about the End of the Reign of *Charles II.* who died in the Year 1309, wrote such copious Commentaries upon Fiefs, that he not only eclips'd him, but also all those that before him had written on that Subject. *Baldo da Perugia*, after he had profess'd the Civil Law Forty-seven Years, likewise wrote Commentaries upon the Feodal Books, and shortly after *Giacomo Arvarotto da Padova*, *Giacobino di S. Giorgio*, and *Francesco Curzio* the Younger, did the same; but our *Matteo degli Afflitti* obscur'd their Fame. He wrote his Commentaries upon these Books under *Ferdinand I.* when, for a publick Salary, and with universal Applause, he was teaching in our University the whole Feodal Books, with the Commentaries of *Isernia*, which none other has ventur'd to do, neither before nor since; and he began to write his Commentaries in the Year 1475, when he was Thirty-two Years of Age, as he himself testifies<sup>3</sup>: I take notice of this, to prevent People's being led into a Mistake by *Camerarius*, as our Writers were, by saying that *Afflitto* wrote these Commentaries in his extreme old Age, when he could not well understand *Isernia's* Meaning; a Failing very unjustly imputed to this famous Lawyer: For, besides that he wrote in the Flower of his Age; if he had even written these Commentaries when he was Eighty Years old, no Fault could have been found in them. He died in the Year 1523, and was buried in *Naples* in the Church of

<sup>1</sup> Pancirol. Thes. var. lect. lib. 1. c. 90.

<sup>2</sup> Jason. in Præjud. Feud.

<sup>3</sup> Afflit. tit. de Feud. dar. in vim leg. commiss. lib. 1. tit. 22. num. 49.



*Monte Vergine*, where we read on his Tomb, *That tho' he was loaded with Tears, yet his Judgment was so strong, that he was as capable of writing to the Day of his Death, as ever he had been.* His Domesticks caus'd the Tomb to be erected, and this Inscription put upon it, to shew the Malice of his Enemies, who represented him to the King, as so old, that his Judgment had fail'd him, which made the King remove him from the Dignity of Counsellor of *St. Clare*, so that he died without the Gown, therefore in his last Will, he is not nam'd Counsellor, but simply Doctor. And as he exceeded all the Commentators on the Feodal Books, we must not here forget the Character which the incomparable *Francesco d'Andrea* gives him<sup>1</sup>, who did not stick to say, that of all those that wrote Commentaries on Fiefs, both before and after him, few can be compar'd, but none prefer'd to him.

AFTER these great Men, some others appear'd among us, such as *Camevarius*, *Sigismondo Loffredo*, *Pietro Giordano Ursino*, *Bammecario*, *Rovertero*, *Pisanello*, *Montano*, and a great many more, of whom it would be troublesome to make a longer Catalogue; so that no other Nation can boast of so many Writers on Feodal Matters, as the Kingdom of *Naples*.

BUT among the Foreigners, the incomparable *Cujacius* deserves all Praise. He was the first that encourag'd this Part of Learning, when others despis'd it as barbarous; and whereas formerly it was deform'd and unpolish'd, he, with the help of the most valuable Books and Writers of these Times, gave it a more noble and elegant Dress; insomuch that other learn'd Men, who before slighted it as barbarous, became now fond of imploying their Parts upon it, after his Example, such as *Duarenus*, *Hottomannus*, *Utesius*, and others of noble Genius; whence we now see it explain'd and illustrated, as well by the Professors of the Civil as of the Feodal Law.

*CUJACIUS* at first increas'd the Feodal Books with Fragments and Chapters, and divided them into Five, as we have already mention'd. Before him *Antonio Minuccio di Prato Vecchio*, a Lawyer of *Bologna*, at the Command of the Emperor *Sigismund*, about the Year 1430, had dispos'd these Books into another Form, and divided them into Six, which he offer'd to the University of *Bologna*, in order to have this his Work confirm'd by *Sigismund*; but it does not appear that the Emperor did so; for want of which Confirmation, it was not universally receiv'd, therefore the University begg'd answ of the Emperor *Frederick III.* to confirm it, which he did; whence these Books came to be read publicly in the Academy of *Bologna*; but they never acquir'd publick Authority: This Work was afterwards publish'd by *Joannes Schekerus*<sup>2</sup>. *Cujacius* made another Collection altogether new, which he not only very carefully put into better Order, and restor'd the true Reading; but also with uncommon Erudition commented upon them, and explain'd their true Meaning. And, above all, he swell'd the fifth Book with many Imperial Constitutions, which had been neglected by *Ugoline*, and rang'd them into better Order.

<sup>1</sup> Andr. in disput. pag. 47.

<sup>2</sup> V. Struv. Hist. jur. Feud. cap. 8. sect. 23.

### S E C T. III.

#### *Imperial Constitutions relating to Fiefs, and Frederick I's Laws.*

THE first who publish'd Laws concerning the Succession to Fiefs, as we have often said, was *Conrad the Salique*. *Henry IV.* and *Lothaire III.* made some; but of all the Emperors none enacted so many as *Frederick Barbarossa*; and *Cujacius* ends his Book with this Emperor's Constitutions; so that tho' in the vulgar Editions we also find some of *Frederick II.* yet they have nothing to do there; for we have no Constitutions of *Frederick II.* as Emperor, concerning Fiefs, tho' there be very many of his as King of *Sicily*; but these not being Imperial, are not to our Purpose. Those Constitutions of *Frederick II.* which we read at the End of the second Book of Fiefs, according to the ancient Collection, under the Title *De Statutis, Et Consuetudinibus circa libertatem Ecclesie editis, &c.* have nothing to do with Fiefs;

Fiefs; so that they are wrong plac'd there, and for that Reason *Cujacius*<sup>1</sup> says, he did not put them with the other Feodal Constitutions, as not being to the Purpose; for the same Reason those two of *Henry VII.* plac'd under the Title of *Extravagant*, ought not to be plac'd there.

OF all these Emperors, none made so many Feodal Constitutions as *Frederick I.* of which we have Eight.

THE first is under the Title *De Feudis non alienandis*, where three or four Causes are assign'd, whereby a Fief may be lost, and wherein the Alienation of Fiefs is more strictly prohibited than by that Constitution of *Lothaire*. The second, under the Title *De jure Fisci*, or *de Regalibus*, restores the *Regalia* in *Italy*, which were lost by Disuse, of which we have spoken in the foregoing Book. The third, under the Title *De pace tenenda*, belongs to the publick Peace of *Germany*, whence 'tis call'd by the *Germans*, *Frid-brief*; and it was publish'd in *Ratisbon* after the intestine Wars betwixt the Princes of *Germany*; for the Dutchies of *Saxony* and *Bavaria*, taken by the Emperor *Conrad* from *Henry the Proud*, were at an end; and seeing there are some things in it relating to Fiefs, Barons, and the publick Peace, it's reckon'd amongst the Feodal Constitutions of this Prince. The fourth, is under the Title *De incendiariis, & pacis violatoribus*, which *Cujacius* took from the Abbot of *Ussperg*, and which likewise concerns the publick Peace of *Germany*, and orders something about Fiefs; besides, as *Cujacius* observes, our Forefathers were wont to join all those Constitutions relating to the publick Peace with the Feodal, though Fiefs were not mention'd in them, because they could not enjoy Peace, but by the Fidelity and Steadiness of the Vassals. The fifth, under the Title *De pace componenda, & retinenda inter Subjectos*, relates to the publick Peace of *Italy*, and was made in *Roncaglia* with the People of the *Milanese*, at the End of the first War which *Frederick* had with them, of which we have spoken in the preceding Book. The sixth, under the Title *De pace Constantie*, likewise concerns the Peace of *Italy*. This last was publish'd in *Constance* in the Year 1183; for *Frederick* being now wearied of the so many Wars he had had with the *Lombards*, resolv'd to call a Diet in *Constance*, in order to settle all Matters there. Many Princes and Barons, with a Multitude of Deputies, mention'd in this Constitution, were present at this Diet, in which many Articles were agreed upon, and the Conditions, with respect to the Services to be perform'd by the Cities of *Lombardy* to the Emperor, stipulated, and none other were to be put upon them: *Frederick* by this Constitution yielded some *Royalties* to the said Cities, and kept others, especially *Fodrum & Investituram Consulum, & Vassallorum*, and honour'd *Opizo* with the Title of Marquis of *Mala-spina*.

LASTLY, two Constitutions of the same Emperor follow *De Jure protimiseos*, to which Right, in *Cujacius's* Opinion (whatever our Professor *Marinis*<sup>2</sup> may say of it) the *Agnati* had as good Pretensions, as the Lord of the Fief, therefore he inserted these Constitutions in the Fifth Book of Fiefs; to which he likewise added a Greek Novella of *Romanus Lecapenus*, Emperor of the East, which treats of the same Right, whence *Frederick* took what we see establish'd in his first Constitution concerning the *Jus protimiseos*. Here we must observe, that this Constitution *Sancimus de jure protimiseos*, by a gross Error in our Doctors, is believ'd to be *Frederick II's*, and upon that Supposition they dispute whether it ought to be reputed Imperial, or a Constitution of our Kingdom, made only for the Kingdoms of *Sicily* and *Puglia*; and some maintain that as such it has the Force of a Law in our Kingdom. The Mistake proceeds from seeing it join'd to the other Constitutions of our Kingdom<sup>3</sup>; and likewise because they have seen, that *Matteo d' Afflitto*, who commented on our Constitutions, has made a particular Comment upon the said Constitution, for the most part taken from one not printed, formerly made by *Antonio Caputo di Molfetta*, from which, as *Giovan-Antonio de Nigris*<sup>4</sup> says, without telling from whom, *Afflitto* took so much, as greatly swell'd his Work; so that seeing it commented by our antient Writers, they took it for a Constitution of our Kingdom. The Error is most palpable, and inexcusable; and we cannot but

<sup>1</sup> Cujac. lib. 5. de Feud.

<sup>2</sup> Marinis lib. 1. cap. 233. num. 8.

<sup>3</sup> V. Capitularia Roberti, in fine.

<sup>4</sup> De Nigris in Comment. ad Capitul. Regni in fine, in Constit. Sancimus.

wonder that the Cardinal of *Luca* <sup>1</sup> fell into it, who believing that this Constitution was *Frederick II's*, starts a Thousand idle Questions, which for want of Foundation, fall to the Ground of themselves; for it was not publish'd by *Frederick II.* but by *Frederick I.* who had no Power to make Laws in the Kingdoms of *Sicily* and *Puglia*, consequently could not oblige King *William's* Subjects to accept it. Indeed it afterwards acquir'd the Force of Laws with us, not by the Authority of the Legislator, but by the Use and Custom of the People, who after a long Tract of Time receiv'd it, just so as it far'd with the Pandects and the other Books of *Justinian*, and likewise with these Feodal Books; whence at present, 'tis in full Force in the Kingdom, but not in the City of *Naples*, where a particular and peculiar Custom relating to that Matter prevails. The other Laws of *Frederick I.* as well the *Military*, establish'd in *Brescia* in the Assembly of the Princes of the Empire, in the Year 1158 as *Civil*, since they have no relation either to Fiefs, or us, we willingly omit them, for every Body may find them in *Goldastus* <sup>2</sup>, who has collected them all.

<sup>1</sup> De Luca de Servitutib. disc. 68.

<sup>2</sup> Goldast. tom. 1. pag. 268. & tom. 3. pag. 330.



1. The first part of the paper discusses the importance of the study of the history of the Chinese language and the role of the Chinese language in the development of the Chinese nation. It also discusses the importance of the study of the history of the Chinese language in the development of the Chinese nation.

2. The second part of the paper discusses the importance of the study of the history of the Chinese language in the development of the Chinese nation. It also discusses the importance of the study of the history of the Chinese language in the development of the Chinese nation.

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THE  
CIVIL HISTORY  
Of the KINGDOM of  
NAPLES.

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BOOK XIV.

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AS the Death of *William the Wicked*, and the Accession of his Son to the Throne, quieted the Disorders and Mischiefs into which the Kingdom was involv'd, so the afflicting and lamentable Loss of *William II.* brought greater and more cruel Disasters upon it. Our Country never saw more wretched Times than those which happen'd from the Death of this good Prince, to the Reign of *Frederick II.* who, by his Virtue and Greatness of Soul, was able to crush the Disturbers of the Kingdom, and restore it to a more peaceable and settled State.

*WILLIAM* having died without leaving any Issue, made way for many Pretenders to the Crown, though in his Life-time he had declar'd his Aunt *Constantia* Heiress of the Kingdom; and in an Assembly held for that Purpose in *Troja*, had caus'd his Vassals to take an Oath of Fealty to her and her Husband *Henry*; nevertheless the *Sicilians* abhorring the Dominion of *Henry*, as a foreign Prince, and he being at a great Distance in *Germany*, with his Wife *Constantia*, they began to look out for another to succeed to the Throne, and had all their Eyes upon *Tancred* Count of *Lecce*. The Barons of the Kingdom, and the Friends of the Royal Family, were altogether by the Ears on that account; for all those who were of the Blood Royal, or had great Baronies, not yielding to one another, aspir'd to the Crown<sup>1</sup>; and those of lower Degree

<sup>1</sup> Ric. di S. Germ. Post Regis obitum, omnes inter se cæperunt de Magioritate contendere, & ad Regni solium aspirare, & oblit. jurisjurandi, quod fecerant, &c.

adhering

adhering to the most powerful, turn'd the Kingdom upside down ; so soon was the Oath of Fealty sworn to *Constantia* and *Henry* in *Troja* forgotten.

T H E R E are some who write <sup>1</sup>, that Pope *Clement* III. seeing the lawful Issue of the *Normans* fail'd, pretended that the Kingdom, as his Fief, had devolv'd to the Church of *Rome*, and for that end had assembled his Troops, in order to reduce it to his Obedience. But that is a very ill-contriv'd Story ; for at this Time the Popes had set up no such Claim ; they went on by short and leisurely Steps, and were at this Time satisfied with the Investiture, for they well knew, that in process of Time, and as lucky Opportunities should happen, they would reap greater Advantage, which accordingly fell out in the Reigns of *Innocent* IV. and *Clement* IV. which these two Popes improv'd. The present Situation of Affairs would not allow of it, because the Power of the Pretenders, such as *Henry*, was great ; the Minds of the *Sicilians* were altogether bent on *Tancred*, and the Chief Barons aspir'd all at the Kingdom for themselves. The Pope had none to assist him, and of himself he was not able, wanting both Men and Money, so that *Clement* could undertake nothing. And the Pope was so far from such Thoughts, that he no sooner heard that the *Sicilians* had advanc'd to the Throne, and crown'd *Tancred*, than he immediately dispatch'd the usual Investiture ; for he look'd upon it to be more for his Purpose to have *Tancred* to be King of *Sicily*, than *Henry*, who was King of *Germany*.

B U T the *Sicilians*, and especially those who were of *Matteo* the Vice-Chancellor's Faction, in Opposition to the Archbishop *Gualtieri*, freed from the Fear of the Friends of the Royal Family, proclaim'd *Tancred* King ; and the Vice-Chancellor's Faction having join'd them, in order to crush the Archbishop and his Party, who were for *Constantia*, they set *Tancred* on the Throne, and immediately he came to *Palermo*, where with great Acclamations he was publicly proclaim'd King, and in the Beginning of this Year 1190 <sup>2</sup>, with great Solemnity crown'd. The *Sicilians*, not content with this, forthwith sent an Express to the Pope, who, in order to fix him the better on the Throne, sent him the wonted Investiture ; which *Neubrigensis*, *Riccardo da S. Germano*, and the Chronicle of *Monte Cassino* assert for Truth. The grateful King made *Matteo* High Chancellor of the Kingdom, and his Son *Riccardo* Count of *Ajello*.

T A N C R E D, as we have said, was the bastard Son of *Roger* Duke of *Puglia*, eldest Son of *Roger the Elder*, first King of *Sicily*, begot on a Daughter of *Robert* Count of *Lecce* ; for Duke *Roger* frequenting Count *Robert's* House, and seeing his Daughter young and handsome, they fell in Love with one another ; and it was not long before they tasted the Sweets of their Love, and went on in that manner till she became twice with Child, and brought forth *Tancred* and *William* <sup>3</sup>. But *Roger* exceeding in the Embraces of his beloved Mistress, fell grievously sick, which made his Father call him Home, and finding the Cause of his Illness, he was highly offended with the Count, believing it was all his Doings ; and *Roger* dying soon after, the King so persecuted the Count, that he was forc'd to fly to *Greece*, and the King kept the two Children shut up in his Palace like Prisoners, where they continued till *Bonello's* Conspiracy against *William* I. when they went to *Greece*, where *William* the younger of the two died, and *Tancred* was afterwards recall'd by *William* II. who receiv'd him very graciously, and invested him with the County of *Lecce*, which was his Grandfather's by the Mother.

S O M E have written <sup>4</sup>, that Duke *Roger* at last obtain'd leave from the King his Father to marry his beloved Mistress, but was prevented by Death, and that there was nothing wanting to make it a lawful Marriage, but the Ceremony of the Church, for mutual and lawful Consent had preceded ; whence *Tancred* ought not to be reputed a Bastard, but lawfully begotten ; and therefore King *William the Good* invested him with the County of *Lecce*, which was his Grandfather's, and Pope *Clement* gave him the usual Investiture of the Kingdom. But these Accounts, as having no solid Foundation, are look'd upon by the most grave and exact Writers as fabulous ; and *Clement* gave him the Investiture, not on account of his Legitimacy, but in Opposition to *Henry*. Whence *Frederick* II. always reckon'd the Acts

<sup>1</sup> Platin. ad Clem. III. Gio. Vill. lib. 4. c. 19.

<sup>2</sup> Ric. da S. Germ. Tunc vocatus Panormum Tancredus est, & per ipsum Cancellarium coronatus in Regem : Romana Curia dante assensum.

<sup>3</sup> Ugo Falcand. Nobilissima matre genitus, ad quam Dux ipse consuetudinem habuerat.

<sup>4</sup> Giacomo-Antonio Ferrari related by Summonte.

of these Princes, to wit, *Tancred* and *William III.* his Son, as null and unlawful, and as made by Usurpers and Invaders of the Kingdom, which after the Death of *William II.* by Right of Succession, and the last Will of *William II.* belong'd to his Mother *Constantia*.

*CONSTANTIA*'s being a Woman was no Bar to her Succession; for tho' in *Italy* before *Frederick II.*'s Time, Women as well as the Dumb and Deaf were excluded from the Succession of Fiefs, to which only Males had a Right, to prevent the Fiefs going from the Launce to the Distaff; nevertheless the *Normans* (notwithstanding the different Opinion of the *Longobards*) did not look upon Women as incapable of succeeding to the Crown; so much the rather, because the Succession being regulated by the Pope's Investiture, in which both Male and Female are comprehended, the Investiture is given to the Heirs and Successors indifferently; therefore the *Normans* allow'd both Males and Females to succeed; and the first Investiture given by *Innocent II.* to *Roger* runs thus, *Rogero illustri, & glorioso Sicilia Regi, ejusque heredibus in perpetuum*; and that given by *Adrian IV.* to *William I.* is more clear, *Heredibus nostris, qui in Regnum pro voluntaria ordinatione nostra successerint*; and so of all the rest since. Therefore *Frederick II.* was always wont to call the Kingdom of *Sicily* his Hereditary Dominion, by the Right of his Mother *Constantia*; for the Succession of Kingdoms was never regulated by the same Maxims and Laws with Fiefs, as the incomparable *Francesco d'Andrea* in his learned Treatise about the Succession of *Brabant* has sufficiently prov'd; whence Males and Females without Distinction have succeeded in the Kingdoms of *Sicily*, excepting, that in latter Times in the Reigns of King *Alphonso*, and the other *Arragonian* Kings, because of the Mischiefs occasion'd by the two Queen *Joans I.* and *II.* it was design'd to have been altered, as shall be taken notice of in its Place. Such has been the Custom not only of *Sicily* and *Puglia* for many Ages, but almost of all the other Kingdoms of *Europe*, which, on that account, is call'd by the People of *Asia*, and other Eastern Nations, *the Kingdom of Women*; not only because the *Europeans* honour and adore them like Idols, contrary to the Custom of the Orientals, but also because they see them rais'd to the Thrones of the greatest Monarchies and Kingdoms. But tho' the *Normans* excluded Women from the Succession of Fiefs, yet their Kings frequently invested them with Baronies and Counties, as in *Ugo Falcando*, we find that *Clementina* the natural Daughter of *Roger I.* was invested by her Father with the County of *Catanzaro*.

*TANCRED* then had no other Title to support him but the Voice of the People, who had proclaim'd him King, and set him on the Throne of *Sicily*; but many Barons, by the Means of the Archbishop *Guatieri* did not acknowledge him, and especially those of the Kingdom of *Puglia*; so that *Tancred* was forc'd to use his utmost Efforts to gain them to his Interest. He had married *Sibila*, Sister to *Riccardo* Count of *Cerra*<sup>1</sup>, to whom he sent a great Sum of Money, to raise Men for suppressing those that stood out against him; and at the same Time by fair Means and Rewards endeavour to win the Favour of the Natives. *Riccardo* manag'd Matters so well, that in a short Time he rais'd a good Army, with which he subjected the Barons of *Principato* and *Terra di Lavoro*, plunder'd and ruin'd the Castles belonging to the Monastery of *Monte Cassino*, and made the Abbot *Roffrido* take an Oath of Fealty. But the Cities of *Capua* and *Aversa* defended themselves. And *Roger* Count of *Andria*, and High Constable (the same whom *William* sent Ambassador to *Venice*) by no means would yield to *Tancred*; but being provok'd that he had been preferr'd to the Crown before him, went, with *Riccardo* Count of *Calvi*, and many of his Followers, and a good Body of arm'd Men, to observe *Riccardo* Count of *Cerra* and his Army, and to prevent his taking Possession of *Puglia*; and wrote to *Henry* in *Germany* to come and take Possession of the Kingdom of *Sicily*, which by Right belong'd to his Wife, but was unjustly possess'd by the Count of *Lecce*. The Archbishop *Guatieri* wrote likewise to *Henry*, giving him account of what had pass'd in *Sicily*; but *Henry* delaying to come or send an Army, *Tancred* came to our Provinces, and successfully subjected the greatest Part of *Puglia*, notwithstanding the Opposition of Count *Roger*.

IN the mean Time *Henry* sent *Henry Testa*, Marshal of the Empire, with a strong Army into *Italy*, who arriving after *Tancred* had made himself Master of the

<sup>1</sup> Ric. di S. Germ.



greatest Part of *Puglia*, by the Way of *Aquila* enter'd *Terra di Lavoro*, where he burnt and destroy'd all the Places he took; and having join'd Count *Roger*, march'd immediately to *Puglia*, where he likewise demolish'd many Castles, and among the rest *Corneto* belonging to the Abbot of *Venosa*, because he was of *Tancred's* Faction. But the King's Army, not willing to venture a Battle in the open Fields, fortified themselves in the City of *Ariano*, and some neighbouring Castles, and very wisely spun out the Time, till the Enemy's Army dwindled away to nothing; for *Henry Testa* having for some Time laid Siege to *Ariano*, in the very hottest Time of the Summer, what with the scorching Heat, and the Want of Provisions, his Soldiers fell sick and died, and at last, to prevent the total Ruin of his Army, he was forc'd to raise the Siege, and, without having done any Thing remarkable, return to *Germany*.

BUT *Roger* Count of *Andria*, trusting too much to his own Strength, would keep up the War; and having garrison'd the Castle of *S. Agata*, retir'd to *Ascoli*, where he resolv'd to defend himself against the Count of *Cerra*, who, upon the marching off of the *Germans*, had ventur'd to take the Field, follow'd him close at the Heels, and besieg'd him there; but not able to win him over, either by fair Means or Force, he had recourse to Fraud, and one Day having given him his Parole of Honour, desir'd to speak with him without the City, where he laid a Snare for him, made him Prisoner, and cruelly murder'd him. Then he march'd and besieg'd *Capua*, whose Citizens being terrified at the Death of *Roger*, too rashly surrender'd; for *Henry* King of *Germany*, whose Interest they had espoused, was now enter'd *Italy* with a great Army, in order to conquer the Kingdom.

IN the mean while, after the Death of *Henry* King of *England*, *Richard* his Son and Successor, and *Philip* King of *France*, with strong Fleets had left their Dominions in order to go to *Palestine*; and tho' by different Courses, about the End of *September* both of them arriv'd at *Messina*, where, the Winter coming on, they were forc'd to remain till the following Spring. Besides, King *Richard* had a mind to stay to make up some Differences that had happen'd betwixt Queen *Joan* his Sister, Widow of King *William*, and *Tancred* King of *Sicily*, which he agreed, and *Tancred* promis'd to give in Marriage one of his Daughters, as soon as she was of proper Age, to Prince *Arthur*, the King of *England's* Nephew, *Richard* having no Issue of his own, with Twenty thousand Ounces of Gold for her Portion<sup>1</sup>.

AT this Time the Fame of *Giovacchino Calabrese*, a *Cistercian* Monk, Abbot of *Curacio*, and reputed a Prophet, was spread over all *Europe*; for which Cause *Richard* was curious to converse with him, but by his Discourse the King found him to be only a prating Fellow, and the Issue of this Expedition was the Reverse of what he had prophesied. However, he was a Man of great Vivacity, subtle Wit, and very sly, and the most knowing of the Age in the Holy Scriptures; and from the Skill he had in them, with his ready Wit, impos'd upon the People, and pass'd for a Prophet. From the infinite Number of Books which he wrote, and all of them with specious and extravagant Titles, it may be seen, that among the Divines of these Times, he was reputed a Man of great Penetration and Learning<sup>2</sup>. Tho' he attack'd *Peter Lombard*, a Man likewise famous in these Times, call'd *Magister Sententiarum*, whom he treated very unhand somely, and in one of his Books which he wrote against him, did not stick to call him a Heretick and Fool; yet, because *Peter's* Opinions were all Catholick, and did not deserve to be so branded by *Giovacchino*, *Innocent III.* in the *Lateran* Council condemn'd the Abbot's Book, and pronounc'd them Hereticks who should dare to defend that part of the Book which was levell'd against *Peter*.

NEVERTHELESS, on account of his great Penetration and Parts, he was look'd upon by learned Men to be very ingenious, and gifted with a Spirit, if not of Prophecy, at least of Knowledge, which was the Opinion of *William* Bishop of *Paris*, who flourish'd about the Year 1240. And *Dante*<sup>3</sup> makes no Difficulty in placing him in Paradise, and making him a Prophet.

There Raban is, and by his Side do's shine  
The good Calabrian Abbot Giovacchine,  
Full of prophetick Fire, and Light Divine.

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<sup>1</sup> Ep. Regis Angl. ad Clem. III. apud Baron.

<sup>2</sup> V. Nicod. in Addit. Bibliot. de Toppi.

<sup>3</sup> Dante Parad. canto 12.

And

And he was likewise reckon'd a Prophet by *Matteo Palmieri* in his Chronicle, and by *Sisto Saneſe*, *Henricus Cornelius Agrippa*, *Paleotto*, and many others recorded by the Author of the Appendix to the Library of *Toppi*.

IN the mean time *Henry* King of *Germany*, on the News of the Death of *Frederick Barbaroffa*, his Father, who, as we have ſaid, died in the leſſer *Armenia*, deſirous to gain the good Will of the *Germans*, reſtor'd to *Henry* Duke of *Saxony*, and to every other Perſon, whatever his Father had taken from them; and after he had thus ſettled the Affairs of *Germany*, he ſent Ambaſſadors to *Rome* to *Pope Clement*, and the Senators of the City, acquainting them, that he had reſolv'd to come to *Italy*, in order to receive the Imperial Crown the *Eaſter* following; but while they were looking for him, *Pope Clement* died the Fourth Day of *April* 1191, and *Henry* arriv'd ſoon after, when *Giacinto Bubone*, a *Roman*, nobly deſcended, and 85 Years of Age, had ſucceeded *Clement*, and taken the Name of *Celeſtine III.* who, with the uſual Solemnity, in *St. Peter's Church*, crown'd *Henry* Emperor, together with his Wife *Conſtantia*.

*KING Tancred* went again from *Palermo* to *Puglia*, where he call'd a Parliament of his Barons, and ſettled the Affairs of his Kingdom, and then went to *Abruzzo*, where he defeated Count *Rainaldo*, and forc'd him to ſubmit. From thence he went to *Brindiſi*, and concluded a Marriage betwixt his eldeſt Son *Roger*, and *Irene*, ſometimes call'd *Urania*, Daughter of *Iſaac* Emperor of *Greece*<sup>2</sup>, and ſoon after, the young Lady came from *Conſtantinople* to *Brindiſi*, where the Marriage was celebrated with great Pomp. *Tancred* likewise cauſ'd *Roger* to be crown'd King of *Sicily* in that City; whence *Inveges* obſerves<sup>3</sup>, that this was the firſt King of *Sicily* that had been crown'd any where but in *Palermo*; and after the Coronation was over, and the Caſtles of *Evandro* and *Guglielmo* were given to *Roffredo* Abbot of *Monte Caſſino*, *Tancred* return'd joyfully to *Palermo*.

BUT the Emperor *Henry* was no ſooner crown'd in *Rome*, than he aſſembled his Army, and accompanied with *Conſtantia*, by the Way of *Campania*, he attack'd the Kingdom in order to conquer it; but *Celeſtine* us'd his utmoſt Endeavours to diſappoint him, and was very much offended, that he ſhould make War upon *Tancred*, who had been inveſted with the Kingdom by his Predeceſſor *Clement*<sup>4</sup>. But *Celeſtine's* Endeavours were all in vain, for the *Germans*, being come to the Caſtle of *Acre*, a very ſtrong Place on the Borders of the Eccleſiaſtick Eſtate, took it in an Inſtant by Storm: Which Action, as it hearten'd and encourag'd the Emperor's Army, ſo it put a Damp upon the Courage of the Natives; for *Sorella*, *Atino*, and *Colle*, were ſo terrified, that they ſurrender'd without being attack'd; and *Roffredo* Abbot of *Monte Caſſino*, who was lying ſick, and the Inhabitants of *St. Germano*, took an Oath of Fealty to the Emperor, who, with *Conſtantia*, ſoon after, went to viſit that Monaſtery. As they advanc'd further, the Counts of *Fondi* and *Moliſe*, ſubmitted, and in *Terra di Lavoro*, *William* Count of *Caferta*, and the Cities of *Teano*, *Capua* and *Averſa*, likewise ſubmitted; they found no Reſiſtance, till they came to *Naples*, whither the Count of *Cerra* had retir'd, and the Citizens continuing firm in their Allegiance to *Tancred*, were prepar'd to make a bold Defence. *Naples* was at this Time govern'd by *Aligerno*; and though the *Neapolitans* own'd *Tancred* for their Lord, as they had done all the *Norman* Kings his Predeceſſors, yet they ſtill retain'd the ſame Form of Government which they had, before *Roger* made their City free. *Henry* having ſent the Empreſs *Conſtantia* to *Salerno*, which had now come under his Obedience, cloſely beſieg'd *Naples* on all Sides, but by no Means was able to take it, becauſe it was not only bravely defended by the Count of *Cerra*, and the *Neapolitans*, but likewise the *Germans*, in the exceſſive Heat of the Season, by eating Fruit, and the unhealthful Air of theſe marſhy Places, began to die in great Numbers, and among the reſt, the Archbiſhop of *Cologne*, whoſe Body was carried to be buried in *Germany*; and at laſt the Emperor himſelf fell ſick, and finding he was not like to ſucceed in his Undertaking, order'd all the Neighbourhood to be pillag'd, all the Fruit-Trees to be burn'd, and the Siege to be rais'd. And having left *Conſtantia* in *Salerno*, and a Captain, nam'd *Mofca* in *Cervello*, Governor of the Caſtle of *Capua*, *Diepoldus* a *German*, Governor of the Caſtle of *Acre*, and *Corrado di Marlei* of the Town of *Sorella*, and taken Hoſtages

<sup>1</sup> Chron. of Foſſa nova.

<sup>2</sup> Ricc. da S. Germ.

<sup>3</sup> Inveges lib. 3. Hiſt. Palerm.

from

from the Citizens of *St. Germano*, whom, with the Abbot *Roffredo* he took with him, he set out for *Lombardy* on his Way to *Germany*.

THE Count of *Cerra* having heard of *Henry's* Departure, immediately with his Soldiers, and many *Neapolitans*, march'd out of *Naples* and went to *Capua*, which presently surrender'd, where he kill'd a great Number of *Germans*, and laid Siege to the Castle, which, for want of Provisions, *Mosca in Cervello* not being able to maintain, surrender'd, and with all his Garrison was allow'd to march out<sup>1</sup>. Then the Count took *Atino*, *Aversa*, *Teano* and *S. Germano*, with all the Villages belonging to the Abbacy of *Monte Cassino*; and having solicited *Adenolfo de Caserta*, the Dean of the Monastery to surrender, he could, neither by Intreaties nor Force, prevail with him. He afterwards subjected *Riccardo Mandra* Count of *Molise*, and gave the Government of *S. Germano* and *S. Angelo*, to *Teodico Masnedam*. *Riccardo* Count of *Fondi*, who had bought *Seffa* and *Teano* from the Emperor, terrified at these prosperous Successes, deserted his Dominions, and fled to *Campagna di Roma*; and *Tancred* having a Mind to gratify *Aligerno* for his good Service, in defending *Naples*, gave him the County of *Fondi*, forfeited by *Riccardo*.

BUT this Run of good Fortune no ways frighted *Adenolfo* Dean of *Cassino*, who, notwithstanding that Pope *Celestine* had excommunicated him, and likewise interdicted his Monastery<sup>2</sup>, obstinately stood out, and adher'd to the Emperor's Party. On the contrary, the *Salernitans*, in order to curry Favour with *Tancred*, deliver'd up the Empress *Constantia*, whom he very generously and honourably receiv'd in *Palermo*, and not long after, at the Desire of the Pope, he set her at Liberty, and with many Presents, accompanied with *Egidio* Cardinal of *Aragon*, sent her to *Germany* to her Husband<sup>3</sup>.

NEVERTHELESS the War was long carried on with doubtful Success in *Terra di Lavoro*; for *Adenolfo* Dean of *Monte Cassino*, having assembled some Troops of his own, with a few *Germans*, recover'd all the Places belonging to his Monastery; and the Emperor having sent back the Abbot *Roffredo*, with Count *Bertoldo*, and a good Body of *German* Soldiers, they join'd the Dean, and made notable Progress; and Count *Bertoldo* having enter'd the Kingdom with many *German* and *Florentine* Soldiers, put all *Campania* and the County of *Molise* in terrible Confusion, demolish'd the City of *Venafro*, and the Castles in the Neighbourhood, and made many of *Tancred's* Soldiers Prisoners.

WHILE our Kingdom was thus ravag'd, *Richard* King of *England*, who with *Philip* King of *France* had gone to *Palestine*, and taken *Acon*, having fallen out with King *Philip*, was the first that capitulated with *Saladin*, and made a Truce for Three Years, which they concluded in the Year 1190; and having given the Title of King of *Jerusalem* to his Nephew *Henry*, and to *Guido* of *Lusignan*, to whom that Kingdom of right belong'd, the Island of *Cyprus* in place of it, he sail'd with his Fleet from that Coast, in order to return to his own Country; but being overtaken with a terrible Storm in the *Adriatick* Sea, he had like to have been drown'd, and with difficulty got ashore with a few Followers. And travelling privately thro' *Germany* for *England*, near to *Vienna* he was betray'd by some of his own Domesticks, and made Prisoner by the Duke of *Austria*, and deliver'd to the Emperor his Enemy, who, notwithstanding all Means us'd for his Redemption, kept him a Year and near Two Months Prisoner, at last for a great Sum of Money, set him at Liberty, to return to his own Kingdom. In the mean time Pope *Celestine* had excommunicated both the Emperor and the Duke of *Austria* for this Fact, and pretended that he could not absolve them until they had restor'd the Money extorted from the King for his Liberty; so that they, by no Means willing to part with it, died thus excommunicated.

BUT to return to our own Kingdom, Count *Bertoldo* pursuing his Conquests in *Terra di Lavoro*, and the County of *Molise*, and multitudes of the Natives, who long'd for the *German* Government, joining him daily, oblig'd *Tancred*, lest the whole Kingdom should revolt, to leave *Palermo*, and return to *Puglia*, where he

<sup>1</sup> Ricc. da S. Germ. Imperator Regnum intrat mense Martio, Papa prohibente, & contradicente. Arnaldo Lubbecense likewise writes, that Henry's coming to *Puglia*, animum D. Papæ non parum offenderat, quia Rex Tancredus a sede Apostolica jam ibi ordinatus fuerat.

<sup>2</sup> Ricc. da S. Germ.

<sup>3</sup> Idem. Adenolphus Casertanus Decanus Cassinensis, pro eo quod in partes non cessit Regis, a Celestino Papa excommunicatus est, & Monasterium Suppositum interdicto. Idem. Roger. Hovenden in Annal. Anglor. Chronic. de Fossa Nova apud Baron.

assembled

affsembled a strong Army, and march'd to engage the Count<sup>1</sup>; and meeting one another under *Montefusco*, they were just going to engage; but the King being advis'd, that it was not fit to risk his Royal Person in Battle with *Bertoldo*, shunn'd fighting<sup>2</sup>; upon which the Count, whose Army was inferior in Number to that of the King, was overjoy'd, left *Montefusco*, and return'd to the County of *Molise*, where he besieg'd the Castle of *Monte Rodano*, and during the Siege, was kill'd by a Ball thrown out of the Castle from a Machine, which was all the Artillery us'd in these Times; and in his Place the *Germans* chose *Mosca in Cervello* their Leader. And *Tancred* likewise march'd from *Montefusco*, and re-took the Castle of *S. Agata*, and all the Places of that Province, and from thence he went to *Terra di Lavoro*, where the Count of *Caserta*, and the City of *Aversa*, with some other Places, soon submitted to him. And having thus reduc'd to his Obedience, the Borders of *Puglia* and *Campania*, he return'd to *Sicily*; but before his Departure, he left no Stone unturn'd to bring over *Roffredo* the Abbot of *Cassino* to his Party, though in vain, for, as if he had foreseen what was to happen, neither the Intreaties of the King, nor the Threats of the Pope, were able to make him desert the Emperor.

BUT *Tancred's* Prosperity was very short-liv'd, for soon after his Return to *Palermo*, Roger his eldest Son, fell sick, and in the Vigour of his Youth was snatch'd away by untimely Death, without leaving Issue. This grievous Loss struck the King his Father to that degree, that shortly after, having caus'd his second Son *William*, to be crown'd<sup>3</sup>, he likewise, by the Violence of his Grief, fell so ill, that no Remedy being found equal to his Distemper, he departed this Life in the Year 1193, according to *Riccardo da S. Germano*, a Contemporary Writer, and with great Pomp was buried in the Cathedral Church of *Palermo*, under the same Tomb with his Son *Roger*, as he had order'd before his Death.

THIS Prince's Reign was so very short, and full of Troubles and Commotions, that he had not Time to settle his Kingdom with good Laws; for he was so involv'd in the Affairs of War, that he had not Leisure to think of those of Peace; therefore we have none of his Laws; and if he had made Laws, *Frederick II.* would not have suffer'd them to be join'd with those of *Roger* and the Two *Williams*. For he look'd upon *Tancred* and his Son *William*, who succeeded him, to be Usurpers, and would not allow any of their Grants, Privileges or Donations, as done by Tyrants, to be of Force, or to take Effect<sup>4</sup>; as the Emperor *Justinian* did by the *Gothish* Kings, for he approv'd of all the Acts and Deeds of *Theodorick* and *Atbalarick* his Son, but not of those of *Theodatus*, *Vitiges*, and the other Kings their Successors, whom he took to be Tyrants, and Usurpers of the Kingdom of *Italy*.

*TANCRÉD*, by *Sibilia da Medania*, the Daughter of *Robert* Count of *Cerra*, Brother Uterine of *Ruggerio da Sanseverino*, the Son of *Trigiso Normanno*, had the Two Sons above-mentioned, and some Daughters; of which only *Albirnia* and *Mandonia*, surviv'd the Father, and who, with their Brother *William*, and their Mother *Sibilia*, were long kept Prisoners in *Germany* by *Henry*, as shall be related; and according to *Inveges*<sup>5</sup>, he had another nam'd *Constantia*, the Wife of *Pietro*, who was Uncle to the Doge of *Venice*.

<sup>1</sup> Pellegr. Cast. in Anon. Cassin.

<sup>2</sup> Ricc. da S. Germ. Quod honor sibi non erat cum Bertholdo congredi.

<sup>3</sup> Idem, Rex ipse in Siciliam remeavit; ubi ordine naturæ præpostero Rogerius filius ejus, qui coronatus in Regem fuerat anno 1191. viam

est universæ carnis ingressus, & frater ejus Gulielmus in Regem successit ei.

<sup>4</sup> Constit. Instrumenta, tit. 27. & Constit. Privilegia, tit. 28. lib. 2.

<sup>5</sup> Inveg. lib. 3. Hist. Palerm.





## C H A P. I.

*William III. King of Sicily, succeeds to his Father Tancred. The Emperor Henry makes War upon him, dethrones him, and takes him Prisoner.*



**T**ANCR ED was succeeded by his Son *William III.* whom his Father, after the Death of his Brother *Roger*, had caus'd to be crown'd King of *Sicily*; upon the News of which, *Henry* resolv'd to return to *Italy*, in order to conquer the Kingdom, for he judg'd (*Tancred* being dead) that there was nothing could prevent his Success in the Undertaking. For which end he sent his Army to the Sea Coast of the Kingdom, and he himself, with his *German* Friends, the Count of *Fondi*, and many native Barons, who met him on the Borders of the Ecclesiastick State, by the way of *St. Germano*, went to *Monte Cassino*, where he was honourably receiv'd by the Abbot *Roffredo* <sup>1</sup>.

**F**ROM thence having enter'd *Campania*, and all the neighbouring Places surrendering to him, except *Atina*, *Rocca Guglielmo*, *Capua* and *Aversa*, which neither surrender'd, nor were attack'd, he went towards *Naples*. Before *Henry* came, the *Neapolitans* had agreed with the *Pisans*, whom he had taken care to send with a good Fleet, to surrender, so that upon his Arrival, the Gates were open'd to him.

**F**ROM *Naples* he march'd and laid Siege to *Salerno*; the Citizens, conscious of their Villany in delivering up *Constantia*, and afraid that *Henry*, out of Revenge, would ruin their City, resolv'd to defend themselves; but not able to resist so great an Army, the City was taken by Storm, and cruelly plunder'd; as for the Inhabitants, some of them were kill'd, some put in Prison, and the rest banish'd; thus was this noble City left desolate. Such was the Fate of the most magnificent Cities of this Kingdom; *Benevento*, when it came under the Government of the Church of *Rome*, lost all its ancient Splendor and Glory; and whereas formerly it was the Head of a vast Principality, afterwards its Territories reach'd only a few Miles without the Walls. *Bari*, by the Indignation of *William I.* was destroy'd; and *Capua*, upon the declining Hand, had lost its antient Lustre. It ought not then to seem strange, if from the Decay of these renown'd Cities, we shall shortly see *Naples* start up, and, by the Favour of *Frederick II.* and yet more by that of *Charles I.* of the Family of *Anjou*, become the Head, and Metropolis of so vast and noble a Kingdom.

**T**HUS did *Henry* triumph in these Provinces, and with the like Success enter'd *Puglia*, which, without any Resistance, he totally subdued: From thence he sent his most trusty Friend the Abbot *Roffredo* into *Sicily*, and gave him Power, in his Name, to receive all the Places that were willing to submit. As the Abbot pass'd through *Calabria*, the Cities and Castles of that Country strove which of them should open their Gates to him first, and when he cross'd the Straits, *Messina*, *Palermo*, and almost all the other Cities of that Island, without making the least Opposition, submitted.

**Q**UEEN *Sibilia* seeing the Disloyalty of the *Sicilians*, and afraid of herself and Children, left the Royal Palace, and retir'd to the Castle of *Calatabellotta*, a

<sup>1</sup> Ricc. da S. Germano.

very strong Place, and able to make a good Defence; and in the mean Time the *Palermians* invited the Emperor, who had now come over to *Sicily*, to make his Entry into their City. But *Henry* not willing to lose Time in besieging *Calatabelotta*, resolv'd to gain his Ends by Fraud, whereupon he sent Messengers to the Queen, to tell her, that if she would give up the Kingdom, she should have the County of *Lecce* to herself, and the Principality of *Taranto* to her Son *William*; the Queen seeing herself deserted by every Body, accepted the Offer; and the Emperor soon after, having with great Pomp made his Entry into *Palermo*, the poor unfortunate *William* came, and at his Feet surrender'd the Crown of *Sicily*, as the Chronicle preserv'd in *Monte Cassino*, and *Riccardo da S. Germano* relate.

THUS did these Kingdoms go from the *Normans* to the *Suevi*, not by Conquest, as the *Normans* had taken them from the *Greeks* and *Longobards*, but by Succession, in the Person of *Constantia*, the last of the lawful Race of the *Normans*. 'Tis true, this Title would have been of no stead to *Henry*, if he had not back'd it with his Arms; but it cannot be denied, that his Son *Frederick*, in his Constitutions frequently declares, that he held the Kingdom by no other Right but that of Succession. Therefore he calls the Kingdom of *Sicily*, *Hæreditarium Regnum*<sup>1</sup>, and in another Constitution, *Hæreditas pretiosa*<sup>2</sup>.

HENRY having triumph'd over his Enemies, and subjected the Kingdoms of *Puglia* and *Sicily*, in order to fix himself in them, very imprudently, had recourse to Cruelty and Rigour; for after he had rewarded the Abbot *Roffredo*, and given to his Monastery the Castle of *Malveto*, and restor'd to it *Atino*, and *Rocca Guglielmo*, he caus'd a General Assembly to be conven'd on Christmas Day, in the Royal Palace of *Palermo*, where having signified to those present, that by Letters from *Pietro* Count of *Celano*, he had been advertis'd of a Conspiracy hatching against him, contrary to the Articles agreed on, and the Protection given, he imprison'd *William* the late King, Queen *Sibilia* and her Daughters, *Niccolo* Archbishop of *Salerno*, with *Riccardo* Count of *Ajello*, and *Ruggiero* his Brothers, all three Sons of *Matteo* the High Chancellor, whom he hated mortally, because, as we have said, it was he that perswaded the *Sicilians* to make *Tancred* their King; but *Matteo* being now dead, he vented his Passion upon his Sons. He likewise caus'd the Bishops of *Trani* and *Ostuni*, with many other Prelates and Barons, to be seiz'd; and persisting in his Cruelty, he barbarously caus'd many of them to be burn'd, some hang'd, and the Eyes of others to be put out, and the unfortunate *William's* Testicles to be cut off. Pope *Celestine* upon hearing of this Cruelty, and likewise at the Desire of *Eleonora* Queen of *England*, the Mother of our Queen Dowager *Joan*, who wrote to the Pope for that Purpose<sup>3</sup>, sent an Apostolick Legate to exhortate this unheard-of Cruelty with him; but the Emperor undervalu'd all these Advices: And *Roger Hovenden*, in his Annals, adds, that not content with having wreak'd his Barbarity upon the Living, he did not spare the Dead; for he caus'd the Bodies of King *Tancred* and his Son *Roger* to be rais'd, and the Royal Crowns with which they had been buried, to be taken away, saying, that they wore them by Usurpation. The Emperor *Henry* his Son, was of the very same Opinion; and therefore annul'd all the Acts, Privileges and Donations, and all other Contracts made in the Names of these Princes, looking upon them as Tyrants and Usurpers, and not lawful Princes, but he always call'd *Roger* and *William* his Predecessors.

BUT this Year 1195, while *Henry* was thus employ'd in *Sicily*, *Constantia* left *Germany*, and on her way to *Sicily*, in the City of *Esi* in *Marca d'Ancona*, brought forth a Son, who, perhaps, as a Presage of what was to happen, or rather an Inducement to Virtue, was call'd after his two Grandfathers, *Frederick* *Roger*, by some, *Roger Frederick*. This Hero, according to the Chronicle of *Monte Cassino*, *Riccardo da S. Germano*, and *Albertus* Abbot of *Stade*, was Born this Year 1195<sup>4</sup>, and in this obscure City of *Marca d'Ancona*; so that the Place of his Nativity had a great Resemblance with that of his Death, which was *Florentino*, likewise an obscure Place of *Puglia*. *Inveges*<sup>5</sup>, who by all means will have him to have been born in *Palermo*, follows the Opinion of the Moderns, contrary to that of *Riccardo da S. Germano*,

<sup>1</sup> Constit. Cum hæreditarium Regnum nostrum *Siciliæ*, cujus præclara hæreditas, &c. lib. 3. tit. 23.

<sup>2</sup> Lib. 1. in Proëm. Cum igitur Regnum

*Siciliæ* nostræ Majestatis hæreditas pretiosa, &c.

<sup>3</sup> Epist. apud Baron.

<sup>4</sup> Pellegr. in Chron. Cass. Anno 1195.

<sup>5</sup> Inveg. lib. 3. hist. Paler.

and the most antient Writers; and upon a false Supposition, that *Constantia* and *Henry* had been crown'd in *Palermo* in the Year 1194, it appears incredible to him, that she could be brought to Bed in *Eß* the Year following. And he is certainly in the Right on it, but *Constantia* did not go to *Sicily* till this Year 1195, as these antient Historians relate. He was born when his Mother *Constantia* was but 37, or at most 39 Years of Age; and being born amidst the Inconveniencies of a Journey, that he might not be expos'd to greater Dangers, his Mother gave him to be nurs'd by the Dutcheß of *Spoletto*, and the Care of him was committed to her and *Alberto*, by some call'd *Corrado*, Duke of *Spoletto*, and Count of *Affisi*, her Husband; who three Years after caus'd him solemnly to be baptiz'd in the City of *Affisi*, in the Presence of fifteen Bishops, and many Cardinals, and he was nam'd *Frederick Roger*, after his Great Grandfathers. This Solemnity in Presence of so great a Number of Cardinals, and other Prelates, after so long a Delay, and the idle Story spread amongst the Common People, of his being a Supposititious Child, gave Rise to that fabulous Story written by *Cranzius*, in a Book which he compos'd concerning the Metropolis of *Saxony*, from whom other Modern Writers have taken it, that the Empress, by reason of her old Age, being past Childbearing, and according to these Writers 55, or as some of them will have it, 60 Years of Age, was brought to Bed of *Frederick* in a Tent on the Middle of the Market-Place, in Presence of all the Women of the Town, that had a mind to see her; and that in order to remove all Suspicion, on her way to *Palermo*, she travell'd with her Breast naked, and expos'd dropping Milk, as the Author of the Preface to the *Capitula* of the Kingdom of *Sicily* does not stick to write. For removing the Suspicion the Vulgar had conceiv'd, that the Child was Supposititious, Pope *Celestine*, before he would invest *Frederick* with the Kingdom of *Sicily*, was forc'd to make *Constantia* swear, that he was begotten by her Husband *Henry*; and the Reason of this Oath, was not that she was look'd upon as past Childbearing for old Age, but to smother the Report of the Imposture spread among the Vulgar; and when *Marcovaldus d'Amener*, was making War against *Frederick* in *Sicily*, he wrote to Pope *Innocent*, who had succeeded *Celestine*, that he would clearly prove the Imposture; the good Pope, who thought the Mother's Oath sufficient Proof, would give no Ear to *Marcovaldus*, but rejected his Offer. Whence proceeded the Story afterwards of *Constantia*'s being so old, that she was past Childbearing when she brought forth *Frederick*, and of her being bred up from a Child in the Monastery of the Greek Nuns of *S. Basil* in *Palermo*, with other fabulous Stories, which we have already disprov'd.

IN the mean Time the Emperor *Henry*, after he had invested *Mosca* in *Cervello* with the County of *Molise*, which had been taken from *Mandra*, who, being expell'd the Kingdom, died soon after, resolving to return to *Germany*, went to *Puglia*, and call'd an Assembly, where *Constantia* was present, who shortly after return'd to *Sicily*, and *Henry* set out for *Germany*, and carried *William* and all the Prisoners abovenam'd along with him, whose Liberties Pope *Celestine* had in vain solicited. He likewise took with him all the Gold and Jewels he could lay hold of; and robb'd the Treasure and Furniture of the Royal Palace, consisting of Vessels of the purest Gold and Silver, Foot-stools, Bedsteads, and Tables of the same Metal, and Cloth of Gold and Purple, amass'd by the former Kings; with which he loaded a Hundred and fifty Beasts of Burden. Thus did the *Sicilians* see the Spoils of their Kingdom carried off like those of a conquer'd People, by a foreign and rapacious Enemy. These and greater Miseries which the *Sicilians* suffer'd by the *Germans*, and *Henry* their Master, *Ugone Falcando*, in the Preamble to his History dedicated to *Pietro* Archbishop of *Messina*, laments and describes at large.

AFTER *Henry* was gone for *Germany*, *Riccardo di Medania* Count of *Cerra*, Brother-in-Law to the late King *Tancred*, on his way to *Campania di Roma*, whither he was going to shun *Henry*'s Cruelty, being betray'd by a Fryar, was made Prisoner by *Diepoldus Alemannus*, who kept him closely shut up in the Castle of *Arce*, till the Emperor should return to *Italy* in order to deliver him up to him. In the mean Time *Henry* sent the Bishop of *Worms* his Ambassador, who was no sooner arriv'd at the City of *Naples*, accompanied with the Abbot *Roffredo*, and many Soldiers,

<sup>1</sup> A. S. Inn. III. Apud Baron. Anno 1197. Conrado nomine Suevo, qui antea creatus fuerat Dux Spoleti & Comes Assisii, uti fidelissimo sibi

subdito, & amico, gentili suo, atque Ducis ejus Conjugi.



both Natives and  *Germans*, than he caus'd the Walls of the City to be levell'd with the Ground; and according to *Riccardo da S. Germano*<sup>1</sup>, *Capua* had the same Fate. And the Emperor having assembled a vast Army in *Germany*, consisting of *Suevians*, *Bavarians*, *Francönians*, and other Nations, to the Number of Sixty thousand, under pretence to send them on an Expedition beyond Sea, but in reality, according to *Arnoldus Lubecensis*, to exterminate all the *Normans*, and particularly those, who had sided with King *Tancred* against him, he came into *Italy*, and after some Days stay in *Perentino*, he march'd to *Capua*, where having caus'd all the Barons to be conven'd to hold a General Assembly, *Diepoldo Alemanno* deliver'd up to him Count *Riccardo*, whom he shamefully caus'd to be tied to a Horse's Tail, and dragg'd through all the most dirty Streets, and at last hung up by the Feet; and after he had liv'd for two Days in this Torment, the Emperor order'd a *German* Buffoon to tie a Rope, with a great Stone made fast to it, about his Neck, and in this manner he was cruelly strangled<sup>2</sup>. Then the Emperor held his Parliament, and laid a Tax upon all the People of the Kingdom, and made *Diepoldo Alemanno* Count of *Cerra*, and sent *Oddo*, *Diepoldo's* Brother, to besiege *Roccafecca*, to which *Rinaldo* and *Landolfo*, two Brothers of the Family of *Aquino*, had fled to defend themselves against so cruel an Enemy, and then he went to *Sicily*, where he caus'd all the *Normans* to be put to Death after cruel and different manners, not sparing the very Children; and to be reveng'd of those *Normans* of the first Rank, and Royal Blood, who had had a hand in the Crowning of King *Tancred*, he caus'd Crowns to be nail'd to their Heads, till in that cruel manner they died. He likewise imprison'd *Margaritone* a famous Captain, Duke of *Durazzo*, Prince of *Taranto*, and High Admiral, and order'd his Eyes to be put out, and his Testicles to be cut off.

THE Empress *Constantia* seeing her Husband treating her *Normans* in this barbarous and cruel manner, and his wicked Inclination bent to extinguish her Royal Race, not able to bear such malicious Doings, revolted from him<sup>3</sup>; and having combin'd with the Chief Men of the Kingdom, and laid hold of the Royal Treasure, she rais'd an Army against him; whereupon the Barons became more bold, openly revolted, and kill'd all the *Germans* that fell in their way, and they would not have spar'd the Emperor himself, if he had not fled and taken shelter in a strong Castle. But he resolving to go to a more secure Place, was so besieg'd on all Sides by the *Sicilians*, that, not able to make his Escape, to extricate himself from the Danger he was in, he agreed to whatever Conditions his Wife should be pleas'd to impose upon him; she order'd, that upon his being set at Liberty, notwithstanding the Marriage Contract, he should immediately repair to *Germany*. But he, unwilling to put a Stop to the foreign Expeditions which he intended, order'd Matters so, that at last he was reconcil'd to his Wife and the disaffected Barons; whereupon he embark'd his great Army in a numerous Fleet for *Syria*, which struck great Terror into *Alexius Angelus*, who had dethron'd his Brother *Isaac*, and was now Emperor of *Constantinople*; for having sent Ambassadors to tell *Alexius*, that he must restore all the Country which King *William* had formerly conquer'd in *Greece*, which reach'd from *Epidaurus* to *Thessalonica*, or pay him what Tribute he should impose upon him; the *Greek* Prince, terrified at the Power of the Emperor *Henry*, durst not refuse the Condition offer'd, but only begg'd to have the yearly Payment moderated; and sent some Persons well skill'd in such Matters over all his Empire, to collect all the Gold that could be got, not only from private Men, but also from the Churches, and not to spare the Sacred Vessels, and the Sepulchres of the Dead, in which, according to the Custom of those Times, great Sums of Money were laid in Honour of the Persons buried therein; till they had made up fifteen Talents, the Sum demanded by *Henry*.

WHILE these Matters were transacting in *Greece*, the Imperial Army set sail for the East, and was commanded by *Conrad* Bishop of *Idelma*, and Chancellor of the Empire, who in the Emperor's Absence had govern'd in *Sicily*, and after a prosperous Voyage landed at *Acon* in *Palestine*.

ABOUT the same Time, when the Emperor was besieging *Castel Giovanni*, which had revolted, being taken ill, he retir'd to *Messina*, where his Sickness increas'd to that Degree, that soon after, on the 29th of September 1197, he

<sup>1</sup> Ricc. da S. Germ.

<sup>2</sup> Cron. de Fossa nov.

<sup>3</sup> Roger. Hovenden. Annal Anglor.

departed this Life<sup>1</sup>; his Cruelty made the News of his Death not only acceptable to the Emperor of *Constantinople*, who dreaded him much, but likewise to all the People of *Sicily* and *Puglia*.

*HENRY*, according to *Goffredo da Viterbo*, was a Man of a genteel and noble Appearance, but his wicked Actions shew'd him to be of a faulty Disposition of Mind, cruel, perjur'd, and faithless, most covetous of Money, and an Enemy to the Popes, by whom he was excommunicated for making *Richard* King of *England* Prisoner, and taking Money for his Ransom, and for seizing *Niccolo d' Ajello* Archbishop of *Salerno*; and dying under the Censures of the Church, he was not buried in holy Ground. But from his last Will, which was afterwards found, and as soon as he fell sick, his having sent the Bishop of *Bethune* to King *Richard*, with the Money he had paid for his Ransom<sup>2</sup>, it's evident that he repented him of his by-past Misdeeds.

AFTER his Death, the Empress *Constantia* immediately sent the Archbishop of *Messina* to the Pope, to beg of him to allow her to bury his Body in the Church; and likewise, that he would give Orders to raise the Siege of *Marca di Guarniero*, wherein *Marcovaldus* of *Menuder*, a German, and Chief Justice of the Empire, was closely besieg'd by the *Romans*; and that moreover, he would cause her Son *Frederick* to be crown'd King of *Sicily*, and give him the usual Investiture<sup>3</sup>. To the first Request, the Pope answer'd, that the Emperor's Body could not be buried till all Matters were accommodated with the King of *England*. To the Second, that *Marcovaldus* could not be reliev'd without the Consent of the *Romans*; and to the Third, that *Frederick* should be crown'd King of *Sicily*, provided his Brethren the Cardinals would likewise give their Consent: When they consented, the Coronation was order'd to be perform'd, upon Payment of a thousand Marks of Silver to the Pope, and as much to the Cardinals; and besides, the Pope oblig'd *Constantia* to swear upon the Holy Evangelists, that *Frederick* was born in lawful Wedlock contracted betwixt her and *Henry*.

THE Emperor before he died made a Will, part of which is recorded by *Baronius* in his Annals, which he says he gathered from the Life of Pope *Innocent* sent him by Cardinal *Carlo de Conti*, found by him in the Archives of *Avignon*, while he was Legate there, written in a very antient Character; and it bears, that this Will was found among the Baggage of *Marcovaldus* after he had been defeated by the *Romans*, not in *Marca d' Ancona*, but in a Battle which we shall have occasion to mention in the following Book. And this Testament, full of Piety, shews that he repented him of his by-past Faults, and since he could make no other Reparation for them at the Point of Death, it lets us see that he was willing they should at least be mended by his Heir. By Virtue of which Will, according to *Roger Hovenden's* Annals of *England*, the greatest Part of *Tuscany*, which he and the preceding Emperors had taken, to wit, *Acquapendente*, *Santa Crispina*, *Monte de Falisci*, *Radicosano*, and *S. Quirico*, with all their Territories and Jurisdictions, and many other Places depending on the Pope, were restor'd to the Church by *Constantia*.

*MATHEW PARIS* likewise relates, that *Henry* left to the Friars of the *Cistercian* Monastery, Three thousand Marks of Silver out of the Money paid by King *Richard* of *England*, in order to make Censers for all that Order, but that the Abbot refus'd the Present, as unjustly acquir'd.

AT last Matters being adjust'd with *England*, the Pope consented that *Henry's* Body should be buried, which was accordingly done in the Cathedral Church of *Palermo*, under a rich Tomb of Porphyry, which is to be seen at this Day. His Army, which not long before his Death arriv'd in *Palestine*, under the Command of Bishop *Conrade*, hearing of his Death, and that *Saladin's* Son was come into *Palestine* against them, were so struck with the bad News, that though the Soldiers were dispos'd to stand their Ground and fight gallantly, yet all the principal Officers, except the Bishops of *Verdun* and *Mentz*, shamefully fled; the Bishop of *Mentz*, by Order of the Pope, went afterwards and crown'd the King of *Armenia*, who had earnestly desir'd it.

<sup>1</sup> Ricc. da S. Germ. Rog. Hoven. Ann. Ang. Cron. di Fossa Nova. Firri in festo S. Michaelis.

<sup>2</sup> Rog. Hoven. Annal. Ang.  
<sup>3</sup> Idem, Ann. Ang.

BUT now, after all these Transactions, Pope *Celestine*, after he had govern'd the Church Seven Years, died in *Rome* the Sixth Day of *January*, in the Year 1198, and *Giovanna Lotario*, Cardinal of *St. Sergius*, of noble Birth, not above Thirty Years of Age, of a most courteous Behaviour, and the greatest Scholar and Lawyer of his Time, was elected in his Place, and call'd *Innocent III*.



## CHAP. II.

*The Empress Constantia takes the Government of the Kingdom:  
Her Death ; and an End of the Royal Race of the Normans.*



IN the mean time the Empress *Constantia*, seeing how much the German Soldiers, and their Commander in Chief *Marcwaldus*, a Man of a dissolute Life, extremely Cruel and Rapacious, were hated by her Subjects, for the Quiet of her Kingdom, dismiss'd them, with Orders to march forthwith out of *Puglia* and *Sicily*, and never to return without her Liberty<sup>1</sup>; whereupon they all march'd away, and *Marcwaldus* went to the County of *Molise*, which *Henry* had given him on the Death of *Mosca in Cervello*, and that he might not be molested by the inrag'd Natives, or stopp'd by *Pietro* Count of *Celano*, or the Cardinals, who stay'd in the Kingdom, the Empress gave him a safe Conduct or Pass; and having left *Castellains* in the Forts of the said County, he went to *Marca d'Ancona*, of which he had been made Marquis by *Henry*, where he remain'd till *Constantia* died, and then return'd to *Puglia*, where he did much Mischief, as shall be told.

AS soon as *Innocent III*. was crown'd Pope, he left no Stone unturn'd to get Queen *Sibilia*, her Son *William*, and her Daughters, *Niccolo* Archbishop of *Salerno*, his Brothers, and the other *Sicilian* Barons and Natives, set at Liberty; for though the Emperor was dead, yet they were still kept Prisoners in *Germany*; and for that end he sent Three Letters, the first directed to the Archbishops of *Spire*, *Strasburg* and *Worms*, wherein he enjoin'd them to excommunicate all those who had a Hand in keeping the Archbishop of *Salerno* Prisoner, if they did not forthwith set him at Liberty, and send him honourably to *Rome*; and likewise to excommunicate the whole Province in which he was Prisoner: the Second was to the Bishop of *Sutri*, and the Abbot of *St. Anastatius*, ordering them to absolve *Philip* Duke of *Savoy*, *Henry's* Brother, from the Excommunication he had incurr'd, for having invaded and possess'd the Estate of the Church, provided he would procure the Liberty of the foresaid Prelate: and the Third was to the said Bishops and Abbot, injoining them, that if Queen *Sibilia*, *William* and his Sisters, and all the other Prisoners were not reliev'd from Prison, to excommunicate all those that should detain them, and interdict their Baronies<sup>2</sup>. Therefore Duke *Philip*, who had married *Irene* the Greek, Widow of young *Roger* King of *Sicily*, mov'd with Compassion for these unfortunate Ladies, and also in Obedience to Pope *Innocent*, set them at Liberty, and sent them to the Pope in *Rome*, except *William*, who had died a little before in Prison; but what became of them afterwards, and of *Walter* Duke of *Brenna*, who married one of these Ladies, and with arm'd Force enter'd *Terra di Lavoro*, shall be related in the following Book of this History. The Archbishop of *Salerno*,

<sup>1</sup> Ricc. da S. Germano.

<sup>2</sup> Gesta Inn. III. V. Baluz. Epist. Ian.

and

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and the Counts *Riccardo* and *Ruggiero* his Brothers, likewise got their Liberty, return'd to *Salerno*, and liv'd long after.

IN the mean time the Empress caus'd her Son *Frederick*, who was still in the Hands of the Duke of *Spoletto*, to be conducted to *Sicily* by the Counts of *Celano* and *Loreto*; and shortly after she demanded of the Pope the Investiture for herself and *Frederick*, which he stiffly refus'd, not willing to give it in the same Manner that Pope *Adrian* gave it to *William I.* and though *Constantia* offer'd to reward him liberally, yet he was unmoveable, unless Four Articles, of which we shall speak hereafter, formerly stipulated with King *William*, were annull'd, to which the Queen consented, and got the Investiture of the Kingdom for herself and Son, from the Hands of the Cardinal of *Ostia*, who went to *Palermo* as Legate of the Holy Church, where he crown'd them both, and took their Oath of Fealty, and a Promise of a yearly Quit-rent of 600 *Schifati* for *Puglia* and *Calabria*, and of 400 for *Marfia*. *Baronius* has recorded this Investiture, wherein are the following Words: *Quoniam Regnum Siciliae in Apostolicae sedis fide adhuc permansit, Et Rogerius quondam pater tuus, Et Willielmus frater, Et Willielmus nepos Reges Apostolicam Sedem, Et Praedecessores nostros summa constantia coluerunt, &c. concedimus Regnum Siciliae, Ducatum Apuliae, Et Principatum Capuae, Neapolim, Salernum, Amalfim, Marfam, cum iis quae ad horum singula pertinent.* 'Tis likewise recorded by *Chioccarelli*<sup>1</sup> and *Rainaldo*<sup>2</sup>, and related by *Innocent III.* himself in one of his Letters<sup>3</sup>. *Innocent* also wrote a Letter or Brief, prescribing to her the Method she was to observe in the Election of Bishops over all her Dominions, much restricting that Authority, which by virtue of the antient Privileges and Agreements, made betwixt *William I.* and Pope *Adrian*, the Kings of *Sicily* had in these Elections; of which we shall have occasion to discourse, when we come to treat of the Ecclesiastical Polity: Wherefore *Frederick II.* was wont to complain, that *Innocent* had trick'd his Mother when he was a Child; but that he would not in the least suffer the antient Rights and Privileges of the Kings of *Sicily* to be diminish'd; which made him odious to the Popes, and was one of the Causes of the many Jars and Wars, with which *Europe* was long afflicted, as shall be related in the following Books of this History.

BUT the Empress *Constantia*, the last of the lawful Heirs of King *Roger*, falling sick in *Palermo*, departed this Life on the Fifth Day of *December 1198*. She was buried in the Cathedral Church of the same City, under a Tomb of *Porphyry*, close by her Husband, and the Inscription, according to *Baronius*<sup>4</sup>, engraven by the Direction of a certain *Ruggiero Paruta*, a Canon of *Palermo*, not well acquainted with the Truth of her History, contains the fabulous Story of her being a Nun, and old when she was married to *Henry*.

CONSTANTIA, by most wicked and pernicious Advice, in her last Will, which she made Two Days before she died, left the Care and Guardianship of her Son and his Kingdom to *Innocent III.* This Deed not only occasion'd terrible Disorders, and pav'd a Way for the Popes in many Things, to incroach upon the Kingdom, as may be seen in the following Book; but likewise was the Foundation of their other pretended Claim of their being Administrators of the Kingdom, during the Minority of the Kings, even though they were not appointed Guardians by the preceding Prince, they pretending that it belongs to them by Right, as direct Lords, which *Clement IV.* actually made a special Condition in the Investiture which he gave to *Charles of Anjou*; and in the Course of this History we shall find many Disorders and Debates in this our Kingdom, on account of these Pretensions.

THUS in *Constantia*, ended the Royal Race of the *Normans*, which, from the Year 1130, when *Roger* assum'd the Crown in *Palermo*, had gloriously govern'd the Kingdoms of *Puglia* and *Sicily* with Royal Title, the Space of Sixty-eight Years: Princes, who, for their noble and commendable Actions, are worthy of glorious and immortal Memory, who, in the middle of Two Empires, establish'd in *Italy* the most powerful and noble Kingdom that was in these Times in all *Europe*; and under *Roger*, and the Two *Williams*, made both the West, and the utmost Parts of the East to tremble. However, the *Norman Blood* was not quite extinguish'd in these our Provinces. There remain'd many Barons and *Norman Counts*, who, for

<sup>1</sup> Chioc. tom. 1. MS. jur.

<sup>2</sup> Raynal. ad ann. 1198. num. 67.

<sup>3</sup> Inn. Ep. tom. 1. lib. 1. fol. 203.

<sup>4</sup> Baron. ad Ann. 1198.

<sup>5</sup> Riccardo da S. Germano, Inn. Epist. lib. 1. Epist.

a long Series of Years transmitted their Counties and illustrious Blood to their Posterity ; and on good Grounds, some of our Barons at present boast of their Descent from so renown'd and noble a Stock. And at the same Time we see how so famous a Kingdom, after the Death of *Constantia*, the last of that illustrious House, pass'd from the *Normans* to the *Suevi*. With the Death of *Constantia*, after we have related the Ecclesiastical Polity of this Century, we shall put an End to this Book, for the great and glorious Actions of *Frederick* her Son, calling us to more noble and famous Enterprizes, will furnish very ample and bright Matter for the following Books of this History.



## C H A P. III.

*The Ecclesiastick Polity of these our Provinces throughout all the Twelfth Century, to the Reign of the Suevi.*



**I**N this Century the Ecclesiastick State made a more shining and bright Figure than ever. The Popes, exalted above all the Kings of the Earth, extended their Power over all Kingdoms and Provinces ; and the very Kings thought it their greatest Honour to own themselves their Vassals, and render their Kingdoms tributary to the Apostolick See ; for the Popes had made themselves Sovereigns in *Rome*, and disclaim'd all Dependence upon the Emperors ; and they made good their Pretension of making Emperors. *Rome* was become the general Court, to which not only all Ecclesiastical, but also Civil Causes, from all the Dominions of *Europe* were carried, and the Princes, with great Submission, were at the Beck of the *Roman* Pontiffs ; and in the Time of *Innocent III.* the Papacy was at its highest pitch of Grandeur. For the most part Councils were call'd by the Popes, or their Legates, wherein they made such Regulations, as they judg'd most conducive to their Grandeur ; and the Bishops were only to give their Consent. Appeals of all kinds, and from all Persons, were become so frequent, that there was no Affair whatsoever, but was immediately carried to *Rome*. The Popes had, for the most part, ingross'd the conferring of Bishopricks, because they were Judges of the Validity of Elections, though these belong'd to the Clergy, as the Ordinations did to the Metropolitans. For this end they exalted the Dignity of the Cardinals to that degree, that they were look'd upon not only as superior to Bishops, but also to Patriarchs and Primates ; and especially they confin'd the Power of electing the Pope to them. In order to demonstrate their unlimited Power, and at the same time to make advantage by it, there was nothing could happen, for which Dispensations were not easily obtain'd at *Rome*, which so enervated the Ecclesiastical Discipline, that it provok'd *St. Bernard* to declaim against the Abuse of these Dispensations, as one of the great Corruptions introduc'd into the Church.

**B**UT above all, what rais'd the Papacy to the Pinacle of its Glory, was, that all Disputes that happen'd betwixt the Princes of *Europe*, and Controversies among the greatest States, were referr'd to *Rome*, to be decided by the Pope, of which the many Letters and Decretals of *Innocent III.* are flagrant Proofs. The Kings of *England*, *France* and *Spain*, paid most profound Obedience to that See. The most important Affairs of their Kingdoms were manag'd by Prelates. In the Kingdoms of *Puglia* and *Sicily*, the Archbishops of *Palermo*, *Salerno*, *Messina*, *Catania*, and many other Ecclesiasticks, had the Direction of the most weighty Affairs of the

Crown. The most conspicuous Embassies were intrusted to them; and they had the Charge of the King's Household. They were of the King's Council, and gave their Advice in Matters of the greatest Consequence.

T H E R E F O R E they neglected the spiritual Government of their Churches, and only minded the Affairs of State, and acquir'd to their Churches Jurisdictions, Prerogatives and Honours, but especially temporal Riches; and by the Favour of Princes, their judicial Power was enlarg'd; for the Bishops being commonly of the King's Council, was the Cause of a vast Addition to the Authority of the Episcopal Courts; and we have seen, that the Archbishop of *Palermo* obtain'd from King *William*, that the Ecclesiastical Judges should take Cognizance of the Crime of Adultery; and the Empress *Constantia* Queen of *Sicily*, directed an Edict to the Counts, Justices, Barons, Chamberlains and Bailiffs of the Diocese of *Penne*, in which she expressly prohibits them to take Cognizance of the Crimes of Adultery, but to leave them to the Ecclesiastical Jurisdiction; and if there had been Violence made use of in committing the Crime, the Ecclesiastical Judge was to take Cognizance of the Adultery, and the secular Magistrate of the Violence, which we read in the Edict dated in *Palermo*, in the Year 1197, and recorded by *Ughellus* in his *Italia Sacra*. Besides, the Ecclesiasticks as more learn'd than the Laicks, were look'd upon as more fit, and better qualified to administer Justice, whence the People were easily induc'd to submit to them as Judges, and moreover, the Church not having the Power to condemn to Death, nor even to Fine, every body, in order to be more gently treated, did not only not decline, but desir'd to be subject to her Judgment. But what most contributed to the Increase of their Power, was, that Kings, Princes and Judges did not mind their judicial Power, looking on it rather as burdensome than lucrative; because they officiated Gratis, and could exact no Emoluments from the Parties, as now a Days. And more than that, when there happen'd any Struggle about Jurisdiction, the Ecclesiasticks fulminated Excommunications, as may be inferr'd from a Custom then among us, of excommunicating all those who oppos'd the Jurisdiction of the Church, every Sunday at Mass.

T H U S the Authority of the Spiritual or Episcopal Courts arriv'd at its Height: The Bishops at first, charitably interpos'd their good Offices, in making up Differences among the Faithful, by way of amicable Composition; afterwards, by the Favour of Princes, they acquir'd Jurisdiction, and a Privilege to administer Justice to contending Parties: In process of Time, to ease themselves of this Trouble, they appointed Officers to administer Justice, and erected Tribunals with proper Judges, and constituted Clerks or Notaries to ingross their Proceedings; and in fine, thinking it too burthensome to teach the Mysteries of the Christian Faith, or administer in holy Things themselves, they establish'd Professors of Theology, to teach in the Cathedral Churches; and thus freeing themselves from the Performance of their sacred Offices; they gave themselves up intirely to Secular, Political and State Affairs. Hence it was necessary to provide the Episcopal Court with a new Body of Ecclesiastical Laws; this gave Rise to *Gratian's* Decree, for the better establishing the Ecclesiastical Jurisdiction, and the Papal Grandeur.

<sup>1</sup> Ughel. in Appendice tom. 7. de Episc. Pennens. p. 1327. Judicetur ab ipsa Ecclesia de ipso Adulterio, quod spectat ad Judicium ipsius Ecclesiæ; & de eo quod spectat ad Judicium

Curia nostræ de insultu, & violentia, judicetur ab ipsa Curia nostra, &c. Dat. Panormi ann. 1197.

## S E C T. I.

### *New Collections of Canons, and Gratian's Decree.*

T H E Collections, which were made in the preceding Century, were the first, wherein the Canons are distributed according to the Subjects; but were almost all polluted with the many fabulous Stories of *Isidore* inserted among them. *Burcardus* Bishop of *Worms*, compos'd one divided into Twenty Books, which he intitled

intituled *Magnum Canonum Volumen* <sup>1</sup>. There's another attributed to *Anselm* Bishop of *Lucca*; but though it bears his Name, yet another must have been Author of it; for it contains some Decrees of *Urban II.* and of other Popes his Successors, who liv'd after *Anselm* <sup>2</sup>. There's another of *Adiudatus* Cardinal of *St. Eudoxia*, made about the Year 1087, at the Command of *Victor III.* <sup>3</sup>. The other of *Gregory the Priest*, intituled *Policarpus*, and that of *Bernardo di Pavia*, intituled, *Populetum*, have never been printed, but are preserv'd in Manuscript in the *Vatican Library* <sup>4</sup>. But that which *Ivo* of *Chartres* compil'd about the End of the preceding Century, eclips'd all the others. He divided it into Seventeen Parts, and intituled it *Decretum*. As for the other, intituled *Pannomia* or *Pannormia*, attributed to the same *Ivo*, there are some, who make *Hugo* a *Catalan*, Author of it <sup>5</sup>. These were the most famous Collections in these Times, and which our Churches made use of, till that so noted one of *Gratian* appear'd, which obscured all the rest, and was receiv'd with such Applause by the Canonists, that it was publickly taught in the Schools, and in a short Time had so many Commentators, that it was look'd upon as the principal Part of the Canon Law.

*GRATIAN* was a Monk of the Order of *St. Benedict*, who, in the Pontificate of *Alexander III.* taught Divinity in *Bologna*. He was born in *Obiuse*, a City of *Tuscany*, and it was reported that he was begotten in Adultery, and *Peter Lombard*, call'd *Magister Sententiarum*, and *Peter Comestor*, a Writer of Scholastick History, were said to be his Brothers, begotten the same Way; 'tis likewise said, that their Mother could never be brought to repent her of the Adulteries committed in begetting them, but said she was well pleas'd, that she had brought into the World Three famous great Men; and though her Confessor rebuk'd her, yet not able to prevail upon her, he at last injoin'd her, at least to express her Sorrow for her want of Repentance. But *Guido Pancirolus* <sup>6</sup> confutes all this Story as fabulous, especially, because they were not of the same Country, for *Gratian* was born in *Obiuse*, *Peter Lombard* in *Novara*, and *Comestor* in *France*.

*GRATIAN* compil'd this Collection in *Bologna*, in the Monastery of *St. Felice*, about the Year 1151, in the Pontificate of *Eugen III.* <sup>7</sup>, and intituled it *Concordia discordantium Canonum*, and divided it into Three Parts. The first contains the Principles, and what regards the Canon Law in general, and the Rights and Privileges of Ecclesiastical Persons, under the Title of *Distinctiones*. The second contains the Decision of fundry particular Cases, by the help of which, many Questions are solv'd; and it's intituled *Causæ*. The third has for Title, *De Consecratione*, because it treats of what belongs to the Ecclesiastical Ministry, the Sacraments, Rites, Ordinations, and Consecrations. He presented it to Pope *Eugen*, but it does not appear that he confirm'd it; yet though it was not approv'd of by a publick Law of the Popes, it had both Authority and Force. It was receiv'd with so great Applause, that the Popes themselves made use of it, and tacitly promoted it, in order to raise their own Authority, and pull down that of the Emperor and other Princes; whence, in the Time of *Frederick Barbarossa*, arose the *Decretists* of the *Guelf* Faction, who stood up for the Pope, in opposition to the *Ghibellins* <sup>8</sup>. Though this Work be so erroneous, immethodical, and confus'd, that the Industry and Care of many famous Professors have not been able to polish and clear it altogether <sup>9</sup>; yet for all that, it gain'd so much Authority, that it ingag'd all the learn'd Men, and greatest Divines of these Times to comment on it, and explain it; and its Authority was of great Weight in the Courts of Justice; insomuch that *Gratian* was commonly call'd the *Master*; and his *Decree* was publickly taught in the Academies, and those who taught it, were adorn'd with the Title of *Doctor*, which Dignity was conferr'd by the means of a Rod, whence they were first call'd *Batchelors* <sup>10</sup>. The Opinion which the Academy of *Bologna* had of it, likewise added to its Authority, which Academy in those Times, was more noted than all those of *Italy* or *France*; besides, the great Number of Glossators made it famous.

<sup>1</sup> V. Mastricht Hist. jur. Canon. num. 250.

<sup>2</sup> V. Anton. August. de emend. Grat. part. post. cap. 5. & ibi Baluz. sect. 19.

<sup>3</sup> V. Mastric. num. 273.

<sup>4</sup> Idem num. 274.

<sup>5</sup> Anton. Augustin. lib. 2. Dialog. 5. Stephan. Baluz. in Prefat. num. 20. V. Struv. Hist. jur. Canon.

<sup>6</sup> Pancirol. de Clar. leg. Interpr. lib. 3. cap. 2. pag. 405.

<sup>7</sup> V. Mastric. num. 304. Struv. hist. jur. Canon. sect. 17.

<sup>8</sup> Idem loc. cit. sect. 19.

<sup>9</sup> V. Anton. Augustin. de emendat. Grat.

<sup>10</sup> Pancir. lib. 2. cap. 3.



THE first of these were *Lorenzo da Crema*, *Vincenzo Castiglione*, a great Canonist of *Milan*, and *Ugone de Vercelli*. These were follow'd by *Tancredi da Corneto*, Archdeacon of *Bologna*, who about the Year 1220. made his Glosses there; *Sinibaldo Fieschi*, who was afterwards Pope under the Name of *Innocent IV.* and *Giovanni Semeca*, call'd *Teutonico*, who improv'd all the former Glosses, and adding his own, did by the Decree, what *Accursius* did by the Pandects<sup>1</sup>. There appear'd afterwards a vast Number of other Glossators, such as *Bernardo Bottone*, *Goffredo*, *Egidio da Bologna*, and others; among which *Bartolomeo da Brescia*, a Disciple of *Vincenzo Castiglione*, excell'd, who about the Year 1256, added his own Glosses to those of *Giovanni Teutonico*, which he corrected, improv'd, and in many Parts alter'd. When *Gregory XIII.* order'd *Gratian's* Decree to be reform'd, the *Roman Expurgators* had a great deal of Work upon their Hands, not only in purging the Body of the Decree, but likewise in clearing it from the Multitude of Absurdities, which these Canonist Glossators had added to it; whence the Proverb, *Magnus Canonista, magnus Asinista*<sup>2</sup>.

IT was thought in these Times, that *Gratian's* Decree was sufficient to raise the Pontifical Authority to the highest Pitch it was capable of; but in process of Time, as Things alter'd, this Work fell short of their Expectation; so that the *Decretal* succeeded the *Decree*, which likewise came short of the Design; but from Time to Time as the Authority of the Popes increas'd, new Rules were made; whence, in Emulation of the Body of the Civil Law, they made the *Decree* answer to the *Pandects*; the *Decretal* to the *Code*, &c. and that nothing might be wanting, *Paul IV.* order'd *Gio. Paolo Lanceletto*, in Imitation of *Justinian's* Institutions, to compile the Canonical Institutions, which he did. Thus we see how, and in what manner one Empire was founded in the Heart of another.

<sup>1</sup> Pancir. lib. 2. cap. 3.

<sup>2</sup> Struv. loc. cit. §. 21.

## S E C T. II.

### *The Election of Bishops and Abbots.*

IN this Century the Power of the Popes with respect to the Creation of Bishops and Abbots was at its *Zenith*; for tho' the Election was left to the Clergy and Monks, and the Right that Princes had to give their Assent was not openly disputed, yet the Popes having made themselves Judges of the Validity of all Elections, the Court of *Rome* contriv'd Means, by which the Collations of Bishopricks and Abbacies were often given in *Rome*. For which end, many Conditions were made necessary before the Election; others in the Time of Election, and an infinite Number of Qualities were requisite in the Person elected; to which was added, that when any of these Conditions was not observ'd, the Electors were to lose their Power of electing, which devolv'd to *Rome*. On which account, and for diverse other Reasons and Considerations, it frequently happen'd, that Difficulties were started about the Validity of the Elections, and one of the Parties appeal'd to *Rome*, where both were generally cast, and the Election made void, and the Bishoprick or Abbacy for that Time was dispos'd of by the Pope.

BESIDES, when it was known at *Rome* that any fat Bishoprick or Abbacy was vacant, an Order was immediately dispatch'd, by which it was injoin'd, that the Election should not be made till the Pope was acquainted; and under a specious Pretence of assisting and preventing Disorders that might happen, a Person was sent to be present, and preside in the Election, by whose Means and Management, the Election fell to him who was most for the Interest of *Rome*. For these Reasons few Elections to Bishopricks or Abbacies pass'd, that were not examin'd in *Rome*; by which Means the Popes had a Hand in almost all Elections, under the plausible Pretence of Devolution for the Good of the Publick; because the Ordinary Electors had fail'd in their Duty. These Measures made use of according to the Exigency of Cases, were not in these Times so establish'd, as to have the Force of Law, but were rather Customs that might be born with, till *Gregory IX.* having collected all the

*Rescripta*

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*Rescripta* which serv'd for the Grandeur of *Rome*, and applied to general Use, what was intended for one particular Place, and, perhaps, one special Case, publish'd his *Decretal*, which laid the Foundation of, and establish'd the *Roman* Monarchy.

THE Popes pretended to exercise this very same Superiority over our Churches and Monasteries, and to intrench upon the Share which our Princes had in Elections, and endeavour'd to exclude them from their Assent requisite in Elections. But *William I.* in the Peace made with Pope *Adrian*, secur'd this Prerogative by Stipulation; by Virtue of which, as we have elsewhere observ'd, the King's Assent was made absolutely necessary in all Elections, insomuch, that if the King was not pleas'd with the Elected, and did not give his Assent, he could neither be inducted nor consecrated<sup>1</sup>.

BUT they did not fail to say in *Rome*, that this Agreement betwixt *William* and *Adrian*, was extorted by Force, while the Pope was over-aw'd by *William's* Army; so that upon any favourable Opportunity, taking Advantage of the good Nature, or Weakness of some Prince, under the specious Pretence of preventing Disorders, or that our Princes made a bad use of this Prerogative, the Popes exerted themselves, and pretended, that this Prerogative was only a Courtesy granted by the Apostolick See, and that they had e'en best make a good Use of it, otherwise it would be taken from them. And in the Reign of *William the Good*, when this Prince made use of this Right in the Election of the Bishop of *Agrigentum*, he was blam'd, as having gone out of his Sphere, and we find a Letter among those of *Peter of Blois*<sup>2</sup>, directed to the King of *Sicily's* Chaplain, wherein the Pope complains, that the King had made a Brother of the Count of *Loritello* Bishop of *Agrigentum*, contrary to the Voice of the Chapter, and enjoins him, as in Duty bound, to admonish the King not to impose an unworthy Person on that Church.

BUT when the Kingdom of *Sicily* fell into the Hands of a Woman, Queen *Constantia*, then *Innocent III.* thought it was a proper Opportunity to get the Agreement betwixt Pope *Adrian* and *William I.* alter'd: In the first Place he declar'd, that he would not give the Investiture of the Kingdom, if these Articles were not moderated, and *Constantia* was actually forc'd to please him; and though, in the Investiture which he gave her and her young Son, he left them their Right of Assent, yet he in a manner tied them down to give it, whenever it was sought, and the Election canonically made<sup>3</sup>.

BUT *Innocent* not content with this, thought fit to give Directions, and prescribe Rules concerning the Elections in these Kingdoms, and by a particular Brief, dated the 19th of *November* 1198. and directed to *Constantia*, he orders the Method of proceeding in the Elections thus, That upon the Vacancy of a See, the Chapter shall acquaint the King with the Death of the Prelate, and afterwards being met, shall proceed to the Election of a qualify'd Person, and after the Election, the Person shall be declared to the King, and his Assent requir'd; and before the King's Assent is requir'd, the Elect shall neither be inducted, nor the Song of Thanksgiving sung; neither must he presume to intermeddle with the Administration<sup>4</sup> till he be confirm'd by the Pope. He afterwards sent the like Briefs to all the Archbishops, Bishops, Prelates, and Clergy of the Churches of the Kingdom, to inform them of what he had

<sup>1</sup> Instrumentum pacis inter Gulielmum & Adrianum, apud Capelatr. hist. Neap. fol. 75. Si persona illa de proditoribus, aut inimicis nostris, vel hæredum nostrorum non fuerit; aut magnificentia nostræ non extiterit odiosa, vel alia in ea causa non fuerit, pro qua non debemus assentire assensum præstabimus.

<sup>2</sup> Petr. Blesensis Epist. 10.

<sup>3</sup> The Investiture is recorded by Rinaldo Anno 1198. num. 67. and inserted by Innocent III. in his Letters, tom. 1. lib. 1. pag. 203. where speaking of Elections, he says thus, Electiones autem secundum Deum per totum Regnum Canonice fiant, de talibus quidem Personis, quibus vos, ac hæredes vestri requisitum a vobis præbere debeatis assensum.

<sup>4</sup> We find Innocent's Brief directed to Constantia among his Letters, Epist. tom. 1. lib. 1. pag. 204. and 'tis likewise recorded by Chioccar. tom. 4. of the

MS. Jurisd. tit. de Reg. exequatur; and in tom. 19. var. thus, Sede vacante Capitulum significabit vobis, & vestris hæredibus obitum Decefforis: Deinde convenientes in unum, invocata Spiritus Sancti gratia, secundum Deum eligent Canonice Personam Idoneam, cui requisitum a vobis præbere debeatis assensum, & Electionem factam non different publicare. Electionem vero factam, & publicatam denunciabunt vobis, & vestrum requirent assensum. Sed antequam Assensus Regius requiratur, non inthronizetur Electus, nec decanterur laudis solemnitas, quæ inthronizationi videtur annexa: Nec antequam auctoritate Ponteficali fuerit confirmatus, administrationi se ullatenus immiscebit. Sic enim honori vestro volumus condescendere, ut libertatem Canonicam observemus, nullo prorsus obstante rescripto, quod a sede Apostolica fuerit impetratum.

settled with *Constantia* concerning Elections, which Brief we likewise find among *Innocent's* Letters <sup>1</sup>.

W H E N *Constantia* died in the Year 1199, and left the same *Innocent* Guardian both of her young Son and the Kingdom, the Regal as well as Papal Power was lodg'd in his Person, so that he could manage Elections as he thought fit; but however, during his Guardianship, the Assent was no ways prejudic'd, for *Innocent* gave it in all Elections, and declar'd that he did it *Vice Regia*, or as Guardian of the young King, which is clear from his Letters directed to the Chapter and Canons of *Capua*, for the Election of their Bishop: to the Chapter of *Reggio*: to the Chapter of *Penne*, and others <sup>2</sup>. And the same Method was observ'd, not only during the Guardianship of *Innocent*, but also when *Frederick* first began to take the Administration upon himself, and was in Friendship with *Innocent*; and in *Rainaldo* <sup>3</sup>, we read a *Diploma* of his directed to *Innocent*, drawn up in *Messina* in the Year 1211, whereby he prescribes the Method of Elections, and it is much the same with what *Innocent* had prescrib'd to *Constantia*.

B U T when *Frederick* was grown up to Man's Estate, and better inform'd than the Popes wish'd, he began to find out the Alterations made in the Agreement betwixt Pope *Adrian* and *William I.* by *Innocent*, and complain'd of the Injury done to his Prerogative; and that *Innocent*, having to do with a Woman, and a Minor, had reduc'd the Assent necessarily requir'd in all Elections, to a meer Ceremony, which must be given upon Demand, seeing he set himself up as Judge of all the Reasons that were alledg'd for the other Side.

T H E Stiffness of *Innocent* and his Successors in asserting their Claim, and the Steadiness of *Frederick* in denying it, and maintaining, that he could refuse his Assent when he pleas'd to all Elections, and render them null when he thought fit, gave Rise, not only to the Contentions and bitter Disputes which arose afterwards betwixt this Prince and *Gregory*, *Honorius*, *Celestine*, and especially *Innocent IV.* Successors of this *Innocent*, but likewise to the grievous Disorders of our Churches; for *Frederick* often making a bad Use of this Prerogative, rejected the Elections, and was never satisfied till the Person he had nam'd was elected. The Popes on the other Hand rail'd against such Incroachments, and inveigh'd bitterly against *Frederick* for disposing of the Ecclesiastical Dignities of the Kingdom as he thought fit, whereas the Elections ought to be free, and not forc'd; and some openly resisting the King's Will, oppos'd him so strenuously, that our Churches were often long without Pastors: Some Popes more bold, did not stick, in spite of the Emperor, to make void his Elections, and without asking his Advice, to provide the Churches. In the Pontificate of *Innocent III.* the Church of *Policastro* being vacant, *Frederick* rejected all Elections, in order to have *Giacomo* his Physician elected, which the Electors, tir'd and importun'd, were forc'd to grant him. But Pope *Innocent* being apply'd to, he declar'd *Giacomo's* Election void, and confirm'd the first in favour of another, for which end he wrote to the Bishop of *Cappaccio*, and the Abbot of the Monastery of *Cava*, to see it put in Execution <sup>4</sup>. For the same Reasons Pope *Gregory IX.* check'd the Emperor very severely, and was constantly inveighing against him <sup>5</sup>. But the Jars on this account betwixt him and *Honorius III.* were exasperated; for many Churches of these Provinces being vacant, such Quarrels were the Cause of their being long without Pastors, wherewith *Frederick* by all Means would provide them; at which the Pope was so nettled, that he wrote to him and reprimanded him in a very tart and bitter manner; but the Emperor, with equal Spirit and Boldness, disdain'd his Letters <sup>6</sup>; whereupon *Honorius*, without minding him, or his Assent, provided the vacant Sees; he made the Bishops of *Patti* and *Pamagosta* Archbishops of *Capua* and *Salerno*; the Abbot of *S. Vincenzo a Vulturno* Bishop of *Brindisi*; the Prior of *S. Maria della Nova* of *Rome*, Bishop of *Consa*; and the Archdeacon of *Amalphis* Bishop of *Aversa* <sup>7</sup>. *Frederick* obstinately rejected these new Prelates, and would neither suffer them to get Induction nor Possession of these Sees. Upon which the Pope and the Emperor were more bitterly incens'd against one another: The excessive Disorders and Calamities that follow'd thereupon, shall be treated of at large in the subsequent Books of this History.

<sup>1</sup> Epist. Innoc. tom. 1. lib. 1. fol. 205.

<sup>2</sup> Epist. Inn. ad C. Capuan. tom. 1. lib. 2. fol. 281. & Epist. ad C. Rhegin.

<sup>3</sup> Rainald. ad ann. 1211. num. 5.

<sup>4</sup> Ug. tom. 7. de Epif. Policastr. n. 3. f. 789.

<sup>5</sup> Greg. IX. Epist. 165. lib. 1.

<sup>6</sup> Rainald. ad annum 1221. num. 32. & ann. 1223. num. 15.

<sup>7</sup> Idem, ann. 1225. num. 45.



THE  
CIVIL HISTORY  
Of the KINGDOM of  
NAPLES.

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BOOK XV.

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THE *Suevi*, a People of Germany, who inhabited that Part of it on this Side of the Rhine, betwixt *Franconia*, *Bavaria*, and the Valley of *Eno*, and from whom the Dukedom of *Suevia* took its Name; came not to us by Way of Aggressors, like the *Longobards*; or as Pilgrims, in small Numbers, like the *Normans*, who had no other Right to conquer us, than what the Sword, and the Law of Arms gave them; but the *Suevi* came with their Duke the Emperor *Henry*, who had married *Constantia*, the last of the lawful Race of the *Normans*, and settled the Succession to these Kingdoms on his Son *Frederick*. This invincible Hero was descended of *Frederick Stauffem*, of a most noble Family, and a gallant Captain among the *Suevi*, to whom, on account of his noble Extraction and Bravery, the Emperor *Henry IV.* did not think it below him to give his Daughter *Agnes* in Marriage, and the Dukedom of *Suevia* for her Portion<sup>1</sup>. 'Tis said, that *Suevia* of old was a Kingdom, but was since reduc'd to a Dukedom; and in our Time it likewise lost that Title; for at present no Prince of Germany has the Title of *Suevia*, because part of it is annex'd to the House of *Austria*, and part of it is possess'd by the Duke of *Wittenberg*; and many of its Cities are Free and Imperial, and many of them subject to the Duke of *Bavaria*. It reaches to the *Alps*, and borders upon *Bavaria*, *Franconia*, and *Alsatia*. *Frederick*, on his Wife *Agnes*, be-

<sup>1</sup> Collen. dec. 2. lib. 8. cap. 1.

got the Emperor *Conrade II.* who was Father of *Frederick I.* call'd *Barbarossa*, who was Father of *Henry*, who married *Constantia*, the Daughter of King *Roger*, by whom he had *Frederick II.* who, by Right of his Mother, became King of *Sicily* and *Puglia*. Wherefore, of all Nations, the *Suevi* boast of having the most lawful and just Title to these Kingdoms; and they justly complain, that by the Power and bad Offices of the Popes, they were taken from them, and transferr'd to the *French* of the House of *Anjou*.

POPE *Innocent III.* following the same Foot-steps with his Predecessors, by his exquisite Management, had gain'd ground wonderfully upon these Kingdoms; for besides the Right of Investiture, he claim'd to be acknowledg'd direct Lord of them, in the same Manner as other Princes are Lords of the Fiefs of their Barons and Vassals; and consequently to exercise in them the Supreme Royal Prerogatives. He openly declar'd in his Letters, that the Property of these Kingdoms belong'd to the Apostolick See; and therefore, laying aside *Constantia's* Will, he reckon'd that the Guardianship of the young King and his Kingdom, of Right belong'd to him. But at first, by reason of *Marcovaldus* and the *Sicilians*, he conceal'd his Sentiments, and pretended to take the Charge as Guardian, by virtue of *Constantia's* Will; and therefore upon the News of the Empress's Death, and of her Will, he gladly accepted of the Guardianship, and immediately began to exercise it, by writing to the Archbishops of *Palermo*, *Reggio* and *Monreale*, and to the Bishop of *Troja*, who had the Care of the King's Person, that he had accepted of the Guardianship left him by the Empress *Constantia*, not only in Word, but in Deed<sup>1</sup>. But the Deeds were such, as after *Constantia's* Death made it evident, that *non tam tutela nomine*, as *Nauclerus* says<sup>2</sup>, *quam sui juris tuendi causa*, *Siciliam*, & *Apuliam administrabat*.

IN the mean Time, *Innocent* sent *Gregorio da Galgano* Cardinal of *St. Maria in Portico*, his Legate to *Sicily*, to take the Government of the Island upon him; who, on his Arrival, tender'd the Oath of Fidelity to the abovesaid Archbishops, Bishops, &c. in the Name of *Innocent*. But that did not go well down with the Great Chancellor, and those of his Party, who would have no Superior in that Matter, so that they were soon at open Enmity with the Legate, and minded their own Convenience more than the King's Advantage, which made the Cardinal Legate send Orders over all *Sicily* and *Puglia*, for every Person to acknowledge the Pope as their Governor, and the young King's Guardian, and then return'd to *Rome*.

ON the other Hand, *Marcovaldus*, who, as we have said, with all his *Germans*, was banish'd the Kingdom by *Constantia*, hearing of her Death, forthwith assembled a numerous Army of his Friends and Followers, and others whom he enlisted into his Service; and being aided by some native Barons, and by *Guglielmo Caparone*, *Frederick* and *Diapoldus*, and other *Germans*, to whom *Henry* had given Estates and Baronies in *Puglia* and *Sicily*, in a hostile Manner enter'd the Kingdom, and first attack'd the County of *Molise* (where he had many Castles still kept for him) and without the least Resistance, made himself Master of it. Then he sent to require *Roffredo* Abbot of *Monte Cassino*, to join him, and acknowledge him for *Frederick's* Guardian, as the Emperor *Henry* (so he pretended) had constituted him: But the Abbot perceiving that *Marcovaldus's* Intention was not to preserve, but to seize upon the young King's Inheritance, rejected his Message, excusing himself, that he had already sworn Obedience to the Pope as Guardian: Upon which *Marcovaldus* declar'd War against the Abbot, and this Year 1199, enter'd the Lands of the Abbey, and in an Instant took and burnt many Places belonging to it, and then laid Siege to *St. Germano*, whither the Abbot had gone to stand on his Defence<sup>3</sup>. Mean while *Innocent* sent *Giovanni Gallocia*, a Roman, and Cardinal of *St. Stefano* in *Montecelio*, and *Gerardo Allucingolo da Lucca*, Cardinal of *St. Adrian*, into *Terra di Lavoro*, with Six hundred Soldiers under the Command of *Landone da Montelongo*, Governor of *Campagna di Roma*, who hearing, that *Marcovaldus* design'd to besiege *St. Germano*, conven'd another Body of Soldiers from *Capua*, and the neighbouring Castles, in order to oppose him; and having join'd the Abbot *Roffredo*, they were

<sup>1</sup> Innoc. epist. lib. 1. Per effectum operum poteritis evidenter cognoscere, quod Tutelam Regis, & Regni Bajulam nobis a Constantia

Imperatrice relictum, non tam verbo, quam factis recipimus.

<sup>2</sup> Naucler. generat. 34.

<sup>3</sup> Riccar. da S. Germ.

fully

fully resolv'd to defend the Place. But soon after, *Diopoldus*, with a good Number of *Germans*, coming to *Marcovaldus's* Assistance, possess'd themselves of the Hill that overlooks the City, and forc'd the Besieg'd to abandon it, and retire to the Monastery of *Monte Cassino*; whereupon *Marcovaldus* having enter'd the deserted City, us'd the Inhabitants, both Men and Women, in a most barbarous and cruel Manner, burnt the Place, and then went to plunder the other Places belonging to the Order of *St. Benedict*; they afterwards laid close Siege to the Monastery of *Monte Cassino*, and the Fort in which *Landone* had fortify'd himself and the Inhabitants, and endeavour'd to take them by Storm, in attacking the Walls and Trenches, but in vain, for they were gallantly repulsed with great Loss on their Side.

*RICCARDO da S. Germano*<sup>1</sup>, an Eye-witness, relates, that on the Feast of *St. Maurus*, the Air being very clear, on a sudden became cloudy, and so great a Storm of Rain mix'd with Hail, Lightning, and terrible Thunder, accompanied with a boistrous Wind, arose, and came pouring down upon the *Germans* that were incamp'd in the craggy Cliffs of the Hill, that it threw down and broke their Tents, and forc'd them in all haste to raise the Siege; but for all that, *Marcovaldus* did not give over his Barbarity, but in going down the Hill burnt the Castle of *Plumbarola*, and *St. Elia*, and returning to *St. Germano*, he threw down the Walls, Gates, and the best Houses, and made a great Slaughter over all the Neighbourhood, allowing the *Germans* even to pillage the Churches, without any Respect or Fear of God, and the Saints to whom they were dedicated.

THESE Calamities so much afflicted Pope *Innocent*, that to remedy them in some Measure, he first excommunicated *Marcovaldus* and all his Followers<sup>2</sup>, and then he wrote to the Archbishops of *Reggio*, *Capua*, *Monreale*, and *Troja*, to assemble an Army sufficient to oppose *Marcovaldus*, and put a Stop to the Mischiefs he was committing, in which Letters the Pope sets him out in his true Colours. And he wrote to the same Purpose to the Clergy, Barons, Judges, Knights, and the People of *Capua*, telling them besides, that he had sent his Legates with a great Sum of Money to *Pietro* Count of *Celanò*, of the Race of the Counts of *Marfi*, to *Riccardo* Count of *Teano*, and other native Barons, to raise Soldiers for that end; and if there was Occasion, he would publish a Crusade against *Marcovaldus*, that all those who would take up Arms against him, should have a general Pardon for all their Sins, as if they had gone beyond Sea to fight against the *Turks*; and he wrote the same to the Bishops, Abbots, and Priors of *Calabria*; likewise ordering them, every Sunday and Holy-day, publicly to curse *Marcovaldus* and his Adherents; and in like Manner he wrote to the Bishops, and other Prelates of *Sicily*, and to all the Barons, Counts, and People of both Kingdoms.

BUT *Marcovaldus's* Soldiers still continued to destroy the Places belonging to *Monte Cassino*, and to pillage the Churches, and rob the Ornaments of the Altars; therefore when the Abbot *Roffredo*, unable to bear so great Calamities, offer'd him a round Sum of Money, he made Peace with him, and upon Receipt of the Money, *Marcovaldus* march'd out of the Territories of the Monastery, without doing any more Damage, and went to make War elsewhere.

AT the same Time *Riccardo dell' Aquila* Count of *Fondi*, not able by any other Means to protect his Estate, agreed with the *Germans*, notwithstanding that *Innocent* had wrote to him to the contrary, and married one of his Daughters to a Brother of Count *Diopoldus*, nam'd *Sigisfred*, to whom *Marcovaldus* had intrusted the Command of *Pontecorvo*, *S. Angelo*, and *Castelnovo*, important Places on the Borders of the Kingdom. But shortly after, while *Diopoldus* was running up and down the Country, gaining Friends to *Marcovaldus*, not minding sufficiently the Security of his own Person, he was made Prisoner by *Guglielmo S. Severino* Count of *Caserta*, who, as the Pope had desir'd him, as long as he liv'd, would never set him at Liberty; but he dying shortly after, his Son likewise nam'd *William*, by Agreement with *Diopoldus's* Friends, gave him his Liberty, and married one of his Daughters, which was of great Detriment to the Kingdom, by the Mischiefs that *Diopoldus* committed afterwards.

IN the mean Time *Marcovaldus* (according to the Chronicle of an uncertain Author, preserv'd in the Library of the great Church of *Foix* in *France*, printed

<sup>1</sup> Riccardo's Chronicle printed in the 3. tom. of Ughello's Italia Sacra.

<sup>2</sup> Brovio tom. 1. anno 1199. Anathematizamus Marcovaldum, & omnes fautores ejus.

and bound with the Collection of *Innocent's* Letters) endeavour'd to make Peace with the Pope, by the Means of *Conrade* Archbishop of *Mentz*, (who, in returning from the Holy Land had disembark'd in *Puglia*) and promis'd, provided the Pope would not disturb him in the Conquest he had resolv'd to make of the Kingdom, to give him Twenty thousand Ounces of Gold, and to swear the usual Oath of Fealty which the Kings of *Sicily* were wont to take to the Popes, and besides, he gave him to understand, that his having taken *Frederick* under his Protection, ought to be no Obstacle, because he would convince him to a Demonstration, that that Child was spurious, and none of *Constantia's* or *Henry's*.

BUT the prudent Pope knowing the pernicious Designs of *Marcovaldus*, and his Thirst after Government, gave no Credit to his Lyes; therefore *Marcovaldus*, without insisting on the former Proposal, endeavour'd by other Means to be at Peace with *Innocent*, and be absolv'd from the Excommunication. The Pope sent to him *Ottaviano* Cardinal of *Osia*, *Guidone di Papa Romano* Cardinal of *St. Maria Trastevere*, and *Ugolino de Conti*, his Nephew, Cardinal of *St. Eustach*; to command him in his Name to comply with all the Orders he had sent relating to the Facts, for which he had been excommunicated, and to take his Oath for performing the same, and then to absolve him from the Censures, and receive him into the Bosom of the Church; but this *German*, who had other Designs in his Head, by the Means of *Lione da Montelongo*, a Cousin of the Cardinal of *Osia*, endeavour'd, both by Intreaties and Menaces, to divert the Cardinals from laying such Commands upon him, but all in vain; for Cardinal *Ugolino* publicly order'd him, in Name of the Pope, not to molest the Inhabitants of the Kingdom any more, nor to concern himself with the Government thereof; to restore all the Places that he had made himself Master of in *Puglia* and *Sicily*, and make up the Damages he had done to the Church of *Rome*, and the Abbot of *Monte Cassino*; and moreover not to disturb the Prelates and other Ecclesiastical Persons: To which he answer'd, That at present he could not take such an Oath, but that he would appear in Person before the Pope, and swear to observe all; and having courteously taken his Leave of the Cardinals, he return'd to his former wicked Practices, and did what he could by his Messengers, to make the People believe that he had made up Matters with the Pope, who had confirm'd him Administrator of the Kingdom.

BUT the News of this coming to the Pope, he, by his particular Letters made it appear to be a Lye, and a Fetch of *Marcovaldus*; who, seeing all Hopes of putting his Designs in execution in *Puglia* vanish'd, resolv'd to go over to *Sicily*, where he thought, with less Difficulty and Opposition, to bring about his wicked Purposes. But before he undertook this Voyage, he laid Siege to *Avellino*, which he found was not to be taken easily, because of the gallant Defence of the Citizens, who, to be rid of him, gave him a good Sum of Money, upon which he rais'd the Siege. He afterwards took *Vallata* by Storm, and gave it up to be plunder'd by his Soldiers, and as he was going on to do more Mischiefs, he was met by *Pietro* Count of *Celano*, with a good Body of Soldiers which he had assembled in the County of *Marfi*, and being afraid to fight him, he return'd to the County of *Molise*, where, because he was not able to defend the City of *Isernia*, then in his Possession, he robb'd the Citizens of all their Goods, and from thence march'd to *Teano*, to vent his Fury against that City, but was repuls'd. At last he left *Diopoldus*, *Otho*, and *Sigisfred* his Brothers, *Corrado di Marlei* Lord of *Sorella*, *Ottone di Larviano*, and *Federico di Malento*, to preserve his Friends in *Terra di Lavoro*, and other Parts of *Puglia* in his Interest, and with a good Body of *German* Troops march'd to *Salerno*, which sided with him, where he embark'd and sail'd with a Fleet ready for that Purpose, and landed in *Sicily*.

THE Governors of the Kingdom of *Sicily*, hearing of *Marcovaldus's* Voyage for that Kingdom, by several Messengers, begg'd Assistance of Soldiers from the Pope, and a Person of Worth to command them; the Pope sent them at this Time *Cintio Cincio* a *Roman*, Cardinal of *St. Lorenzo* in *Lucina*, and *Giacopo* his Counsellor, Cousin and Marshal, with 200 Horsemen hired at his Charges, and with them *Anselmo* Archbishop of *Naples*, and *Angelo* Archbishop of *Taranto*, Men of great Wisdom, to be assisting with their Advice. These having gone to *Calabria*, drove out *Frederick* the *German*, who was miserably harrassing that Province, and having afterward cross'd the Straits of *Messina*, they arriv'd in that City, which was most faithful to the young King, and steady in his Interest during all these Commotions rais'd by *Marcovaldus*.

C H A P.





## C H A P. I.

*The Expedition of Walter Count of Brenna against the Kingdom of Sicily, on account of the Pretensions of his Wife Albinia.*



U T tho' *Marcovaldus* quitted our Kingdom, yet it was not free from other Calamities; for a new Pretender started up, who, with foreign Forces likewise endeavour'd to conquer it. This was *Walter* Count of *Brenna* a *Frenchman*, whose Pretensions were founded thus; Queen *Sibilia*, as we have said, by the Means of Pope *Innocent* was deliver'd from Prison in *Germany*, by *Philip* of *Suevia*, and had gone to *France* with *Albinia* and *Mandonia* her Daughters, and had there married *Albinia* the Eldest to *Walter*, of noble Descent, great Courage and Wisdom. About the End of this Year 1199. he, with his Wife big with Child, and his Mother-in-Law, came to *Rome*, and threw himself at the Pope's Feet, begging that he would do him Justice with respect to the Kingdom which belong'd to *Albinia*. He insisted upon it, as a Thing known to every Body, that the Emperor *Henry* had given to *William*, in Lieu of the Kingdoms of *Sicily* and *Puglia*, which he renounc'd, the County of *Lecce*, and the Principality of *Taranto*, which he afterwards took from him without any Reason. This Request much perplex'd the Pope, who thought it would be of dangerous Consequence to allow the Count to enter the Kingdom, lest he should revenge the Injury done his Mother-in-Law and Brother-in-Law by the deceas'd Emperor, on the Son, whose tender Age afforded a fair Opportunity, and which would turn the Kingdom upside down; and on the other hand he foresaw, that if he should shut his Ears to the Demand, it would so irritate the Count, that he would be ready to join the King's Enemies, and thereby kindle a cruel and bloody War; therefore he judg'd it convenient to give him the County of *Lecce*, and the Principality of *Taranto*, but first he was to make him take an Oath in the publick Consistory, on no other Pretence to disturb the Kingdom, nor do any Prejudice to *Frederick*; but before this was to take Effect, he resolv'd to acquaint the Governors of *Sicily*, who had the Charge of the young King, to whom he wrote that Letter which we find in the Register of his Letters; which begins thus, *Nuper dilectus filius noster nobilis vir*, &c.

B U T *Gualtieri* Archbishop of *Palermo*, being more afraid for himself, than for the King, on the Receipt of this Letter was exceedingly vex'd; for he and all his Adherents having been bitter Enemies to *Tancred*, and great Friends to *Henry* in the Conquest of the Kingdom, he thought, that if the Count should once enter it, he would endeavour to revenge the old Offence; for which Cause he publicly inveigh'd against the Pope, who being only Guardian of the King, and Administrator of the Kingdom, pretended to dispose of Principalities and Counties at his Pleasure, as if he were Lord of it, to the great Detriment and Diminution of the Crown; he assembled the People of *Messina*, and with all his Might oppos'd this Grant, blam'd *Innocent*, and stirr'd up the *Sicilians* to resist such an outrageous Incroachment. The Count being appriz'd of this, and finding that the Pope's Interest alone would be of no Service, but that he must have recourse to Arms, he left his Mother-in-Law and Wife in *Rome*, and return'd to *France*, in order to raise Soldiers for invading the Kingdom.

I N the mean Time *Marcovaldus*, who, upon his landing in *Sicily*, had quickly brought over the *Saracens* of the Island to his Party, with their Assistance had made himself

himself Master of many Cities and their Castles, and marching to *Palermo*, he laid close Siege to it for Twenty-two Days; whereupon the Cardinal Legate, and the Archbishop *Gualtieri* resolv'd, in all haste to march to the Relief of that City with the Soldiers they had already drawn together; where being arriv'd, they incamp'd in the magnificent Garden which King *William I.* had made, with design to give *Marcovaldus* Battle the next Day, who, smelling out their Intent, thought fit to raise the Siege, and keep them in suspense, without risking a Battle; and knowing that the Pope's Troops were suffering for want of Money and Provisions, he sent *Ranieri Manente* with proper Instructions to propose a Peace. But the Soldiers perceiving his treacherous Intentions, unanimously rejected the Message. Notwithstanding which, the King's Counsellors were for hearing his Demands, and inclin'd to make Peace with him; but *Bartolomeo*, a Domestick of the Pope's, a cunning Man, and zealous for the Honour of his Master, resolving to put a Stop to this disadvantageous Agreement, in the Midst of the Meeting presented Letters from the Pope, whereby he expressly forbids to make any Agreement or Peace whatsoever with *Marcovaldus*. Whereupon *Gualtieri* the Archbishop of *Messina*, *Caro* Archbishop of *Monreale*, and the Archbishop of *Cefsalu*, who were with *Ranieri* drawing up the Articles of Peace, being appriz'd of the Pope's Mind, and that the Army and the *Palermitans* would not hear of a Peace, but were ready to mutiny, and fly in their Faces, broke off the Treaty, and gave liberty to fight the *Germans*. The Battle began betwixt *Palermo* and *Monreale*, which had been taken and garrison'd by *Marcovaldus*, and was fought with incredible Bravery, from Three a Clock of the Day till Nine; but at last, after a great Slaughter on both Sides, the Pope's Troops, by the Valour of *Giacopo* his Marshal, carried the Day; for he twice rally'd his Men, and repuls'd the *Germans* and *Saracens*, who had oblig'd the first Squadrons of his Army to give way, and he shew'd himself no less a brave Soldier, than a skilful Commander, and to whom the Victory was chiefly owing. *Marcovaldus* lost a great Number of the best Soldiers of his Army, and among the rest the abovemention'd *Ranieri Menente*; his Camp was likewise plunder'd, wherein was found a rich Booty; *Monreale* was also besieg'd and soon taken, and the greatest Part of the Garrison put to the Sword. *Marcovaldus* having lost all his Riches, fled, and was not heard of by his own People for some Time. Amongst his Baggage was found the last Will of the Emperor *Henry*, seal'd with the Golden Seal, part of which is recorded by *Baronius* in his Annals. *Anselm* Archbishop of *Naples*, who was then in the Army, wrote a particular Letter to the Pope, acquainting him with all that had pass'd; the Governors of the young King and Kingdom, willing to reward the Bravery of *Giacopo* the Marshal, in the Name of *Frederick* gave him the County of *Andria*, which he possess'd for a long Time: Thus did these Governors believe that it was in their Power to give Investiture, and the Pope as Guardian did not fail to make use of his Authority, by investing his own Brother with the County of *Sora*, of which we shall have occasion to speak in a more proper Place.

BUT the Pope's Soldiers, partly by the Heat of the Season, and partly by the Fatigues of War, began to fall sick, and die in great Numbers, so that Count *Giacomo* thought fit to return to *Puglia*. Soon after the Archbishop of *Palermo* died, and *Gualtieri della Pagliara*, Chancellor of *Sicily*, and Bishop of *Troja*, got the Canons of that City to elect him Archbishop (they made no Difficulty in these Times to give two Bishopricks to one Person) and the Cardinal Legate to allow of the Election, and he took the Badges and Possession before he receiv'd the *Pallium*, and the Pope's Confirmation, for which the Legate was severely reprimanded; whereupon *Gualtieri* was so disgusted, that he wrote more freely to the Pope concerning the Affair of the Count of *Brenna*, as we shall afterwards take notice of.

WHILE these Matters were in Agitation, and the new Year 1200 already begun, *Diopoldus* committed a great deal of Mischiefe in the Kingdom; for tho' he had made Peace with the Abbot *Roffredo*, and had sworn upon the Evangelists in *Venasfro*, not to molest the Inhabitants of the Lands of the Monastery, yet one Night on a sudden he attack'd those of *S. Germano*, and took the Place without Resistance, pillag'd and ruin'd it; and the Abbot *Roffredo*, with *Gregory* his Brother, who liv'd there, fled to *Atino*, from whence they went to the County of *Marfi* to beg Assistance from

<sup>1</sup> In Ep. apud Brov. ann. 1192. num. 12. & in antiq. col. Decr. 3. tit. de Offic. Deleg. cap. nisi specialis.

*Pietro* Count of *Celano*, but in vain; but *Sinibaldo* and *Rinaldo*, of the same Family of the Counts of *Marfi*, who are now call'd Counts of *Sangro*, sent them all the Plate and ready Money they had, with which the Abbot enlisted some Soldiers, and march'd with them privately in the Night-time to *Monte Cassino*. As soon as *Diopoldus* heard of the Abbot's Arrival, fearing that he had brought a greater Number of Soldiers along with him, he immediately march'd off, and left *S. Germano* void of Inhabitants, and the Abbot went and fortified it with new Walls and Towers. *Diopoldus* soon after engag'd near *Venafro* with the Count of *Celano*, whom he defeated and put to flight, and made *Berardo* his Son Prisoner, and with the other Prisoners of *S. Germano*, shut him up in the Castle of *Arce*.

IN the Year 1201. the Count of *Brenna*, who had gone to *France* to levy Soldiers, return'd to *Rome*; and tho' he brought but a small Number with him, yet all of them had given Proof of their Bravery; with these resolving to enter the Kingdom, he was look'd upon as a Fool and a Mad-man, to undertake such an Enterprize with a Handful of Men. And Count *Diopoldus* being appriz'd of his coming, assembled a numerous Army of *Germans* to meet him, and drive him out of the Kingdom. The Pope, fearing that if any Misfortune should happen to the Count of *Brenna*, it would animate the *Germans*, gave him Five hundred Ounces of Gold, to enable him to raise more Soldiers, and likewise wrote many Letters directed to the Counts, Barons, and People of the Kingdom, to receive him into their Cities and Castles, and assist him against *Diopoldus*. With this Supply the Count with his Wife *Albinia* boldly enter'd *Terra di Lavoro*, and being join'd by the Abbot *Roffredo*, who with a good Number of Men came to his Assistance, he besieg'd *Teano*, and quickly took it; and thereafter, by the Favour of *Riccardo* Archbishop of *Capua*, who was a Son of the Count of *Celano*, he likewise got the Castle of the City of *Capua*: While he was making some stay near that City, *Diopoldus* came upon him with a great Army, and thought to gain an easy Victory, because of his superior Strength; but it fell out quite otherwise, for *Walter* and his Soldiers fighting with unusual Bravery, gave the *Germans* such a Shock, that after a great Slaughter they broke them and forc'd them to fly; and after the Victory, they, together with the *Capuans*, who came out to partake of the Booty, plunder'd their rich Tents. After the Battle the Count of *Celano* join'd *Walter*, and together with the Abbot, and the Archbishop *Riccardo*, march'd to besiege *Venafro*, which they quickly took and burnt; and after some more fortunate Steps, *Walter* became Master of the greatest Part of the County of *Molise*, and the Abbot *Roffredo* likewise recover'd *Pontecorvo*, *Castelnovo*, *Frattura*, Places belonging to his Abbey, from *Diopoldus*.

THE *Germans* upon this were so terrified, that they shut themselves up within their Forts; whereupon, in the Beginning of the Year 1202, Count *Walter*, with the Count of *Celano*, the Abbot *Roffredo*, and the Cardinal *Galloccia*, who exercis'd the Office of Legate in *Puglia*, march'd in order to conquer the Principality of *Taranto*, and the County of *Lecce*, which, with *Brindisi*, and other Places of that Principality presently surrender'd; and shortly after *Lecce* with its Castle, *Melpis*, and *Montepiloso* follow'd their Example; but *Monopoli* and *Taranto* standing it out, were besieg'd.

BUT this Success of the Count of *Brenna* in *Puglia* was very displeasing to the *Sicilians*, especially to *Gualtieri* Archbishop of *Palermo*, who had usurp'd all Authority and the Government of that Island, and gain'd the rest of the King's Friends over to his Party, by giving them Counties, Baronies, and the Government of Cities and Provinces, and other Offices and Dignities in order to strengthen his Faction. Besides he dispos'd of the Royal Treasure and Revenues at his Pleasure, notwithstanding the Pope's Order, that nothing should be done without the Consent of all the King's Governors, and in some most weighty Affairs, he even reserv'd his own Consent; and *Gualtieri*, for the more easy compassing his own Ends, sent for his Brother *Gentile della Pagliara* Count of *Manopello*, and had so great a Mind to raise his Fortune, that, according to the Chronicle of *Foix*, he had resolv'd to dispatch the young King out of the way, and make *Gentile* King of *Sicily*; and, according to the same Chronicle, *Marcovaldus* twitted him with this, when, being bitter Enemies, they reproach'd one another with their Villanies.

\* Riccard. da S. Germ.

*GENTILE* was immediately made one of the King's Council, and began to treat of Peace with *Marcovaldus*, tho' excommunicated, and an Enemy to the Pope, which took Effect, and *Gualtieri* made him Chief of all the Counsellors, and divided the Government of the Kingdom betwixt them two, that the one might govern in *Sicily*, and the other in *Puglia*. They cemented their Friendship by Alliance, *Gentile's* Son marrying *Marcovaldus's* Niece. *Gualtieri* in the Name of the young King commanded all the Subjects to pay Obedience to his Orders; and leaving the Charge of the King's Person, and the Royal Palace in *Palermo* to his Brother, he went to *Calabria* and *Puglia*, where with incredible Rapacity he robb'd the Churches of all the Sacred Vessels and precious Ornaments, and impos'd Taxes on Cities, Castles, and private Men, and then as lavishly squander'd away what he had thus plunder'd, being as covetous to scrape together a Sum of Money, as he was prodigal to throw it away. He likewise exclaim'd against the Pope, and said, that in place of Guardian of the King and Kingdom, he had become a cruel Enemy to both, by assisting the Count of *Brenna*, who was ravaging *Puglia* in order to take it from the King; and that instead of opposing him, he had furnish'd him both with Men and Money. And in the mean Time was soliciting the Barons of the Kingdom to enter into an Association against the Count of *Brenna* and the Pope, to drive the one out of *Puglia*, and deprive the other of any Share in the Administration.

*POPE Innocent*, who was appriz'd of all his Steps, did not neglect to provide a Remedy, for having often admonish'd him to forbear such Enterprizes, tho' in vain, at last he excommunicated him, and depriv'd him of the Archbishoprick of *Palermo*, the Bishoprick of *Troja*, and the Office of Chancellor of *Sicily*, and gave the Churches to others, and order'd all the Subjects not to obey him in any Thing under Pain of Excommunication. This Thunderbolt hit the Bishop so home, that in an instant he lost all Credit with the People, who generally hated him, and for fear of Excommunication would no more obey him, so that he became the Laughing-stock of every Body. Therefore the other Counsellors, who were of his Faction, began to be terribly afraid of themselves, which made them write very submissively to the Pope in the King's Name, interceding for *Gualtieri*, and excusing themselves; which *Innocent* answer'd by that Letter taken out of the abovemention'd Chronicle, and to be found in the Collection of his Letters<sup>1</sup>, which deserves to be read, because it gives a particular Account of the Count of *Brenna's* entering the Kingdom, which has been very confusedly related by the Writers of our Annals.

*GUALTIERI* being disheartned, sought to make up the Difference betwixt the Pope and him, and going to *Puglia*, on his Knees he swore to the Cardinal Legate to obey whatever he should command; but when the Legate order'd him not to oppose the Count of *Brenna* in the Conquest of the Principality of *Taranto*, and the County of *Lecce*, he answer'd him boldly, that if the Apostle *Peter* was sent by *Jesus Christ* with such Orders, he would not obey them, tho' he was sure to be condemn'd to the Fire of Hell; and blaspheming, and cursing the Pope to the Legate's Face, transported with Fury, he left him, and went to join Count *Diopoldus*<sup>2</sup>.

*MEAN* while *Diopoldus*, with the Count of *Manieri* his Brother, and the Count of *Laviano*, having gone to *Puglia*, had assembled a great Army to drive the Count of *Brenna* from the Places which he had made himself Master of in that Province, and spirited up all the other Barons to go upon that Expedition against the Count, who, as he said, was an Enemy to the King, and had a Mind to usurp his Kingdom. But when they came to join Battle, on the sixth Day of *October*, in the famous Field of *Canne*, where *Hannibal* the *Carthaginian* gave *Flaminius* and *M. Varro*, Roman Consuls, that memorable Defeat; tho' the Count of *Brenna* was catch'd napping, and the Number of his Army much inferior to that of *Diopoldus*, yet for all that, he and his Men fought so gallantly, that after a great Slaughter, and many Prisoners taken, he gain'd the Victory; among the Prisoners were found *Sigisfred*, *Diopoldus's* Brother, and Count *Ottone di Laviano*; with great Difficulty *Riccardo* with the Count of *Manieri* escap'd to the City of *Salpe*, and *Diopoldus* to the Castle of *S. Agatha*<sup>3</sup>.

<sup>1</sup> Epist. Inno. III. which begins: Utinam puerilibus annis virilem animum Dominus inspiraret, &c.

<sup>2</sup> Riccar. da S. Germano.

<sup>3</sup> Chron. de Ric. de S. Germ. Cum ipso campestre bellum inierit ad Cannas: At Cancellarius cum Diopoldo, per ipsum Comitem 6 Octobris devicti sunt, & fugati. Chron. de Foix. Chron. de Fossanova.

COUNT *Gentile*, who had the Charge of young King *Frederick* in *Palermo*, brib'd with a great Sum of Money, made *Marcovaldus* Master not only of the City of *Palermo*, but of all the Island of *Sicily*, except *Messina*; and had it not been for fear of the Count of *Brenna*, who, by Right of his Wife, would have pretended to the Crown, he could easily have put the King to death, and usurp'd the Kingdom, which he deferr'd till a more fit Opportunity; mean while, notwithstanding the Repulse he had formerly got, he was endeavouring, by the Power of Money, to take off the Pope from protecting *Frederick*, and to get the Count of *Brenna* to return to *France*, and quit his Pretensions. But behold all his Designs were blasted by Death, which confounds and overthrows all human Devices; for not long after, being troubled with a Stoppage of Urine, occasion'd by a Stone in the Reins, he was so tormented with severe Pains, that, not able to bear them longer, he caus'd himself to be cut; but the Operation had no Effect, for about the end of this Year 1202, he died suddenly under the Sentence of Excommunication, which put an End to his vast Ambition, and Thirst after a Crown. The Author of *Innocent's Acts* makes him die of this Operation; but *Riccardo de S. Germano* says, it was of a Dysentery.

COUNT *Diopoldus* was now tied up from doing any more Mischief in *Puglia*, and in the Year 1203, by the Means of the Count of *Brenna's* Faction, he was made Prisoner by the Castellain of the Castle of *St. Agatha*, whither he had fled for Shelter; nevertheless his Imprisonment was of no Service to the Count, for soon after the same Castellain, brib'd with Money and Promises, set him at Liberty.

THE Death of *Marcovaldus* occasion'd new Revolutions in *Sicily*, for *William Caparon*, a German Captain, no sooner heard of it, than he went to *Palermo*, and took Possession of the Royal Palace, and the King's Person, and took the Title of *The King's Guardian, and Governor of Sicily*: Which displeas'd *Marcovaldus's* Followers, who refus'd to obey him, and form'd another Party, to the great Detriment of the Affairs of the Island.

*GUALTIERI della Pagliara* thinking this a fit Opportunity to recover his former State, wrote to the Pope, desiring to be absolv'd from Excommunication, and that he was willing to obey him in whatever he should command, and employ all his Power for the Service of the Holy See: *Innocent* readily granted his Request, whereupon he went over to *Sicily*, and reassum'd the Office of High Chancellor without Opposition, and wrote Letters to *Innocent*, in which he declar'd that he would, to his utmost, promote *Frederick's* Interest, and requested him, for the Good of the Child, to send a Cardinal Legate to *Sicily*, to take the whole Command upon him, in order to put an End to the Authority of so many Tyrants<sup>2</sup>. To this the Pope consented, and forthwith sent *Gerardo Allucingolo da Lusa* Cardinal of *St. Adrian*, a Man of great Worth, and the Pope's Nephew, from whose Hands *William Caparon* having taken an Oath in *Messina*, to acknowledge *Innocent* for Guardian of the Kingdom, and him as his Legate, and that he would obey him in all Things, he was absolv'd from the Excommunication, which, as a Follower of *Marcovaldus*, he had incurr'd.

THEN the Legate went to *Palermo*, whither *William* had also gone a little before, but when they came to treat of the Affairs of the Kingdom, they broke out into open Quarrels, for *William* made a Mock of the Legate, and did not mind what he said, whereupon the Legate, not thinking fit to stay in *Palermo* to be thus despis'd, acquainted the Pope with what had pass'd, and return'd to *Messina*.

MEAN while the Chancellor went to *Puglia*, and sent Letters and Messages to the Pope, by Persons of great Power and Interest, by all Means possible, endeavouring to get himself restor'd to the Archbishoprick of *Palermo*, or at least to the Bishoprick of *Troja*; but *Innocent* was positive not to take the Archbishoprick of *Palermo* from *Pariso* Bishop of *Messina*, nor the Bishoprick of *Troja* from another Prelate, to whom he had given it.

ON the other hand, *Diopoldus* being still in *Puglia*, kept these Provinces in continual Alarm, so that the Pope sent *Giacomo* Count of *Andria* his Marshal, to assist the Count of *Brenna*, and likewise made the Marshal Chief Justice of *Puglia*, and *Terra di Lavoro*; and the following Year 1204, *Walter* Count of *Brenna*, *Giacomo*

<sup>1</sup> *Chron. Ric. Cassinensis Abbas Legatus* ens dissenteria miserabiliter expiravit. Vadit in Siciliam, ubi Marcovaldus supervenit.

<sup>2</sup> Inveges anno 1203. hist. Palerm.

Count of *St. Severino di Tricarico*, and *Ruggiero* Count of *Chieti*, join'd their Forces, and after some Enterprizes of little Moment, they laid Siege to *Terracina di Salerno*, of which at present there's no Vestige remaining, and soon were Masters of it <sup>1</sup>; but *Diopoldus* with his Army, and the Assistance of the *Salernitans* of his Party, besieg'd the Count of *Brenna* in *Terracina*, and attack'd him so vigorously, that the Count was wounded in one of his Eyes with an Arrow, insomuch that he lost the Sight of it; but the Counts of *St. Severino* and *Chieti* coming to his Assistance, *Diopoldus* was shamefully forc'd to raise the Siege, and quit the Territories of *Salerno*, and was besieg'd by the Count of *Brenna* in *Sarno*.

BUT in the beginning of the Year 1205, the Count of *Brenna* did not guard himself sufficiently against the Dangers of War, but expos'd his own Person and Army, without the Circumspection that was requisite, and *Diopoldus* being appriz'd of his Negligence and Security, one Morning early made a Sally unawares upon his Army, and finding them unguarded and careless, he attack'd and broke them in an Instant <sup>2</sup>; great Numbers were kill'd, and the Count, while he was defending himself gallantly with his drawn Sword in his Hand, receiv'd many Wounds, and was made Prisoner, and carried to *Sarno*, where, shortly after, according to *Riccardo da S. Germano*, and the Author of the Chronicle of *Foix*, Co-temporary Writers, he died of his Wounds <sup>3</sup>.

THE unfortunate *Albinia*, now left a Widow, and big with Child, soon after married the above-mention'd *Giacomo S. Severino* Count of *Tricarico*, who forbore to bed with her till she brought forth a Son, who after his Father was call'd *Walter*, and was afterwards Count of *Lecce*; of whom was descended Queen *Mary*, and *Brenna*, Wife of *Ladislaus II.* as shall be told hereafter.

THE Death of the Count of *Brenna* so animated *Diopoldus's* Faction and his *Germans*, and put the Count of *Celano* and his Party into so great Consternation, that *Innocent* himself was at last forc'd to make Peace with *Diopoldus* and his *German* Followers, and intrust them with the Administration of the Kingdom; wherefore the Year following 1206, he receiv'd them into Favour, and having made *Diopoldus* take an Oath from the Hands of *Rinieri* a Friar (according to the Chronicle of *Foix*) and *Maestro Filippo* the Apostolick Protonotary, who, for that Purpose, went to *Terra di Lavoro*, faithfully to obey the Pope, as Guardian of the Kingdom, and his Legates, he was absolv'd from the Censures; and *Marcovaldus* of *Laviano*, and *Corrado di Marlei* Lord of *Sorella*, with all their Followers and Vassals, swearing in the same Manner, were likewise receiv'd into the Pope's Favour, as also all the *Germans* that liv'd in *Puglia* and *Sicily*. *Diopoldus* went afterwards to *Rome*, and threw himself at the Pope's Feet, and was honourably receiv'd, and after having discours'd together about the Affairs of the Kingdom, with the Pope's Consent he return'd to *Salerno*, and from thence with some Ships prepar'd for that Purpose, he sail'd to *Palermo* <sup>4</sup>.

*DIOPOLDUS* was no sooner arriv'd in *Palermo*, than he made himself Master of the King's Person and Palace; which *Gualtieri della Pagliara* the Chancellor, took in so ill Part, that in the Night Time, having call'd a Meeting of his Friends, he caus'd *Diopoldus* and his Son to be put in Prison; but not being sufficiently guarded, they soon after made their Escape by favour of the Night, imbarc'd and landed in *Terra di Lavoro*, where they fought with the *Neapolitans*, and made a terrible Slaughter <sup>5</sup>.

<sup>1</sup> Chron. de Ric. de S. Germ.

<sup>2</sup> Pell. ad Anon. Cassin. A. 1205.

<sup>3</sup> Chron. Rich. S. Germ. *Diopoldus* in eum cum fuls diluculo irruens, Comes captus ab eo est, & custodiæ traditus carcerali, ubi modicum post diem clausit extremum.

<sup>4</sup> Idem, Inn. Papa Romam vocat *Diopoldum* ad se, ipsumque & suos a vinculo excommunica-

tionis absolvit, & tunc cum ipsius licentia *Salernum* reversus est.

<sup>5</sup> Idem, Tandem nocturno tempore fuga Præsidio liberatus, veniens per Mare *Salernum*, inde in Terram *Laboris* se confert, ubi cum *Neapolitanis* iniens pugnam, devicit strage magna facta eis.



## S E C T. I.

*Cuma destroy'd, and its Church united to that of Naples.*

**I**N this Place we must not pass over in Silence, what an antient *Neapolitan* Writer, and the Author of the *Primer* of St. *Juliana*, which is very antient, written on Parchment, and preserv'd in the Monastery of *Donnaromita*, relate this Year concerning the Destruction of *Cuma*, and some Battles which the *Neapolitans* had with the *Germans* and *Aversans*, which other grave Authors, and Contemporary Writers do not so much as mention.

**T**HEY say<sup>1</sup>, that in these Times the City of *Cuma* being in a manner destroy'd, by Reason of the Wickedness of the Inhabitants, had lost the Name of a City, and was become a Receptacle for Robbers and Pyrates, who both by Sea and Land, infested Travellers, and the neighbouring Countries: Add to this, the continual Incursions of the *Germans*, who, sheltering themselves in the Castle of this City, plagu'd *Terra di Lavoro*, and particularly the Territories of *Naples* and *Aversa*; therefore in order to prevent these Mischiefs, in a Meeting of the Gentry and Commonalty of *Naples*, it was unanimously agreed to post Detachments of Soldiers at all the Passes through which these *German* Robbers us'd to come: The neighbouring Counts and Barons hearing of this Resolution, much encourag'd the *Neapolitans* in so commendable a Work, and offer'd to assist them with their Persons and Fortunes. Having put their Design in Execution, and posted Guards in several Places, they were expecting the Enemy to come and attack them. While Matters were in this State, *Goffredo di Montefusco*, a Captain of great Courage, and a bitter Enemy to the *Germans*, it being now the Month of *March*, went one Evening with some of his Friends to *Cuma*, where he was courteously receiv'd by the Bishop of *Aversa*, who then liv'd in the Castle. The coming of *Goffredo* thus in the Night-time, made the *Aversans* suspect that the Bishop had a mind to betray them, and that he had receiv'd *Goffredo*, in order to fortify the Castle to their Prejudice, as had been once done before. But the *Aversans* not being fully assur'd of this, sent some of their Citizens to *Cuma* to get Information, and with all haste and secrecy, to possess themselves of the Castle, to prevent *Goffredo's* doing it. *Goffredo* in the mean time seeing that they were come, began to suspect that the Bishop had sent for them to make him Prisoner; therefore he was upon his Guard, and fortified himself and Followers in a particular Apartment. While both Parties were thus afraid, and upon their Guard, *Goffredo*, because of his small Number, fearing that at last he might be surpriz'd by the *Aversans*, sent immediately to *Naples* for Assistance, and to intreat the *Neapolitans* to make all Haste to relieve him from the Danger he was in, and to dispose of the Castle as they should think best. Upon this Message, Count *Pietro di Lettere*, a Kinsman of *Goffredo*, mounted his Horse and went immediately to *Giugliano*, and took with him the Detachment of Soldiers that was posted there for defending the *Neapolitans* against the *Germans*, and march'd directly to *Cuma*; *Goffredo* overjoy'd, went out to meet him, and made him swear, that if the Castle should be taken, he would deliver up to him both the Men, Goods and Chattels that were in it, to which he agreed, and they enter'd the City together. Soon after, upon *Goffredo's* Message, a good Number, both of the Gentry and Commonalty of *Naples* likewise came to *Cuma*; whereupon *Goffredo* seeing himself out of Danger, held a Council with the *Neapolitans* and Count *Pietro*, wherein it was resolv'd at any rate to make themselves Masters of the Castle, and to level the City with the Ground, whereby they would for ever be freed from being infested by the Robbers and *Germans*. Therefore they desir'd the *Aversans* and their Bishop to quit the Castle; but the *Aversans* refus'd to comply: Thus, after a hot Dispute, the *Neapolitans* and *Goffredo*, resolving not to dally any longer, attack'd the Castle both by Sea and Land, and batter'd the Walls so furiously, and set Fire to the Castle, that with great Difficulty the Bishop and *Aversans* made their Escape by flight;

<sup>1</sup> V. Chioccar. de Archiepisc. Neap. in Anselmo, anno 1192.



and after the *Neapolitans* had destroy'd the City and demolish'd the Castle, they return'd in Triumph to *Naples*; so that *Cuma* being intirely ruin'd, its Church, formerly Suffragan to the See of *Naples*, was now annex'd to it, with all the Rights and Revenues thereof<sup>1</sup>.

WHEREUPON, as the above-mention'd Author of *St. Juliana's Primer* relates, *Anselm* Archbishop of *Naples*, and *Leo* Bishop of *Cuma*, resolv'd to remove from the great Church of *Cuma*, the Bodies of the Holy Martyrs *St. Maximus*, to whom the Church was dedicated, and *St. Juliana*, and an Infant of Three Months old, whom, 'tis said, *Maximus* made miraculously to speak, in Presence of *Fabianus* the Prefect; to prevent their being carried off by Foreigners: To which they were likewise solicited by *Brienna*, then Abbess of the Monastery of *Donnaromita*, who, with all her Nuns, was very earnest to have the Body of *St. Juliana*; therefore the said *Leo*, *Pietro Frezzarolo*, Sub-Dean of the Cathedral of *Naples*, And the Abbots of *St. Peter ad Ara*, and *St. Mary a Capella*, with a great Number of the Gentry and Commonalty of *Naples*, went and open'd the Shrine wherein the Relicks were kept, and with great Reverence and Honour, they took them out, and carried them to the Church of *St. Maria à Piedi Grotta*, where they were receiv'd with great Joy by the Abbess and Nuns of the said Monastery of *Donnaromita*, and a great Number of other Ladies. The next Morning Bishop *Leo*, with many Gentlemen belonging to the *Seggio di Nido*\*, and a vast Multitude of other *Neapolitans*, with Olive Branches in their Hands, singing Psalms and Hymns, took the Relicks and carried them to the Church of the Island *St. Salvatore*, where now the Castle dell' *Uovo* stands; where being join'd by the Archbishop *Anselm*, with all the Canons and Clergy, they went in Procession to the City, and plac'd the said Relicks in the Church of the Monastery of *Donnaromita*, where they still remain, and are ador'd.

THUS say these Authors: But out of regard to History, I must not pass over in Silence, what grave and credible Writers have said on this Subject. *Riccardo da S. Germano*, and the Author of the Chronicle, which is kept in *Monte Cassino*, tell us, That Count *Diopoldus*, this very Year 1207, in which these Things are said to have happen'd, came from *Salerno* to *Terra di Lavoro*, where he engag'd the *Neapolitans*, and after a terrible Slaughter, routed them<sup>2</sup>; *Riccardo* also adds, that he took *Goffredo di Montefusco* Prisoner, and carried him with him to one of his Castles, without so much as mentioning the Destruction of *Cuma*. Nevertheless these Accotints may be both true, for, perhaps, *Diopoldus*, being inrag'd at the Ruin of *Cuma*, which is said to have been in the Month of *March*, or because his *Germans* had been ill us'd by the *Neapolitans*, who were posted to watch them, came to insult *Naples*, and the *Neapolitans*, with *Goffredo di Montefusco*, sallying out, were defeated, many kill'd, and *Goffredo* made Prisoner; but I leave the Decision to the judicious Reader.

<sup>1</sup> V. Chioc. loc. cit. de Episcopali Ecclesia Cumana Neapolitanæ unita.

<sup>2</sup> Riccard. da S. Germ. Ubi cum Neapolitanis iniens pugnam, devicit, frage magna facta ex eis.





## C H A P. II.

*Pope Innocent makes a Voyage to Sicily, where he concludes a Marriage betwixt King Frederick and Constantia, the Daughter of Alphonſus II. King of Aragon; and defends the Kingdom againſt the Invaſion of the Emperor Otho IV.*



IN the mean time *Guattieri* the Chancellor, had rais'd great Disturbance in the Royal Palace, for by all Means poſſible, endeavouring to get the Charge of the King's Perſon and Palace from *William Caparon*, but in vain, he put all in Confuſion; and the chief Miniſters of the Kingdom being divided into Factions, gave a fair Opportunity to the *Saracens* of the Iſland, without fear of Punishment, to riſe in Arms, and they not only ſhook off all Allegiance to the King, but did a great deal of Damage to the Chriſtians, by taking the Caſtle of *Coriglione* by Storm, and threatening greater Miſchief.

THE Diſorders were no leſs in the Kingdom of *Puglia*, occaſion'd by *Corrado di Marlei*, whom the deceas'd Emperor had made Count of *Sora*, who not only infeſted *Terra di Lavoro*, and the other neighbouring Places; but alſo the Pope's Dominions. *Innocent*, mov'd with Compaſſion for the miſerable Condition of both Kingdoms, determin'd to go to *Sicily*, and on the 30th Day of *May*, of the Year 1208, he arriv'd in *Palermo* with many Cardinals, Archbiſhops, and other Prelates; and finding that King *Frederick* was now grown up, and Thirteen Years of Age, he perſuaded him to marry, and propos'd *Constantia*, Siſter to *Peter* King of *Aragon*, which *Frederick* agreed to; whereupon the Pope began to treat of the Marriage with *Sancia*, *Constantia*'s Mother; and then left *Palermo*, and arriv'd at *St. Germano* the 23d of *June*.

UPON his Arrival, he call'd a Meeting of the Barons, Juſtices, and Governors of the Cities and Caſtles; wherein it was reſolv'd, that they, at their own Charges, ſhould furniſh King *Frederick* Two hundred Horſemen, to be ſent to *Sicily*, and there to continue a whole Year. He likewiſe appointed *Pietro* Count of *Selano*, and *Riccardo dell' Aquila* Count of *Fondi*, to be Juſtices and Governors of the Kingdom of *Naples*, and committed the Charge of *Puglia* and *Terra di Lavoro*, to the Count of *Selano*, and that of the City of *Naples* and its Territories, to the Count of *Fondi*. Beſides, he reſtor'd what was amiſs in the Adminiſtration of Juſtice, which, by the continual Wars, and the Insolence of the *Germans*, had been little minded, and made other Regulations for the better Government of the Kingdom, as *Riccardo da S. Germano*, and the Chronicle of *Foix* relate. He recommended Peace and Unanimity, and if any Perſon ſhould be injur'd, he was to have recourſe to the above-mention'd Counts, and lay his Complaints before them; and whoever ſhould dare to oppoſe what he had ordain'd, or diſturb the Peace of the Kingdom, ſhould be declar'd an Enemy to the Commonwealth, and ſeverely puniſh'd.

<sup>1</sup> R. S. Germ. A. 1208. Innocentius Papa Vigilia S. Jo. menſe Junio venit ad S. Germanum, ubi ab Abate Roſſifrido magnifice receptus eſt, tam ipſe, quam fratres ſui Domini Cardinales.

<sup>2</sup> Idem, Qui autem ordinationem iſtam recipere noluerint, vel recuſaverint, tanquam hoſtes publici habeantur, & a cæteris impugnentur.

**INNOCENT**, not content with what had been ordain'd in the Meeting, after it was over, wrote to all the Counts, Barons, and People of the Kingdom, who had not been present in the Assembly, exhorting them to observe what had been therein ordain'd, and to obey whatever *Gregorio Crescenzio Romano* Cardinal of *S. Theodore*, his Legate in *Campagna di Roma*, and *Riccardo* his Cousin (whom he had this Year 1208. invested with the County of *Sora*, as a Reward for his having defeated and taken *Corrado di Marlei*, who was divested of the said County <sup>1</sup>) in his Name should command them to do; all which may be seen in one of this Pope's Letters <sup>2</sup>.

**INNOCENT**, having thus settled the Government of this Kingdom, went up to *Monte Cassino* to visit that holy Place, to which he confirm'd all the Privileges granted to it by the Popes his Predecessors, and added new ones. While he was there, he had Advice, that *Philip* King of *Germany*, King *Frederick's* Uncle, had been murder'd by his own People; whereupon, in order to be nearer at Hand, to give what Assistance he could in the Affairs of the Empire of the West, he left *Terra di Lavoro*, and by the Way of *Sora* and *Atino*, with all his Cardinals, return'd to *Campagna di Roma* <sup>3</sup>.

**AFTER** the Death of the Emperor *Henry*, though the Empire belong'd to his Son *Frederick*; for, according to the Abbot of *Ussperg* <sup>4</sup>, *Henry* in his Life-time had got almost all the Princes of *Germany* to elect him King, and swear Fealty to him; yet *Henry* was no sooner dead, than two opposite Factions about the Election of a Successor started up, and the Majority of the Electors elected *Philip* Duke of *Suevia*, Brother of the deceas'd Emperor, and in the Year 1197. he was crown'd King of *Germany* in *Mentz*, by his own Party; the other Electors, inferior in Number, elected *Otho* Duke of *Saxony*, and crown'd him in *Aix la Chapelle*. But, though *Innocent III.* had favour'd *Otho's* Party, and confirm'd his Election <sup>5</sup>; yet *Philip's* Party prevail'd, and he held the Empire ten Years, and at last, *Otho* himself, after a bloody War, yielded to him, and made Peace with him, and in the Year 1207. *Philip* gave his Daughter *Beatrice* to *Otho* in Marriage, with this Condition, that after *Philip's* Death, *Otho* should succeed in the Kingdom of *Germany*. But when *Philip* was thus settled in the Empire, the Year following 1208. he was treacherously kill'd in his own Palace, in the City of *Bamberg*, by *Otho* Count Palatine, his bitter Enemy; whereupon *Otho* Duke of *Saxony* aspir'd anew to the Empire, and was this second Time favour'd by *Innocent*, who, the Year following, when *Otho* came to *Italy*, crown'd him in *Rome*, and he was call'd *Otho IV.*

**BUT** after the Pope left *Terra di Lavoro*, new Troubles arose in that Province, for *Riccardo dell' Aquila* Count of *Fondi*, joining with Count *Diopoldus*, lorded it over the City of *Capua*, whither he had been invited by the *Capuans* themselves, who had turn'd out *Pietro* Count of *Celano* <sup>6</sup>, who then govern'd that City, because they mortally hated *Riccardo* his Son, their Archbishop.

**IN** the mean Time Pope *Innocent* had concluded the Marriage betwixt King *Frederick* and *Constantia* Widow of *Albericus* King of *Hungary*, and Daughter of *Alphonfus II.* King of *Arragon*, and *Sancia* his Wife. *Zurita*, the judicious and impartial Writer of the Annals of *Arragon*, says, that Queen *Sancia*, after the Death of the King her Husband, sent her Secretary, nam'd *Columbus*, to *Rome*, promising *Innocent*, in case the Marriage was concluded, to send Two hundred Horse at her own Charges to *Sicily* for assisting her Son-in-Law; or if it should be thought proper, she herself would conduct her Daughter, with 400 Horse, provided she was secur'd that the Charges of the War should be repay'd her, in case the *Sicilians*, who were Masters of the King's Person, should put a Stop to the Marriage; requiring besides, that if *Frederick* should die before the Consummation of the Marriage, her Son *Don Ferdinand*, *Constantia's* Brother, whom the Father had educated for the Church <sup>7</sup>, should be invested with his Kingdoms. After this Message *Innocent* sent

<sup>1</sup> Tutin. in his Book de Contestabili del Regno, fol. 38. likewise mentions this Investiture; yet the Co-temporary Author de Gestis Innocentii, says, That this Investiture was given by the King, and not by Innocent.

<sup>2</sup> Epist. Inn. which begins Affectum dilectionis, & gratiæ, &c.

<sup>3</sup> Chron. S. Germ. Per Atinum iter faciens Soram contulit, indeque in Campania reversus est.

<sup>4</sup> Ab. Usspergenis: Henrico VI. eoque procurante, Principes Alemannie pene omnes filium parvulum ipsius Fridericum II. adhuc incunis vagientem assumpserunt in Regem, eique fidelitatem juraverunt, & literas de hoc facto cum Sigillis suis Imperatori transmisserunt.

<sup>5</sup> Cap. Venerabilem de Elect. Ab. Ussperg.

<sup>6</sup> Ric. S. Germ. in odium Celani Comititis.

<sup>7</sup> Zurit. Quem pater sacro Ordini dicaverat.

his

his Ambassadors to *Arragon*, who, in Conjunction with Ambassadors likewise sent by *Frederick*, after diverse Conferences, concluded the Marriage. But before *Constantia* left *Arragon*, Queen *Sancia* died; and afterwards in the Month of *February* 1209. *Constantia* embark'd in *Catalan Gallies*, accompanied by D. *Alphonfus* Count of *Provence*, her Brother, and a great Number of *Spanish* and *Provensale* Gentlemen, and landed in *Sicily*; but whilst this Marriage was celebrating with great Pomp and Magnificence, all their Mirth was converted into Grief, by the Death of D. *Alphonfus*, and many of his Retinue; for through the Badness of the Air *Palermo* was afflicted with a contagious Distemper, which prov'd mortal to many; insomuch that the young King, who was only 14 Years old, in the Midst of Joy and Grief, was forc'd to leave *Palermo*, and go wandering up and down from one City of the Island to another.

WHILE this contagious Distemper oblig'd King *Frederick* to leave *Palermo*, *Pietro* Count of *Celano*, by Means of his Son the Archbishop, got Possession again of *Capua*; and at the same Time *Otho* King of *Germany*, by the Death of *Philip* his Father-in-Law, breathing after the Empire of the West, came into *Italy* with a powerful Army, and arriving in *Rome*, was receiv'd by Pope *Innocent*, and on the 7th of *September* this Year crown'd with the Imperial Crown, and *Riccardo da S. Germano*, says, that the Pope crown'd him *præstito Juramento de conservando Regalibus S. Petri, & de non offendendo Regem Siciliae Fredericum*. But whilst *Otho* and his Army continued in *Rome*, there happen'd a terrible Quarrel betwixt his Soldiers and the *Romans*, who taking up Arms, kill'd a great many *Germans*; whereupon *Otho* in great Wrath left *Rome*, and march'd into *Marca*, where he laid waste, and took by Force the Lands and Cities of the Church, notwithstanding the Oath he had taken.

IN the mean Time the Abbot *Roffredo*, having for many Years govern'd the Abbey of *Monte Cassino*, on the last Day of *May* ended his Days in *S. Germano*<sup>1</sup>; after whose Death Count *Diopoldus*, and the Count of *Celano* being reconcil'd, and the one being Master of *Capua*, and the other of *Salerno*, both of them perswaded *Otho*, who was then in *Tuscany*, to come and take Possession of the Kingdom, and *Diopoldus* promis'd to deliver up *Salerno* to him, and the Count of *Celano* *Capua*, which Invitation and Offer, the Emperor, notwithstanding his Oath he had sworn to the Pope not to disturb *Frederick*, gladly accepted, and having assembled his Army, he enter'd *Abbruzzi* by the Way of *Rieti* and *Marfi*, from whence he march'd into *Terra di Lavoro*, whither *Pietro* Abbot of *Monte Cassino*, who had succeeded *Roffredo*, afraid for the Lands of his Abbey, contrary to the Opinion of his Monks, sent Messengers to beg Peace of him, and shortly after went himself with all Submission to wait upon him, and to be at his Mercy; for which Cause, neither the Territories nor Goods of the Monastery suffer'd in the least by the *Germans*.

OTHO having gone to *Capua*, created Count *Diopoldus* Duke of *Spoletto*<sup>2</sup>, who, besides having given him *Salerno*, had join'd him with all his Followers. From *Capua* both of them went to besiege *Aquino*, but they were repuls'd with great Loss by *Tommaso*, *Pandolfo*, and *Ruberto* Lords of that City. *Naples* out of spite to the *Aversans* surrender'd to *Otho*; who at the Request of the *Neapolitans* march'd to lay siege to *Aversa*; but the *Aversans* having given him a good Sum of Money, and receiv'd him kindly into their City, subjected themselves to him, and suffer'd no other Damage<sup>3</sup>. From thence *Otho* march'd into *Puglia*, where the *Puglians*, partly through Fear, and partly by Force, for the most part surrender'd to him, and *Calabria* follow'd their Example, and the Places that made any Resistance were pillag'd and ruin'd.

POPE *Innocent*, seeing the finest Provinces of this Kingdom thus lost, endeavour'd all he could to divert *Otho* from his Undertaking; for which end he sent the Abbot of *Uspberg*, as he himself relates, five Times from *Rome* to *Capua*, to treat of an Agreement with the Emperor, but all to no Purpose; for *Otho* looking upon all these Provinces, as well as all the rest of *Italy*, as belonging to the Empire, by no Means would part with what he had conquer'd from the King of *Sicily*, but endeavour'd to be Master of all *Italy*.

IT had been already the Custom of the Popes in those Times, not only to excommunicate, but likewise to depose the Emperors, by absolving their Vassals from

<sup>1</sup> Chron. di Fossa nova, tom. 1. Ital. sacra col. 488.

<sup>2</sup> Idem, Ducem Spoleti fecit illum.

<sup>3</sup> Ric. S. Germ.

their Oaths; and this they did, not only on account of Herefy, but also for Things merely Temporal, such as inroaching upon the Possessions of the Church, or those of other Princes her Friends and Confederates. *Innocent* on this Occasion, finding that *Otho* was obstinately resolv'd not to part with what he had possess'd himself of in *Marca* of the Church Lands, and what he had conquer'd from King *Frederick* <sup>1</sup>, excommunicated him, and declar'd him an Enemy of the Holy Church. He likewise interdicted the Church of *Capua*, because the Clergy thereof had dared to celebrate Divine Offices in the Emperor's Presence; he also excommunicated all his Adherents: And having call'd a Council in *Rome*, he depriv'd him of the Empire; but because these Thunderbolts are thrown in vain, if they are not back'd and supported by the Electoral Princes, therefore this same Year 1210. *Innocent* wrote Letters to the German Princes, wherein he exaggerated the Damage *Otho* had done to the Church contrary to the Tenor of the Agreement, and the Oath he had given, when he was crown'd in *Rome*; therefore, seeing *Otho* was perjurd, excommunicated, and had forfeited the Empire, he exhorted them to elect another in his Room. This mov'd many of these Princes to take up Arms against the Emperor, which occasion'd a new War and Revolutions in *Germany*; as soon as *Otho* was appriz'd of these Comotions, he immediately left *Puglia*, and return'd to *Germany*; but that did not hinder the Election to go on, for the Archbishops of *Mentz* and *Triers*, the King of *Bohemia*, *Herman* Count of *Thuringia*, the Dukes of *Austria*, *Saxony*, and *Bavaria*, and many other German Lords, who, besides being his declar'd Enemies, call'd to mind that *Frederick* had been elected King of the Romans, while he was but a Child in his Father's Life-time, and that they had sworn to him, elected King *Frederick* Emperor, who was but fifteen Years old.

<sup>1</sup> Idem, Illum excommunicat, & Ecclesiam Capuanam sub interdicto ponit, pro eo quod ausi sint celebrare ipso presente in Octavis B. Martini, Excommunicat etiam omnes fautores ipsius.



### C H A P. III.

*King Frederick being elected Emperor, goes to Germany, and is crown'd in Aix la Chapelle; and Innocent summons a General Council to be held in the Lateran Palace.*



**A**FTER the Princes of *Germany* had elected *Frederick*, they presently sent two Ambassadors, *Anselm* and *Henry*, to notify the Election to him, and conduct him to *Germany*; the Ambassadors being come to *Verona*, *Henry* stopp'd there in order to induce the *Lombards* to espouse the new Emperor's Interest, and especially those of the *Veroneze* <sup>1</sup>; and *Anselm* came to *Rome*, where, with the Pope's Consent, he us'd his utmost Endeavours to get the *Romans* to approve of *Frederick's* Election. From thence he went over to *Sicily*, and it was with great Difficulty, that he got *Constantia* and the *Sicilian* Barons to consent to *Frederick's* going to *Germany*, for fear that his Enemies should murder him treacherously. But at last, despising all Dangers, and encourag'd by *Innocent*, he left *Constantia* in *Sicily*, with a Son he had born to him, nam'd *Henry* after his Grandfather, and imbarck'd in *Gaetan* Ships, and after a prosperous Voyage landed at *Gaeta*; where he took shipping again, and in the Month of *April* 1211. arriv'd in *Rome* <sup>2</sup>, where he was joyfully receiv'd by

<sup>1</sup> Abb. Usperg.

<sup>2</sup> Ric. S. Germ.

the Pope, the Senate and the People of *Rome*, from whence he went likewise by Sea to *Genoa*, where he was heartily welcom'd by the People of that City, who, lest he should be attack'd by those of the *Milaneze*, great Favours of *Otho*, escorted him to *Padua*; and in the same manner, the People of *Padua* and *Cremona* joining together, conducted him through the Valley of *Trent*, and the steepest Parts of the *Alps*, to avoid any Ambushes that *Otho* might have laid in the Way, and he arrived safely in the Country of the *Grisons*, and being honourably entertain'd by the Bishop and the Abbot of *S. Gall*, and accompanied by them, he arriv'd at *Constance*.

BUT *Otho*, who in the mean Time had carried on a cruel War against those of *Frederick's* Faction, hearing of his Arrival, presently left *Thuringia*, and came to *Uberlingen* near *Constance*, in order either to dispatch *Frederick* out of the Way, or take him Prisoner before he should gather more Strength in *Germany*; but being deserted by many of his Followers, who went over to his Enemy, his Designs were blasted. And while *Frederick* was in *Constance*, he was join'd by a good Body of the *Suevians*, besides a great Number of *German* Barons, who, out of Respect to the Memories of his Father and Grandfather, lov'd him dearly. *Otho* seeing his Forces daily dwindling away, in the Beginning of the Year 1212. went to *Brisac* situated on the Banks of the *Rhine*, where he left no Stone unturn'd to augment his Army, but the Citizens being grievously oppress'd by the Soldiers, with unanimous Consent fell upon them, and drove them out of the City, killing and dispersing the whole Army; whereupon *Otho*, seeing no other way to make his Escape, with a small Retinue, fled to *Saxony*. The News of this being spread among the *Germans*, they went all over to *Frederick*, who march'd down the Banks of the *Rhine*, and was favourably receiv'd in *Hainault*; but some of these People continu'd faithful to *Otho*, shut their Gates, and began to dispute his Passage, but in a few Days they were likewise forc'd to submit, and he march'd to *Aix la Chapelle*, whither the greatest Part of the *German* Princes went, and, contrary to *Frederick's* Expectation, cheerfully embrac'd his Interest; and in the Year 1213. the Twentieth of his Age, according to the Abbot of *Usparg*, *Baronius*, and *Rzovius*, but the Eighteenth according to *Inveges*, he was crown'd by the Archbishops of *Mentz* and *Triers* <sup>1</sup>.

*OTHO*, seeing himself thus deserted by the Princes of the Empire, turn'd his Arms against *Philip* King of *France*, who beat him, and put him to flight, and *Philip*, to humble him the more, made a Truce with the Emperor *Frederick* <sup>2</sup>, who taking Advantage of this favourable Opportunity, forthwith attack'd the Imperial Cities that favour'd *Otho*, and harra's'd them in such a manner, *ut urbes ad dedicationem, & Othonem ad veniam petendam impulerit*, as *Gordon* has it.

P O P E *Innocent* finding *Otho* crush'd, and *Italy* and all other Christian Dominions now at Peace, and the Affairs of the Empire of the West in a fair Way to his liking, and at the same Time having receiv'd the agreeable News of the famous Victory gain'd by *D. Pedro* II. King of *Castile* and *Arragon*, the Empress *Constantia's* Brother, and *Sanctius* King of *Navar*, in the Fields of *Toledo*, over the King of *Maroco*, and his Moors, bent his Mind to a more noble Undertaking; he saw that the *Turks* both in *Spain* and the Holy Land grievously molested the Christians, therefore he wrote Letters to all Christian Princes, exhorting them to lay aside their private Quarrels, put on the Cross, and go to the Holy War; and he sent twq Cardinal Legates to assemble what People they could to go to *Palestine*. He likewise wrote to *Saladin* Soldan of *Babylon* and *Damascus*, to restore *Jerusalem* to the Christians, and set at Liberty all the Prisoners, promising to set at Liberty all the *Turks* that were Prisoners in *Christianity*; but his Labour was lost, for that Prince neither minded the Pope's Letters nor his Messengers. *Innocent* likewise summon'd a General Council to be held in *Rome* in the *Lateran* Palace the following Year 1215. which began to be celebrated the first Day of *November* the same Year, in which were present 70 Archbishops, 412 Bishops, and 800 Abbots and Priors. Ambassadors from all Christian Princes were likewise at this Council, and *Berardo* Archbishop of *Palermo* was sent by *Frederick* <sup>3</sup>. The People of the *Milaneze*, who were great Partizans of *Otho*, did not fail likewise to send one of their Citizens to defend his Right in this Assembly; in which many Points were examin'd and hotly debated.

<sup>1</sup> Ric. S. Germ. Aquis per Antistites Moguntium, & Treverensem coronam accepit.

<sup>2</sup> Abb. Uspergenensis.

<sup>3</sup> Ric. S. Germ.

THE chief Point was the Expedition to the Holy Land, to recover *Palestine* from the Infidels, and make up the Differences betwixt Christian Princes, to which the Ambassadors promis'd the utmost Assistance of their Masters.

*OTHO's* Deposition, and *Frederick's* Coronation in *Aix la Chapelle*, were also strongly debated, and the *Milaneze* Deputy made a long Speech in favour of *Otho*, and told the Council, That he was willing to become an obedient Son of the Church, and therefore ought to be restor'd to his former Imperial Dignity, and *Frederick's* Election declar'd void: But the Marquis of *Monferrat* stood up for *Frederick*, and made a Speech, wherein he said, That no Person ought to be heard that spoke in *Otho's* Name, and produc'd Six Articles of Accusation against him<sup>1</sup>. The first was the Breach of his Oath to the Chnrch of *Rome*, whereby he swore not to invade her Lands, nor *Frederick's* Dominions. II. That he had not restor'd these Lands for which he was excommunicated, and had sworn to restore them. III. That he favour'd an excommunicated Bishop. IV. That he imprison'd a Bishop Legate of the Holy See. V. That in Contempt of the Church of *Rome*, he call'd King *Frederick*, King of Priests<sup>2</sup>. VI. That he destroy'd a Monastery of Nuns, and made a Fort of it. Then turning towards those of the *Milaneze* that were present, he inveigh'd against them, as *Frederick's* Enemies; but they, no ways afraid, were going to answer him, when the Pope made a Sign with his Hand, rose from the Throne, and went out of the Church. This weighty Affair of *Frederick* and *Otho*, according to *Riccardo*, was debated in the Council with great Warmth, from the Feast of St. *Martin* to that of St. *Andrew*; on which Day the Pope approv'd of the Election made by the Princes of *Germany* in *Aix la Chapelle*, and confirm'd *Frederick* Roman Emperor, and it was resolv'd that he should be invited to *Rome* to take the Crown, according to the Custom of his Predecessors.

IN this Council the Sacraments of Penance, and the Eucharist, were narrowly examin'd into, and especially the Condemnation of the Heresy of the *Albigenses* was closely debated; this Heresy being favour'd by the Count of *Toulouse*, and many great Men in *France*, had taken deep Root there.

<sup>1</sup> Idem, Sex in medium Capitula protulit.

<sup>2</sup> Idem, Quia in contemptum R. Ecclesiæ Regem Fredericum, Regem appellavit Presbyterorum.



## C H A P. IV.

### *The Origine of the Inquisition against Hereticks; and the Death of Pope Innocent III.*



THE Tribunal of Inquisition against Hereticks, had its Rise at this Time. The Apostles apply'd no other Remedy to this Evil, than Admonition; if the Heretick, after being once or twice admonish'd, continu'd obstinate, he was excommunicated, and all Catholicks were enjoyn'd to have no Fellowship with him. And this was all, till *Constantine* imbrac'd the Christian Religion. Among the Instructions which the Fathers of the Church gave to *Constantine* and his Successors; one was, that seeing they were Christians as well as Princes, they were oblig'd to serve God in both Capacities. As Christians, by observing God's Holy Commandments, as much as any private Person; as Princes, by making good Laws, directing their Subjects to lead godly, righteous and sober Lives; by punishing the Transgressors of the Divine



Divine Precepts, and especially of the Decalogue : And since, 'tis a more heinous Crime to transgress the first Table, which regards the Honour of God, than the Second, which regards Justice betwixt Man and Man, therefore Princes are more oblig'd to punish Blasphemy, Heresy, and Perjury, than Homicide and Theft. For which Cause, many Laws were made against Hereticks, with severe Sanctions against the Broachers and Teachers of Heresies, and those who by such Doctrine rais'd Disturbance and Sedition in the Commonwealth. *Constantine the Great* made Two such Laws <sup>1</sup>. *Constans* his Son made none, because he was a Heretick. *Valentinian the Elder* made one <sup>2</sup>. *Valens* made none, because he was likewise a Heretick. *Gratian* publish'd Two <sup>3</sup>. *Theodosius the Great* publish'd Fifteen <sup>4</sup>. *Valentinian the Younger* Three <sup>5</sup>. *Arcadius* Twelve <sup>6</sup>. *Honorius* Eighteen <sup>7</sup>. *Theodosius the Younger* Ten <sup>8</sup>; and *Valentinian III.* Three <sup>9</sup>.

THE Punishment inflicted on those Hereticks, was not always the same ; but according to the Circumstances, sometimes more severe, sometimes more mild : Neither was there any Law that punish'd Hereticks in general with Death. The *Manichees*, the *Priscillianists*, and their Doctors, and those who rais'd Disturbance, were the most severely punish'd. They were commonly banish'd, declar'd infamous, render'd incapable of military Employments, and all Honours and Dignities ; to make Wills, to make Donations, to Buy or Sell, or make any kind of Contracts ; they were fin'd, and their Goods, either in part, or in whole, confiscated, according to the Circumstances of their Crimes : Capital Punishment, in some singular Cases, was only threatned by the Emperors, as against the *Manichees*, the Stirrers-up of Sedition and Commotions ; and against other Hereticks, according to the Heinousness of the Crimes, or their Obstinacy in the Cases recorded in the *Theodosian Code* <sup>10</sup>, and enumerated by *Jacobus Gothofredus*.

BUT since, in criminal Processes, three Points are to be consider'd ; the Cognizance of the Validity of the Crime ; the Cognizance of the Fact, and the Sentence ; therefore in Trials of Heresy, the Cognizance of the Validity, that is to say, whether such an Opinion be heretical or not, was always reputed to belong to the Ecclesiastical, and in no respect to the secular Magistrate ; whence in these Times, when any Difficulty arose concerning any Opinion, the Emperors had recourse to the Judgment of the Bishops, and, if need was, they call'd Councils. But to take Cognizance of the Fact, whether the Person was Innocent or Guilty, and to impose the Punishment ordain'd by the Law, or to absolve or condemn, belong'd to the secular Magistrate.

SEEING then that it belong'd to the secular Magistrate to take Cognizance of the Fact, the Emperors made many Laws, whereby they prescrib'd Means for proving the Fact. They declar'd Heresy to be a publick Crime, therefore allow'd all Persons to be Accusers, especially when the Process was taken out against the *Manichees*, the *Phrygians*, and the *Priscillianists*. They allow'd of Informers ; and in some Cases in order to discover conceal'd Hereticks and their Doctors, they appointed *Inquisitors*. And *Gothofredus* observes <sup>11</sup>, that *Theodosius the Great* was the first that appointed *Inquisitors*, and was afterwards imitated by *Arcadius* and *Honorius* ; but this same Writer adds, that they were not commonly employ'd against all Hereticks ; but only in weighty Cases, where Severity and Rigour were necessary, as against the *Manichees*, the Authors of new Sects and their Doctors, the *Eunomians*, and others of the Clergy, Authors of abominable Superstitions and Heresies. For the more easy Proof of this Crime, Servants were allow'd to accuse their Masters <sup>12</sup> ; yea, their very Wives and Children were admitted ; and in fine, Processes were framed by the secular Magistrate, according to the Prescription of the Laws of the Emperors ; and after the Bishops had declared the Opinions heretical, and excommunicated and anathematiz'd those that held such Opinions ; they meddled no more, nor durst they so much as acquaint the Magistrates with these Opinions, for fear of being guilty of a Breach of Charity.

<sup>1</sup> Cod. Th. lib. 1. & 2, de Hæreticis.

<sup>2</sup> L. 3, 6. cod. eod. tit.

<sup>3</sup> L. 4 & 5.

<sup>4</sup> L. 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23.

<sup>5</sup> L. 5, 18, 20.

<sup>6</sup> L. 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36.

<sup>7</sup> L. 35, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 52, 53, 54, 55, 56.

<sup>8</sup> L. 48, 49, 50, 57, 58, 59, 60, 61, 65, 66.

<sup>9</sup> 62, 63, 64.

<sup>10</sup> Cod. Th. L. 9, 34, 36, 38, 43, 44 de Hæret.

<sup>11</sup> Goth. in l. Quisquis 9. C. Th. de Hæret.

<sup>12</sup> Idem in Paratitl. ad tit. C. Th. de Hæret.

BUT others finding, that the Fear of the Magistrate overcame the Frowardness of the Obstinate, and was more powerful than the Love of Truth, thought, that they were in Duty bound to accuse Hereticks, and give Information of their wicked Practices to the secular Judges, that thereby they might spur them on to put the Imperial Laws in execution. But seeing it sometimes happen'd, that the secular Judges were oblig'd to proceed against some heretical Doctor, who, by his wicked Doctrine, occasion'd Disturbance and Sedition, the Punishment of which, because of the Heinousness of the Crime, might be extended to Death; in such Case, the Ecclesiasticks forbore to appear before the Magistrates, but always did what they could to divert them from capital Punishment. St. *Martin* excommunicated a Bishop in *France*, because he had accus'd certain Hereticks to *Maximus*, who had got himself to be proclaim'd Emperor, which Hereticks were, by his Order, put to Death; and though St. *Augustine*, out of Zeal for the Purity of the Church, very often and strenuously solicited the Proconsuls, Counts, and other Imperial Ministers in *Africa*, to put the Laws of the Princes in execution, and inform'd them of the Places, where the Hereticks kept their Conventicles; yet when he saw that the Judges were inclin'd to punish with Death, he always begg'd and conjur'd them, for the Love of God and Jesus Christ, not to punish them with Death; and in a Letter to *Donatus*, Proconsul of *Africa*, he told him plainly, that if he should go on to punish Hereticks with Death, the Bishops would forbear to accuse them, and seeing none others did accuse them, they would go unpunish'd, and the Imperial Laws would not be put in execution; but if he proceeded mildly, without shedding Blood, they would be vigilant to discover them, and inform against them, both for the Service of God, and the Execution of the Laws.

IN this Manner were Processes against Heresy carried on under the *Roman* Empire, till the Year 800 of our Redemption; when the Empire of the East was separated from that of the West. And the same Form was continu'd in the Empire of the East as long as it lasted, as is clear from *Justinian's* Code, and the *Novellæ* of the other Emperors of the East his Successors.

BUT in the West every thing was alter'd, either because Princes had no occasion to make Laws against Heresy, or they little minded it; for during the Space of Three hundred Years, from the Year 800 to 1100, there appear'd few Hereticks in these Parts; and when any such did appear, the Bishops made themselves Judges; for through the Indolence of Princes, the Bishops having much extended their Ecclesiastical Jurisdiction, assum'd the Power of judging Hereticks, and as they proceeded in other Ecclesiastical Crimes, such as not observing Festivals, not keeping Fasts, and the like, judging and punishing in those Places, where Princes had granted them Power to exercise Jurisdiction, and where they had not Jurisdiction, they had recourse to the secular Magistrate, who punish'd them: So likewise they proceeded in the same Manner against Hereticks in the Crimes of Heresy.

AFTER the Year 1100, by the continual Dissensions and Wranglings, which for Fifty Years before had been betwixt the Popes and the Emperors, and by those which lasted all the following Century to 1200, accompanied with frequent Wars, and Scandals, and the licentious Lives of the Ecclesiasticks, a Multitude of Hereticks started up, whose Heresies generally struck at the Ecclesiastical Authority, some attacking their Looseness of Manners, some their Power and Wealth, maintaining with the *Arnaldists*, that Ecclesiasticks ought to possess nothing in Property; and some carrying Matters farther, condemn'd the Baptism of Infants, and re-baptiz'd adult Persons; threw down Churches and Altars, broke the Crosses; and others did not approve of the Celebration of Mass, and taught, that Alms and Prayers did not avail the Dead: So that the Number of Hereticks in these Times was become very great, and they either took their Names from their Doctors, who broach'd the Heresies, or from the Places where they flourish'd most; but in the main they all agreed in Manicheism. And as under the *Roman* Empire, from *Constantine the Great*, to *Valentinian III.* their Number was prodigious, and went under the Names of their Authors; such as the *Arians*, the *Macedonians*, *Pneumatomachi*, *Apollinarists*, *Novatians*, *Eunomians*, *Valentinians*, *Paulianists*, *Papianists*, *Montanists*, *Marcionists*, *Donatists*, *Photians*, and many other Sects, which may be seen in the *Theodosian* Code<sup>1</sup>: So likewise in these Times they were call'd *Arnaldists*,

<sup>1</sup> Cod. Th. tit. de hæret. lib. 16.

from *Arnaldo da Brescia* their famous Head, the *Leonistæ*, the *Insabbasati*, the *Waldenses*, the *Speronistæ*, the *Publicani*, the *Circumcisi*, the *Gazari*, and the *Patareni*, who, being prepar'd to suffer all Indignities and Affliction, by affecting an incredible Constancy, would be call'd *Patareni*, in opposition to Catholics, who, for the sake of Religion, suffer Slaughter, and after Death, are call'd Martyrs; so they, for their Belief, with the same Constancy, exposing themselves to the like Danger, would be call'd *Patareni*<sup>1</sup>. But the most considerable in these Times, were the *Albigenses*, so call'd from *Alby*, the Place to which they retir'd, and being protected by the Count of *Toulouse*, spread their Doctrine in many Provinces of *France*.

BUT on the other hand, in these very Times, for the Support of the Church of *Rome*, there appear'd two bright Lights, *Dominick* and *Francis*, who, for their Sanctity, became famous every where, and founded the Orders of *Preaching Friars*, and *Minors Friars*, which were such fruitful Plants, and multiplied to that degree, that in a short time all *Europe* was full of gallant Champions, who, neither sparing Fatigue, nor other Inconveniencies, expos'd themselves to all Dangers, and fought boldly for the *Roman Pontiffs*. *Francis* imbracing severe and rigid Poverty, in imitation of our Saviour, endeavour'd to bring his Order, and those that imbrac'd it, to the ancient Discipline, and his own Principles, and seeing his Order was founded on Humility and Poverty, he resolv'd, in imitation of the primitive Times, to clothe them after the ancient Manner; and thus, more by exemplary Lives, than by Preaching and Sermons, to remove Error. On the other hand, *Dominick*, a *Spaniard* by Nation, of the City of *Calaborra*, of the renown'd and noble Family of the *Gusmans*, with those of his Order, went another way to work for suppressing the growing Heresies. The Bishops were not sufficient for such a Work, as well because of the great Number of Heresies, as that neither they nor their Vicars were so well qualified nor so careful as the Popes wish'd, and was requisite; therefore *Innocent III.* perceiving the Zeal of these rising Heroes, gave them in charge to go and preach the true Faith to the Hereticks, in order to convert them; to exhort Princes and all good Catholics, to prosecute the Obsolete, and to inform themselves of the Number and Quality of the Hereticks in all Places where-ever they went, and of the Zeal of the Catholics, and the Diligence of the Bishops, and to bring an account of all to *Rome*; whence they got the Name of *Inquisitors*. *Dominick* labour'd so heartily, and with so much Zeal against the *Albigenses*, that Pope *Innocent* declar'd him *Inquisitor General* against these Hereticks: *Dominick* perceiving that Sermons and Disputes made no Impression upon the Minds of obstinate Hereticks, thought that the best way to extirpate them, was to have recourse to the Assistance of the Count of *Monfort*, and other *Spanish*, *German* and *French* Lords, who being joyn'd with a great Number of Bishops, enter'd into a Crusade, and in the Province of *Narbonne*, and other Places, defeated and destroy'd them. But like so many Hydras, they still multiply'd, and *Dominick* came to *Rome*, and in the Council, which was this Year held in the *Lateran*, declaim'd against the *Albigenses*, and got their Doctrine to be condemn'd as heretical. The Books which the Abbot *Giovacchino* had written against *Peter Lombard*, *Magister Sententiarum*, were likewise condemn'd in this Council, and *Peter's* Doctrine concerning the Mystery of the Trinity, was approv'd of. And Care was also taken in this Council, for reforming the Manners of the Ecclesiasticks, who, by their Rival Hereticks, were cry'd out upon as abominable and sacrilegious Persons, and thus ended the Council; which having greatly encourag'd the new *Inquisitors*, with much Alacrity and Intrepidity they carried on their Work. However, they had no Tribunal at this Time; but they often stirr'd up the secular Magistrates to banish, and otherwise punish the Hereticks; they frequently excited the People, and fix'd a Cross of Cloth upon their Garments, and led them on to destroy and extirpate Hereticks.

THESE *Inquisitors* were afterwards much encourag'd in their Undertaking by the Emperor *Frederick II.* who, in the Year 1224, while he was in *Padua*, publish'd four Edicts on that Head, and took the *Inquisitors* under his Protection, and condemn'd obstinate Hereticks to the Fire, and the Penitent to perpetual Imprisonment, committing the Cognizance to the Ecclesiasticks, and the Condemna-

<sup>1</sup> Pietro delle Vigne, and Federico, give this Etymology in the Constitution Inconsutilem.

tion to the secular Judges. And this was the first Law, whereby Hereticks in general were condemn'd to die, of which we shall have occasion to discourse elsewhere; but though *Frederick* took the *Inquisitors* under his Protection, yet they had no Tribunal. But Pope *Innocent IV.* upon the Death of the Emperor *Frederick*, having made himself Umpire in *Lombardy*, and some other Parts of *Italy*, erected a Tribunal, and apply'd himself wholly to the Extirpation of Heresy, which had much spread during the late Troubles. And considering the Pains which the *Dominican* and *Franciscan* Orders, without Respect of Persons, or Regard to Dangers, had hitherto taken in this Service, he thought the best thing he could do, was still to make use of them, and imploy them, not as at first, by Preaching and Crusades only, but by giving them an establish'd Authority, and erecting a fix'd Tribunal solely for that Purpose. Such was the Rise of the Tribunal of the *Inquisition*; but how, and in what manner afterwards, it got footing in these Provinces, and how at last it came to be so detested and abhorr'd among us, as that the very Name of it durst not be mention'd, shall be inquir'd into at large in a more proper Place.

IN the mean time Pope *Innocent*, after he had put an End to the Council, went from *Rome* to *Perugia*, where he fell sick, and after he had govern'd the Church of *Rome* for Eighteen Years, and this our Kingdom during the Minority of *Frederick*, died the Sixteenth Day of July 1216. For Reasons which we shall by and by relate, it was a most deplorable Death to the Church of *Rome*, and very afflicting to the Emperor *Frederick*, who was very unfortunate, as his Successors were. *Innocent* was a Pope, to whom the Church of *Rome* is much indebted, for by his Cunning and Learning, he rais'd her to the highest Pitch of Grandeur, and had the Art to subject to her, almost all the States and Princes of *Europe*, who regarded him as an Oracle. And such Respect was paid to him, that he oblig'd *Alphonfus* King of *Aragon*, to make his Kingdom Tributary to, and himself Liege-man of the Church of *Rome*, and would have himself crown'd by him in *Rome*, and other Princes follow'd his Example. He was so consummate a Lawyer, that the greatest Persons came to *Rome*, and made him Umpire of their Differences, which he determin'd to their Satisfaction: Whence the most weighty Disputes both in Church and State, were decided in *Rome*. Whence we have so many of his *Decretal* Letters, of which at this Time there was a *Collection* made, and given to the Students of *Bologna* to read<sup>1</sup>, whence *Gregory IX.* was enabled afterwards more firmly to establish the *Roman* Monarchy. *Innocent* studied the *Roman* Laws, and especially the *Pandecks* with great Application; and he was reckon'd one of the ablest Lawyers of the many that flourish'd in these Times in many Cities of *Italy*, and particularly in *Bologna*, famous above all the rest for its Academy of Law, and for *Ugolino* and *Azone*, who were then renown'd Lawyers there. However he over-did in imitating the antient Lawyers, and in endeavouring to found his *Decretal* Letters upon the Laws of the *Pandecks*, he often committed great Errors, many of which were afterwards found fault with by *Cujacius*, *Hottomanus*, and others learn'd in the Law. He had a very high-flown Notion of the Papacy, and, like *Gregory VII.* and many others of his Predecessors, thought that he had Power to depose and make Emperors, which he put in Practice, by deposing *Otho*, and advancing *Frederick* to the Imperial Throne.

DURING the Minority of *Frederick*, he govern'd the Dominions of *Sicily* with more absolute Sway and Authority than became a Guardian, which *Constantia* by her Will had made him; and 'tis recorded in the Register of the *Vatican*, that by this Authority he invest'd his Nephew with some Fiefs, and the County of *Sora* in our Kingdom; though the Author of the Acts of *Innocent* writes, that he was invest'd by *Frederick's* Governors and Ministers of *Sicily*. By the same Authority, *Innocent* in his *Decretals*, speaking of *Capua*, *Reggio*, and some other Cities of our Kingdom, says, that he had the Government of them as well in Temporal as in Spiritual Matters, which *Innocent* meant, when, in confirming, and assenting to the Election of Bishops, made by the Clergy and People of our Kingdom, he said, he did it *vice-regia*, which our Writers, through Ignorance of

<sup>1</sup> Bosquet. in notis ad epist. Inn. lib: 1. epist. 71.

History could not conceive; for though, as we have said elsewhere, this same Pope in *Constantia's* Life-time, had made great Alterations in the Agreement made betwixt *Adrian IV.* and *William I.* concerning the Election of Bishops, yet it was not disputed at that Time, that the King's Assent must be sought to the Elections of Prelates; and while *Innocent* was Guardian, he observ'd it punctually; whence, writing to the Chapter and Canons of *Capua*, to elect a proper Person for that See, he likewise says, that after he is elected, they must send to him, for his Assent, *Vice-regia* <sup>1</sup>. We read, that he did the same when the Bishops of *Penne* and *Reggio* were to be elected <sup>2</sup>.

AFTER *Frederick* came to be of Age, this Pope had no Disputes of any Moment with him, but was still for advancing his Interest, in opposition to *Otho*, and *Frederick*, for his part, was very obsequious and obliging to him and the Church of *Rome*, for which his Rival *Otho* us'd to call him a *King of Priests*. Thus it far'd with *Frederick* during the Pontificate of *Innocent*; but he was not so well us'd by the succeeding Popes, for there happen'd such strange Turns and Vicissitudes of Fortune betwixt him and them, that produc'd the prodigious Effects, which shall be related in the Two following Books of this History.

<sup>1</sup> Cap. cum inter. 18. de electionib.

<sup>2</sup> Cap. qualiter cod. tit. de Elect. epist. 232. | & 20. Ughellus tom. 9. pag. 405. and it has been  
lib. 2. Epist. 242. Gesta ejusdem Inn. pag. 10. | taken notice of by Florens tit. de Elect.







T H E  
CIVIL HISTORY  
Of the KINGDOM of  
N A P L E S.

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B O O K XVI.

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**U**PON the Death of Pope *Innocent* in *Perugia*, the College of Cardinals met immediately in that City, and elected *Cincio Sarvella*, Cardinal of *SS. John and Paul*, his Successor, who had been formerly Chancellor of the Holy Church, and in the Minority of *Frederick*. had been his Tutor four Years in *Palermo*, and was call'd *Honorius* III. It has been observ'd by the most careful Searchers into Human Actions, and confirm'd by antient and modern Instances, that those, who have been the Domesticks, and greatest Favourites of Princes, became their greatest Enemies as soon as they were made Popes. *Innocent* IV.

while Cardinal, was *Frederick's* great Friend, but after his Election was his greatest Enemy. *Callistus* III. prov'd such to *Alphonfus* King of *Arragon*, and the Emperor *Charles* V. and our *Frederick* had the same Fate; for *Honorius* was no sooner elected and return'd to *Rome*, where, as their Citizen, the *Romans* receiv'd him with great Honours, than the first Thing he did, was to intimate to *Frederick* by his Letters, that though he was Emperor and King of *Sicily* and *Puglia*, yet he must not think, that these Kingdoms depended on the Empire, and not on the Church as Piefs thereof, notwithstanding the Claim of the Emperors of the West, and of the late *Otho* among the rest, that at least the Kingdom of *Puglia* depended upon the Empire.

TO this *Frederick* answer'd with the greatest Honour and Respect, that in order to obey him, if he thought fit, he would yield the Kingdoms of *Sicily* and *Puglia* to his



his Son *Henry*, which would remove all Grounds of Jealousy ; and he sent his Ambassadors to *Rome* for that Purpose. *Honorius* receiv'd the Ambassadors very honourably, and seeing he could not but accept of *Frederick's* just and reasonable Offer, told them, that he had appointed a Legate to go to *Sicily* to finish that Affair ; and in the mean Time, *Frederick* must be faithful and obedient to the Church.

MEAN while *Otto*, after the Victory which *Philip* King of *France* had gain'd over him, fled with the miserable Remains of his Army into *Saxony*, and having given over all Hopes of recovering his lost Grandeur, he was taken ill of a Fever in *Brunswick*, and died there in the Year 1218. *Frederick*, now freed from his Rival in *Germany*, caus'd an Assembly of all the Princes and Prelates of the Empire to be conven'd in *Mentz*, and after he had settled Peace in that Country, he began to treat with *Honorius* about his Coronation in *Rome*. But the Pope, who was resolv'd to be well paid for his Pains, was not easily persuaded to consent, and this Ceremony actually cost *Frederick* very dear ; for, as *Fazzellus* says, the Pope would not allow of his coming to *Rome* to be crown'd, till he had first promis'd him the County of *Fondi* : This Affair being adjust'd, *Frederick* was allow'd to come, and accordingly assembled a sufficient Army to go into *Italy* ; and in the mean Time he wrote to the Count of *S. Severino*, to imprison *Diopoldus* his Father-in-Law, who had rais'd new Commotions and Disturbances in the Kingdom, and accordingly the Count shut him up in close Prison. He likewise wrote to the Empress *Constantia* his Wife, to come to *Germany*, who, having left *Sicily*, went by Sea to *Gaeta*, from thence to *Lombardy*, and was receiv'd in *Verona* and other loyal Cities, with great Marks of Respect, and join'd her Husband in *Germany* in the Beginning of this Year 1219.

DURING these Transactions, *Honorius*, having Advice that there was great want of Succours in the Holy Land, wrote to *Frederick*, and all the other Princes and People engag'd in the Crusade, presently to make ready to go to *Palestine*. *Frederick* upon his receiving these Letters, confirm'd the Oath he had made to go to the Holy Land, and wrote to the Pope, that after his Coronation in *Rome* he would undertake that Voyage. Therefore *Honorius* sent to require *Henry* Count of *Brunswick*, and the Duke of *Saxony* (who under pretence that *Frederick* was not lawfully crown'd, still kept the Crown, the Launce, and the other Imperial Ensigns) forthwith, under the Pain of Censure, to deliver them up. *Frederick* leaving his Son *Henry*, a Boy of eleven Years of Age, in *Germany*, under the Care of *Conrade* his Cup-bearer, arriv'd in *Italy* with the Empress *Constantia*, and having in vain requir'd of the People of the *Milaneze*, antient Enemies of the House of *Suevia*, and great Partisans of the deceas'd *Otto*, to be crown'd in *Monza* with the Iron Crown, according to the Custom of the antient Emperors ; he pursued his Journey, and was met at *Mantua* by the Pope's Legate, who had Orders, not to slip so favourable an Opportunity, but before he allow'd him to proceed further, to extort from him what he could ; First he made him swear to defend the Rights of the Church of *Rome*, and to obey her and her Ministers, and to yield the Kingdoms of *Puglia* and *Sicily* to his Son *Henry* ; then he made him annul all the Constitutions and Laws against the Liberties of the Church ; in the next Place he made him restore the Dukedom of *Spoletto*, the Towns belonging to the Countess *Matilda*, such as *Ferrara*, *Villamediana*, *Monte Fiascone*, and the Cities in *Tuscany* belonging to *St. Peter's* Patrimony. He likewise made him give strict Orders for apprehending the Inhabitants of *Spoletto* and *Narni*, who were Rebels to the Church, and effectually to give up the County of *Fondi*, which he had promis'd to do in the Year 1218. From *Mantua* he pass'd through *Modena*, and accompanied by Deputies from all the Cities, he made his Entry into *Rome*, and on the 22d of *November* this Year 1220, in *St. Peter's* Church, with great Pomp and Magnificence was crown'd Emperor, and at Mass took an Oath from the Hands of the Pope, to defend the Rights and Estate of the Church, and go with a powerful Army to conquer the Holy Land ; and at the same Instant was sign'd with the Cross by the Hands of *Hugo* Cardinal and Bishop of *Ostia*, who in the Year 1227. was elected Pope, and call'd *Gregory IX.* There were present at this Coronation many Prelates and Barons of our Kingdom, such as *Stefano* Abbot of *Monte Cassino*, *Ruggieri dell' Aquila* Count of *Fondi*, *Giacomo* Count of *S. Severino*, *Riccardo* Count of *Celano*, and other Barons mention'd by *Riccardo da S. Germano*.

! Ricc. S. Germ.

**FREDERICK**, after the Solemnity of his Coronation, in order to gratify *Honorius*, publish'd in *Rome* those his Imperial Constitutions, which we now read in the second Book of Fiefs, according to the vulgar and antient Division, under the Title *De Statutis, & Consuetudinibus contra libertatem Ecclesiæ, &c.* divided into many Chapters: in the first he revokes all the Statutes and Customs introduc'd against the Liberties of the Church; the Second enjoins severe Punishment to be inflicted upon the *Gazari*, the *Patareni*, and other Hereticks; and in the rest Care is taken of Hospitality, last Wills of Strangers, and the Security of Husbandmen, which we find confirm'd by *Honorius*. And 'tis not to be doubted, that on this Occasion, and in this Year, those Constitutions were publish'd in *Rome* by *Frederick*; for besides *Riccardo da S. Germano's* Testimony<sup>1</sup>, *Frederick* himself in the Proem tells us, that he had publish'd them *in die qua de manu sacratissimi Patris nostri summi Pontificis* (meaning *Honorius*) *recipimus Imperii Diadema*. Three Chapters of which were afterwards insert'd in the *Justinian Code*, under the Title *De Hæreticis*<sup>2</sup>; and one under the Title *De sacr. Eccles.*; from which was form'd the *Auth. Cassa. & irrita*, which we have taken notice of, that these Imperial Constitutions may not be confounded with others which *Frederick* afterwards publish'd solely for the Kingdoms of *Sicily* and *Puglia*, such as that which begins *Inconsutilem*, and the others which we find amongst the Constitutions of our Kingdom. These are Royal, and not Imperial Constitutions, and were publish'd for these Kingdoms, when the *Patareni* had crept into our Provinces, and especially into *Naples*, where in the Year 1231. *Frederick* caus'd many of them to be imprison'd and punish'd, as shall shortly be related.

**BUT** though *Frederick*, so much to his own Detriment, and the Diminution of the Rights of the Empire and Kingdom, had endeavour'd to please the Pope, yet all that did not serve to make him his Friend; for, as *Orlando Malavolta* in his History of *Siena* writes, while *Frederick* was yet in *Rome*, he observ'd, that the Orders he had given for settling the Affairs of *Lombardy*, were not executed by the Cities of the *Guelf* Faction, that sided with the Church; and that this was owing to the Pope, who was unwilling that his Adherents should pay any regard to *Frederick's* Orders, that he might keep these Factions divided, and render them irreconcilable, lest if these Cities should side with him, *Frederick* would be too hard for him.

<sup>1</sup> Ric. S. Germ. Romæ quædam edidit Sanctiones, pro libertate Ecclesiæ, & Clericorum, confusione Patarenorum, Testamentis Peregrinorum, & securitate Agricultorum.

<sup>2</sup> Cod. Just. de Hæreticis, Cap. Si vero Dominus. Cap. Credentes præterea. Cap. Gazaros, Patarenos.

## S E C T. I.

### *Of the Guelf and Ghibelline Factions.*

**I**N order to the better Understanding of this History, it will be necessary here, to give a brief Account of the Rise and Reason of the Quarrels betwixt the *Guelfs* and *Ghibellines*, whom we shall have frequent Occasion to mention, because our Kings were often imbroil'd in these Disputes.

**THESE** famous Factions did not arise in the Time of *Frederick*, as some have believ'd, nor was he the Author of them, as *Pazzellus* unjustly makes him, but they are of a much older Date; *Frederick* found them already fix'd in *Italy*, where they had taken deep Root. They began in *Germany* in the Year 1139, in the Time of the Emperor *Conrade III.* and in the Reign of *Roger I.* King of *Sicily*<sup>1</sup>. The *Ghibellines*, who were always *Imperialists*, took their Names from *Gibel*, a City where *Henry* the Son of *Conrade* was born. The *Guelfs*, who were always *Papists*, took their Name from *Guelf* Duke of *Bavaria*. These Appellations came afterwards from *Germany* into *Italy*, by an Accident that happen'd in *Florence*, which propagated the Factions in *Italy*; for a Gentleman of that City, whose Name was *Messer Buon-delmonte*, of the Family of the *Buondelmonti*, young, handsom, and genteel, had

<sup>1</sup> Inveges anno 1232. hist. Paler. tom. 3:

promis'd to marry a young Lady of the noble Family of the *Amadei*; but as he was riding through *Florence* one Day, and passing by the Palace of a Lady of the Family of *Donati*, the Lady, taken with the genteel Carriage of the young Gentleman, resolv'd to give him her Daughter in Marriage, who being her Father's only Child, was the Heiress of an opulent Fortune. Therefore the Mother standing at her Door as *Messer Buondelmonte* return'd, saluted him in a friendly Manner, and began to jest him with the Lady he was to marry, saying, that she did not deserve so worthy a young Gentleman as he was; and adding, I have kept this Daughter of mine for you, a more suitable Match than she whom you have chosen; upon hearing of which Words, and seeing the young Lady of a noble Mien, and wonderful Beauty, he immediately fell in Love with her, and answer'd, That he should be a very great Fool if he refus'd such a generous Offer, and forthwith took her and married her. The *Amadei* hearing the News of this Marriage, were terribly incens'd against *Buondelmonte*, who had thus affronted them in breaking his Promise; whereupon they consulted among themselves how to be reveng'd on him, whether they should fight him or beat him; one *Messer Moscati Lamberti*, a passionate Man, said he knew better than any of them how to be reveng'd; and soon after, taking some of his Kinsmen along with him, in the Morning of *Easter Day*, meeting *Messer Buondelmonte* a Horseback on the old Bridge of the *Arno*, he attack'd him, dismounted and kill'd him, at the Foot of the Pillar, on which *Mars*, the antient Idol of the *Florentines*, stood. The News of which being spread over the City, all betook themselves to their Arms, and the Nobles dividing themselves into two Factions, took the Names of *Guelfs* and *Ghibellines*; the Family of the *Buondelmonti*, with many others, headed one of the Factions, and call'd themselves *Guelfs*; and the *Uberti* joining with the *Amadei*, and many other Families, call'd themselves *Ghibellines*; which cruel Contagion soon spread itself over the greatest Part of the other Cities of *Italy*, to their Ruin and Destruction. For in the Disputes betwixt the Popes and the Emperors, those of the Emperor's Party were call'd *Ghibellines*, and those of the Pope's *Guelfs*; and the Popes did what they could to keep up the Factions, in order to depress, or at least ballance the Power of the Emperors. *Honorius* meant to serve *Frederick* the same way, notwithstanding his so great Condescension. But this Prince taking no notice of it, left *Conrade* Bishop of *Spires*, and Imperial Chancellor of *Italy*, in *Tuscany*, to keep his old Friends firm to him, and gain over new ones, and departed from *Rome* for *Terra di Lavoro*, where his Presence was necessary to prevent any Commotions amongst the factious Barons of the Kingdom; and coming to *S. Germano*, he was receiv'd with great Honour and Respect by the Abbot *Stefano*, and then took *Sessa*, *Teano*, and the Castle *Mondragone* from the Count of *Fondi*, who had possess'd himself of them during the late Troubles.

## S E C T. II.

### *Of the Capuan Court.*

**F**REDERICK left *S. Germano*, and went to *Capua*, where he call'd a general Parliament, in which he took great Care of the Quiet and common Good of the Kingdom. It was at this Time, that by the Advice of *Andrea Bonello da Barletta*, a famous Lawyer, and Attorney-General, he establish'd a new Tribunal in *Capua*, call'd *Corte Capuana*<sup>1</sup>, in which he order'd the Barons, the Corporations of Cities and Towns, and all other Persons, to produce the Grants and Privileges of their Castles, and other Things which they held of him and his Predecessors (excepting the Grants of *Tancred* and his Children, whom he look'd upon as Usurpers) to be inspected whether they were valid, or had been illegally granted in Time of Troubles; declaring, that those who did not produce them should forfeit their Grants and Privileges, which should return to the Crown; and besides, he revok'd some of them that had been surreptitiously obtain'd: Of which, besides what *Riccardo*

<sup>1</sup> Camil. Salern. in prefat. ad consuet. Fr. And. pag. 156. disp. Feud.

*da S. Germano* has written <sup>1</sup>, we have among our Constitutions an intire Title, *De Privilegiis a Curia Capuana revocatis*. We have taken notice of this, that it may not be believ'd, that *Frederick* instituted this Court in *Naples*, as *Camillo Salerno* <sup>2</sup>, and *Tutini* <sup>3</sup> have written; for it was erected in *Capua*, and therefore call'd *Capuana*. This Prince rais'd *Naples* afterwards above all the other Cities by founding an University there, and by the Tribunal of the High Court, of which we shall have occasion to discourse hereafter.

BUT *Bonello*, the Contriver of this Court, was much blam'd, because it was very prejudicial to many, whose Privileges were either revok'd, or for not being produc'd in Time, were reckon'd not valid afterwards; which made our *Commentators* upon that Constitution have a bad Opinion of that Institution, and speak of it with Contempt, as founded neither on Law or Justice, and favouring of Tyranny; but *Marino da Caramanico*, an antient Glossator, defends it against all their Calumnies.

FREDERICK in this general Parliament likewise ordered all the Castles and Forts, which any of the Barons had lately built in the Kingdom, to be demolish'd; of which *Frederick* makes mention in another Constitution, under the Title *De Edificiis novis* <sup>4</sup>; and after having made other Regulations, which, according to *Riccardo da S. Germano*, were contain'd in twenty Chapters, he put an End to the Parliament, and in the Beginning of the Year 1221. he went from *Capua* to *Sessa*, where he divested *Riccardo* Brother of the deceas'd Pope *Innocent*, of the County of *Sora*, which the Governors of the Kingdom had given him while *Frederick* was under Age, as we have above related <sup>5</sup>. He likewise order'd *Ruggiero dell' Aquila* to besiege the Castle of *Arce*, which was held out by *Stefano* Cardinal of *S. Adrian*, who surrender'd it; and at the Request of the *Germans* he set Count *Diopoldus* at Liberty, who had been in Prison since the Year 1218.

AT the same Time he gave the County of *Cerra* to *Tommaso d' Aquino*, and made him Chief Justice of *Puglia*, and *Terra di Lavoro* <sup>6</sup>. Thereafter he went to *Bojano*, accompanied by many Barons, in order to curb the Insolence of the Count of *Molise*, and some other Barons; and after having humbled them, and restor'd Peace to that Province, he made a Progress into *Calabria* and *Puglia*, where there were likewise Commotions; for many Prelates and Barons, who, during his Minority, had been accusom'd to live under no Restraint, had resolv'd not to obey him, but when they thought fit; therefore he immediately resolv'd to chastise their Insolence, whereupon some Barons being driven out, and others forc'd to fly, they all retir'd to *Rome* under the Protection of Pope *Honorius*; *Frederick* complain'd, that *Honorius* protected his Enemies and Rebels, and fomented Rebellion in his Dominions, by instigating the rest of the Bishops to do the same; so that for the Security of the State, he was forc'd to drive many of them out of *Puglia*, and appoint other Bishops in their Place; and for supporting his Army, to tax indifferently both Churches and Clergy <sup>7</sup>.

<sup>1</sup> Ric. S. Germ. Capuam se conferens, & regens ibi Curiam generalem pro bono Statu Regni suas Ascisas promulgavit, quæ sub viginti capitulis continentur.

<sup>2</sup> Camil. Salern. in proem. consuet. Neap. num. 3.

<sup>3</sup> Tutin. d' M. Giustizieri, in princ.

<sup>4</sup> Lib. 3. De novis Edific. prout in Capuana Curia per nos extitit Stabilitum.

<sup>5</sup> Ric. S. Germ.

<sup>6</sup> Idem, Tunc etiam Thomas de Aquino factus Acerrarum Comes, & magnus Justitarius Apuliæ, & Terræ Laboris.

<sup>7</sup> Gordon's Chronicle, quoted by the Abbot of Usperg, Nauclerus, Blondus, and Platina.





## C H A P. I.

*The first Rise of the Discords betwixt the Emperor Frederick II.  
and Pope Honorius.*



**T**H E S E were the first Seeds of Enmity betwixt *Frederick* and *Honorius*. *Frederick* complain'd of *Honorius*, that besides encouraging the Cities of the *Guelf* Faction to stand out against him, he receiv'd his Enemies and Rebels under his Protection, and likewise stirred up many Prelates of the Kingdom to foment Rebellion. On the other hand *Honorius*, seeing the Bishops expell'd, and others put in their Places by *Frederick*, and the Churches tax'd, complain'd loudly of him, for violating the Immunity and Liberty of the Church, which after his Coronation he had sworn to maintain, and for that end had establish'd many Constitutions. He likewise exclaim'd against him for assuming the Authority to give Induction to Prelates, and turn out those he had made; whereupon he sent his Legates to him, to get them restor'd to their Seats.

**B**U T *Frederick* answer'd them, That it had been always in the Power of Princes to drive such Prelates as they suspected and could not trust, out of their Dominions; and that from the Time of *Charles the Great*, it had been lawful for the Emperors to give the Investiture of Bishopricks with the Ring and Mace, and that it was an ancient Prerogative of the Kings of *Sicily*, likewise to give Investiture, and their Assent; that this Prerogative could not be impair'd by *Innocent III.* though he had done so during his Minority, and the Reign of his Mother *Constance*; and that he would sooner part with his Crown, than quit a Jot of his Right<sup>1</sup>.

**O**N the other hand the Pope wrote a very smart Letter, recorded by *Pirro*<sup>2</sup>, to all the King's Ministers in *Sicily*, not to suffer Taxes to be levied upon the Clergy and Ecclesiastical Persons, but to let them enjoy the same Immunity that they had in the Time of *William II.* Some write, that amidst these Disputes, *Frederick*, before he went to *Sicily*, held another Parliament in *Melphis*, and that he caus'd the Volume of his Constitutions, by his Order, collected by *Pietro delle Vigne*, to be publish'd there. And indeed by the Date, they would seem to be in the right; for in the vulgar Edition, the Date is thus, *Actum in solenni Consistorio Melphensi, Anno Domini Incarnationis M. CC. XXI.* But because *Riccardo da S. Germano* makes no mention of this Parliament held in *Melphis* this Year, but says, there was one held in that City in the Year M. CC. XXXI. where these Constitutions were establish'd, therefore we forbear to speak of this Collection till the Time assign'd by *Riccardo*, when we shall clearly prove, that it was not made this Year, and that by an Error of the Printer, 1221 has been put for 1231.

**T**H I S true, he publish'd some of his Constitutions this very Year, but not in the Parliament of *Melphis*, but in that which he held at *Messina*, after he had settled the Affairs of *Puglia*, which were likewise inserted afterwards in that Volume by *Pietro delle Vigne*, together with those he publish'd in *Capua*, and others establish'd elsewhere on various Occasions, of which we shall treat at large, when we come to discourse of this Collection.

<sup>1</sup> Fazzel. dec. 2. lib. 8. c. 2. fol. 448.

<sup>2</sup> *Pirro* in Chron. Ne Clericos, & Ecclesiasticas Personas tributorum erogatione preme-

rent, sed immunes eos haberent, ut olim sub Willelmo II.

AFTER

AFTER *Frederick* had put an end to this Parliament in *Messina*, he went to *Palermo*, where he order'd a general Tax, viz. The Twentieth Part of the Revenues of Ecclesiasticks, and the Tenth of those of Laicks to be levied over all his Dominions, not out of Avarice, as has been unjustly laid to his Charge, but for the Relief of the Holy Land, especially *Damiata*, which was closely besieg'd by the Soldan of *Egypt*. He sent the Money thus collected by *Gualtieri della Pagliara*, and *Errico* Count of *Malta*, High Admiral of *Sicily*, but after they had arriv'd at *Damiata*, that City, which had cost so much Labour to conquer it, by the ill Conduct of the Cardinal *Pelagius*, and all the other Princes of the Christian Army, was lost, and shamefully restor'd to the Soldan of *Egypt*, which so intrag'd *Frederick* against the High Chancellor and High Admiral, who had consented to so ignominious a Surrender, that he imprison'd the Count, and stripp'd him of all his Lands and Offices, and the Chancellor fled to *Venice*, where, perhaps, he died in Exile, since there's no more mention made of him in the Writings of these Times. *Dominico di Gusman*, who was afterwards Sainted, died at this very Time in *Bologna*.

IN the Month of *February* of this Year 1222, while *Frederick* kept his Court in *Catania*, the Pope receiv'd the News of the Loss of *Damiata*, upon which he left *Rome* and went to *Anagnia*, and, according to his ordinary Custom, began to inveigh bitterly against *Frederick*, that he had, contrary to the Rights of the Church, tax'd the Ecclesiasticks, turn'd out the Bishop of *Aversa*, lawfully elected, and put in another of his own Head, and had done the same in *Salerno* and *Capua*: That by his delaying to go to the Holy Land, as he had vow'd, the Christians had lost *Damiata*, whereas if he had been there, that City would not have been so disgracefully lost. *Frederick* resolving to clear himself from these Accusations, left *Sicily*, and went to meet with the Pope, who had gone to *Veruli*, where they conversed together for Fifteen Days running, and after they had made up Matters betwixt themselves, they appointed a general Meeting of all the Princes in *Verona*, in order to concert how to send Relief to the Christians in *Palestine*; *Frederick* promis'd anew to go thither in Person with a powerful Army, betwixt that and a certain prefix'd Day, without fail.

MATTERS thus settled with the Pope, *Frederick* went to *Puglia*, and after he had settled the Affairs of that Province, he was forc'd to return in all Hast to *Sicily*, where the *Saracens* had rebell'd; and while he was gallantly defeating these Rebels, the Empress *Constantia* died in the City of *Catania*, after she had born Two Sons to him, *Henry*, and another nam'd *Giordanus*, who died young<sup>1</sup>.

THE Emperor *Frederick*, who, at this Time, was only 25 Years of Age, being left so young a Widower, got his only Son *Henry*, then in *Germany*, to be declar'd his Successor, and crown'd King of *Germany* in *Aix la Chapelle*; and *Bzovius* says, that *Frederick* hasten'd this Coronation, because *Damiata* being lost, the Pope was very pressing upon him to go to the Holy Land; and therefore he made haste to have his Son married to *Margaret*, Daughter of *Leopold* Archduke of *Austria*.

AFTER *Frederick* had triumph'd over the *Saracens*, and *Mirabet* their Leader, he return'd to *Puglia*, where he receiv'd fresh Complaints from the Pope, because the Officers rais'd Contributions from the Churches and Ecclesiasticks; which so offended *Honorius*, that he sent the Prior of *St. Maria la Nuova* to the Emperor, to forbid it. *Frederick* mov'd by the Pope's Request, wrote to his Officers, ordering them to tax the Churches and Ecclesiasticks no more.

<sup>1</sup> Zurita Annal. de Aragon. Catanz moritur, in Panormi Æde Maxima sepelitur.





## C H A P. II.

*The Union of the Crown of Jerusalem to that of Sicily.*

**A**MONG other Titles wherewith *Frederick* was adorn'd as King of *Sicily* (under which Name all the Provinces of the Kingdom of *Naples*, as well as the Island of *Sicily*, were comprehended in these Times) that of King of *Jerusalem* was one; whence his Successors, as Kings of this Realm, claim that specious Title, and have the Patronage of the Temple of that City, and the Sepulchre of our Saviour; the only and poor Remains that are left us, since that Kingdom became subject to the *Turks*. And seeing this Subject has not been handled with that Dignity and Clearness it deserves, it will be necessary to treat of it in a particular Manner.

OUR Writers have mention'd two Unions of the Crown of *Jerusalem* with that of *Sicily*. The first was in this Year 1222, in the Person of the Emperor *Frederick II.* King of *Sicily*, by Right of *Jole* his second Wife; which has the better Foundation of the Two, as we shall presently shew. The other in the Year 1272, in the Person of *Charles I.* of the Family of *Anjou*, by the Surrender of *Mary* Daughter of the Prince of *Antioch*, which, as we shall shew in its Place, as its Foundation is not very clear, is not much regarded.

THE Kingdom of *Jerusalem*, after the Death of *Baldwin*, Brother of the famous *Godfrey* of *Boulogne*, who was the first that was elected King thereof, in the Year 1119, came to *Baldwin II.* his Cousin German, who having no Male-Issue, in order to secure the Succession of that Kingdom to his eldest Daughter *Milinda*, married her to *Fulk* Count of *Anjou*, who got the Title of King of *Jerusalem* in the Year 1135.

**BALDWIN III.** his Son, succeeded him, and afterwards his Brother *Amoricus*. This last left a Son, nam'd *Baldwin IV.* Thirteen Years of Age, who reign'd Twelve Years; *Raimond* Count of *Tripoli* being Regent.

THIS *Baldwin* had two Sisters, but no Children. The elder Sister was nam'd *Sibilla*, and the younger *Isabella*. *Sibilla* was married to *William* Marquis of *Monferate*, and brought him a Son nam'd *Baldwin*. After *William's* Death, *Baldwin IV.* her Brother, King of *Jerusalem*, gave *Sibilla* in Marriage to *Guido* of *Lusignan*, and likewise appointed him his Successor; but afterwards doing Justice to his Nephew, he chang'd his Mind, and caus'd his Nephew, call'd *Baldwin V.* to be crown'd King, and made the Count of *Tripoli* his Tutor.

**BALDWIN V.** died soon after *Baldwin IV.* his Uncle, and left no Issue; whereupon the Count of *Tripoli*, and *Guido* of *Lusignan* contended for the Crown; and *Sibilla* had the Interest to get it for her Husband *Guido*; which so disgusted the Count, that he kept a secret Correspondence with *Saladin*, Calif of *Egypt*, who, by his Conquests, having made himself Master of *Egypt*, *Africa* and *Syria*, and declar'd War against the Christians of *Syria*, came and laid Siege to *Tiberias*. *Guido* King of *Jerusalem* came to relieve it; but Necessity forcing the Christians to come to an Engagement, and the Count of *Sicily* deserting them, they were defeated. The King of *Jerusalem* was made Prisoner, and the Christian Army intirely routed. The Result of this Defeat was the Loss of almost all the Kingdom of *Jerusalem*: *Tiberias* and the other neighbouring Cities were taken: *Acre*,

*Berytus*,



*Berytus*, and *Ascalon* were surrender'd, on Condition that King *Guido* should be set at Liberty. At last *Saladin* besieg'd *Jerusalem*, and took it by Capitulation, so that the Christians had nothing left them in *Asia*, but three Places, to wit, *Antioch*, *Tripoli* and *Tyre*. All these Misfortunes happen'd to the Christians in the Year 1187.

CONRAD the Marquis of *Monferate*, after *Sibilla's* Death without Children, married *Isabella* her Sister, in whose Right he claim'd the Kingdom of *Jerusalem*, now lost, and resolv'd to defend the City of *Tyre* to the last; for *Tripoli* had been given to *Baldwin* Prince of *Antioch*, upon the Death of the Count, who died of Grief, because *Saladin* had betray'd him, in not making him King of *Jerusalem* as he had promis'd.

The Pope and Princes of *Europe*, seeing the deplorable State to which the Christians of the East were reduc'd, prepar'd to go thither to their Relief; and in the Year 1188, the Crusade being resolv'd upon, the Kings of *France* and *England* in the Year 1190, set out with their Armies, and after a prosperous Voyage, arriv'd in *Palestine*, fought *Saladin*, and took the City of *Acre*. But the King of *France* being much afflicted with a grievous Distemper, resolv'd to return home, and leave a Part of his Army in *Palestine*; and before he departed, he, together with the King of *England*, made up the Differences, which, to the great Prejudice of the Christians, had arisen betwixt *Guido* of *Lusignan*, and the Marquis of *Monferate*, about the Kingdom of *Jerusalem*. According to some Writers, it was decided thus; that *Guido*, during his Life-time, should enjoy the Title of King of *Jerusalem*, and that after his Death, the Marquis of *Monferate*, or his Children, should have the Crown. It was likewise determin'd that the Cities of *Tyre*, *Sidon*, and *Berytus* should remain to the Marquis.

THE Marquis of *Monferate* had no Sons by his Wife *Isabella*, but only four Daughters. The Eldest was *Mary*, who was married to *John* Count of *Brenna*: *Alisia*, the Second, according to *Summontes*, was married to *Hugo* King of *Cyprus*: *Sibilla* the Third, to the King of *Armenia*; and *Melissina* the Fourth, according to the same Writer, was married to the Prince of *Antioch*, to whom she bore *Mary*, who, by Right of her Mother, claim'd the Kingdom of *Jerusalem*.

THUS were the Rights to the Kingdom of *Jerusalem*, transmitted to the Posterity of *Isabella* Daughter of *Amoricus*, and Sister of *Baldwin* IV. King of *Jerusalem*, and each of them set up for these Rights, but none of them for the Possession, because the Kingdom was under the Dominion of *Saladin*. Among all the Pretenders, *John* Count of *Brenna*, was thought to have the best Title, who, by Right of his Wife *Mary*, *Isabella's* eldest Daughter, took the Title of King of *Jerusalem*; and by her had a Daughter nam'd *Jole*, or, as some call her, *Joalanta* or *Violanta*, who, on the Death of her Mother, had the best Right to that Kingdom.

AFTER the Surrender of *Damiata*, the Christian Army return'd from *Palestine* to *Puglia*, and together with them came *Hermannus Salza*, Great Master of the *Teutonic* Order, and went to wait upon the Emperor *Frederick*, and persuade him to go to the Conquest of the Holy Land, and in order to get him to consent, he propos'd to him, that now being a Widower, he ought to marry *Violante*, commonly call'd *Jole*, a beautiful and genteel young Lady, and only Daughter of *John* Count of *Brenna*, and the deceas'd *Mary* Queen of *Jerusalem*, his Wife, whose Heiress *Violante* was, and inherited the Right to that Kingdom; which, with his own Forces, he would be able to recover from the Soldan, and likewise conquer all the other most fruitful Provinces of *Egypt*, possess'd by a dastardly People. The Emperor lik'd the Proposal mightily, and said, That he would gladly have the Marriage concluded: Whereupon the Great Master took upon him to manage the Matter, and went to *Rome* to wait upon the Pope, who receiv'd him courteously, and after various Discourses about the Affairs of *Palestine*; *Honorius* ask'd him what was proper now to be done for the Recovery of those Holy Places from the Bondage they were in? The Grand Master, who wanted to have such a Question ask'd, presently answer'd, That the best way was to get the Emperor to be interested in these Dominions, by which Means, he would not only perform the Promise he had given, but for his own Interest and Honour, would go thither to make War; and when *Honorius* ask'd, How that could be brought about? he

<sup>1</sup> Boffio's History of Malta.

answer'd,

answer'd, by marrying him to King *John's* Daughter, and getting that King to surrender the Right he had to the Kingdom of *Jerusalem*, by virtue of his Wife, to the Emperor as a Portion with his Daughter : This Answer highly pleas'd the Pope, who ask'd what Methods could be fallen upon to get both Parties to consent to this Marriage ; the Grand Master answer'd, That he might write to the King, and *Fr. Guerino de Montagu*, with whom the King advis'd in all his Affairs, and invite them to come to *Rome*, for that he had an important Matter to impart to them, concerning the Conquest and Defence of those Countries ; and upon their coming he might persuade them to consent to the Marriage, and that he himself would infallibly get the Emperor to agree to it. This at first startled the Pope, lest the Absence of Two such Personages might be of dangerous Consequence to *Palestine* ; but the Great Master assur'd him that no such thing could happen, because of the Peace lately concluded with the Soldan, whereupon the Pope wrote immediately to the King and *Fr. Guerino* to come to *Rome*, because he had Matters of great Consequence to impart to them concerning the Holy Land. Upon Receipt of these Letters, King *John*, in Obedience to the Pope, presently imbarc'd, together with the Patriarch of *Jerusalem*, and the Bishop of *Bethlehem*, and in a short Time arriv'd at *Rome*, and waited on the Pope, who receiv'd him graciously, and after some Discourse about the Marriage, the King consented to it ; of which the Great Master having acquainted the Emperor, he forthwith left *Sicily*, and came to *St. Germano* ; from thence at the Invitation of some Cardinals, he went to *Campagna di Roma*, whither the Pope came shortly after, and they met in *Ferentino*, where all Differences were made up, and the Marriage concluded, the Emperor solemnly promising, in presence of the Pope, the Cardinals, and the Great Masters of the *Hospitalers* and *Teutonicks*, to take *Jole* to Wife, with the Rights to the Kingdom of *Jerusalem* as her Portion, and within two Years to go with a powerful Army in order to conquer the Holy Land. That this Marriage was thus concluded, not only *Bzovius*, and *Riccardo da S. Germano*, but likewise *Honorius*, in one of his Letters to *Philip* King of *France*, exhorting him also to go to the Conquest of the Holy Land, witnesseth.

THE Marriage being thus concluded, it was immediately order'd, that *Jole* should be conducted from *Palestine* to *Italy*, and King *John* went to *Spain* to visit the Church of the Apostle *St. James* in *Galicia*, where he married *Berengaria* Daughter of *Alphonfus IX.* King of *Leon*, and return'd through *France*, where he had great Possessions, to *Vienna* his native Country ; and *Frederick* left *Ferentino*, and return'd to our Kingdom, and by the Way of *Sora* went to *Celano*, from thence to *Puglia*, and after a short Stay in *Bari*, he sail'd again for *Sicily*.

THUS then did King *John* of *Brenna*, who, for 27 Years, by Right of Queen *Mary* his Wife, had enjoy'd the Title of King of *Jerusalem*, but without Dominions, (for the Holy Land was already subjected to the Soldan of *Egypt*) give with his Daughter *Jole* the Title and Rights of that Kingdom to the Emperor, and his lawful Heirs, whence the Kings of *Sicily* are also call'd *Kings of Jerusalem*. 'Tis true, *Frederick* did not begin the same Year that the Marriage was concluded, to intitle himself in his *Diplomas* and other Writs, *King of Jerusalem*, but in the Year 1225, when *Jole* came to *Italy*, and the Marriage was celebrated with great Pomp, and consummated in *Brindisi*, he began to take that Title, and would be crown'd with the Crown of that Kingdom ; and besides, he would have the Lord of *Tyre*, and many other Barons of *Palestine*, who had accompanied King *John*, to swear Fealty to him, and he sent the Bishop of *Molfetta* with two Counts, and 300 *Sicilian* Soldiers to *Ptolemais*, to receive in his Name the wonted Homage and Oath, and confirm *Hugo de Montbeliard* a *French* Gentleman, Viceroy and Governor of that Kingdom, whom King *John* had left in the same Station ; so that, according to *Inveges*, *Frederick* in his *Diplomas* took the Title of *Rex Hierusalem*. But it is not true, as the same Author says, that *Frederick*, for two Reasons, always preferr'd this Title to that of *Sicily*, first for the Honour of that Holy City ; and secondly, because the Crown of *Jerusalem* was more antient, than that of *Sicily* ; in which he's in the Right (if we go not so far back as the Times of the antient Tyrants of that Island) for *Jerusalem* had the Title of Kingdom from the Time of *Urban II.* in the Year 1099, when *Godfrey* of *Boulogne* conquer'd it ; and *Sicily* got that Title in the Year 1130, in the Time of *Roger* the first *Norman* King, as we have told in the Eleventh Book of this History ; but we see the contrary in many *Diplomas*, wherein

wherein the Title of King of *Sicily* is plac'd before that of *Jerusalem*; particularly in the Proem to our *Constitutions*, where the Titles are read thus: *Italicus, Siculus, Hierosolymitanus*. Whence our Kings quarter the Cross of *Jerusalem* in their Arms, and justly value themselves upon that Prerogative.

BUT *Stephen*, a Monk of *Lusignan*, in his Chronicle of *Cyprus*, sets up the Kings of *Cyprus* in opposition to those of *Sicily*, and will have it, that the Rights to the Kingdom of *Jerusalem* belong to those as nearest Heirs; and says, that for that Reason, the Kings of *Cyprus* were wont to be first crown'd Kings of *Cyprus* in *Nicosia*, and afterwards Kings of *Jerusalem* in *Famagusta*; but he is very widely mistaken, for 'tis very clear from the Genealogy of the Kings of *Jerusalem*, that Queen *Mary* the Mother of *Jole*, was the nearest Heiress, as the eldest Daughter of *Isabella* the Daughter of *Amoricus* King of *Jerusalem*.

## S E C T. I.

*Frederick transports the Saracens out of Sicily to Lucera of Puglia, and Lucera de Pagani.*

THE Emperor *Frederick*, taken with the pleasant Situation of *Naples*, resolv'd to raise that City above all the others of the Kingdom of *Puglia*. Those who will not have King *William* to have built *Castello Capuano* in *Naples*, say, that *Frederick* was the Founder of it in the Year 1223, and pretend, that *Castello dell' Uovo*, and *Castello di S. Eramo* only, were built by the Normans. This Prince was the first that laid the Foundation of the Growth of *Naples*, whence in process of Time, it became the Head and Metropolis of a noble Kingdom, and rais'd itself above all the other Cities; for the Year following 1224, he founded an University there, and invited Scholars to it, not only from the other Provinces, but even from *Sicily*, which, as we shall shew by and by, contributed much to the Increase of the Inhabitants.

THIS Year 1223, *Frederick* was at War again with the *Saracens* of *Sicily*, besieg'd and fought them in several Places, for disturbing the Quiet of the Kingdom, and after he had subdu'd them, he did not think fit to let them continue any longer in that Island, as being too near to *Africa*, from whence they frequently got Succours, but transported a great Number of them to *Puglia*, and assign'd them the City of *Lucera* for a Habitation, and this was the first Colony of *Saracens* that came from *Sicily* to *Lucera*. The second came in the Year 1247, when *Frederick* caus'd the miserable Remains of them to be transported from *Sicily*, to the other *Lucera*, on that account call'd *de Pagani*; the first Colony, in process of Time, having possess'd themselves of all *Japygia*, now call'd *Capitanata*, oppress'd the People of that Province, by their licentious Way of living; *Frederick*, and after him *Manfred*, wink'd at them, because, as brave Soldiers, they made use of them frequently in their Wars with the Popes, and other Lords and Cities of *Italy*; till *Charles I.* of *Anjou*, after he had got Possession of the Kingdom, by a long War, and powerful Armies, expell'd them altogether, as we shall shew in the Progress of this History.





## C H A P. III.

*Of the University of Naples, instituted by Frederick.*



**N**APLES being a Greek City, had Schools from the Time it was first founded, where good Learning was taught; *Frederick* this Year 1124, restor'd these Schools, and turn'd them into the Form of an Academy. He was not the first Founder of Schools in *Naples*, as some have believ'd: He only enlarg'd them, and put them into a more noble Form, and of private Schools, for the Use of the City alone, made them an University for all the Kingdom of *Sicily*, and chose *Naples* for a Nursery to all the Youth, both of our Kingdom and that of *Sicily*.

**S**EVERAL Reasons mov'd this wise Prince to erect this famous University in *Naples*, as he himself in his Letters, which we read in *Pietro delle Vigne*, his Secretary and Counsellor, testifies<sup>1</sup>: First, because that City was always esteem'd the antient Mother and Nursery of Learning; secondly, because of the Sweetness of its Climate; and lastly, because it was situated in a convenient Place, in the Neighbourhood of the Sea, where both by the Fertility of the Country, and Commerce by Sea, all Things necessary for human Life were in Plenty, and whither Youth could be brought either by Sea or Land.

**R**ICCARDO da *S. Germano*, a Contemporary Writer, tells us, that *Frederick*, in the Month of *July* in the Year 1224, instituted this University, and for that End dispatch'd Letters over all the Kingdoms of *Sicily* and *Puglia*: *Mense Julio*, says he, *pro ordinando Studio Neapolitano Imperator ubique per Regnum mittit literas generales*. We read some of these Letters in the Six Books of *Letters*, written by *Pietro delle Vigne*, in which we have an Account of the Form of this University, and of the many Privileges bestow'd on it. First he chose the brightest Men to be Professors in all Faculties, and appointed them large Salaries, and he invited Professors from remote Parts, and forbid them to teach in any private School, either within or without the Kingdom, but only in this University<sup>2</sup>. Among others, he invited, and settled large Salaries upon two notable Men *Masters* (for Master at that Time was the same as Doctor now a-days) *Petrus d'Ibernia*, and *Robertus di Varano*, whom *Frederick* himself calls, *Civilis Scientiæ Professores*, *Magnæ Scientiæ, notæ virtutis, & fidelis experientiæ*<sup>3</sup>: And that nothing might be wanting, he likewise invited other Professors of all Arts and Sciences, as he says in his eleventh Letter: *In primis, quod in Civitate prædicta Doctores, & Magistri erunt in qualibet facultate*.

**B**ESIDES Professors of Law, he also appointed Professors of Divinity; and those he chose either from among the Monks of the Monastery of *Monte Cassino*, at that Time famous for Learning, or from those of the Orders of *St. Dominick*, or *St. Francis*, Two Orders lately sprung up, which had acquir'd great Fame both for their Sanctity and Learning. And when, by reason of the Factions, which, in the Year 1240, these Monks kept up against *Frederick*, on account of the Differences betwixt him and *Gregory IX.* he was oblig'd to banish them all out of the Kingdom, as Disturbers of the publick Peace; in order to make up the Loss of these Professors of Divinity, he wrote a Letter to *Erasmus* a

<sup>1</sup> Lib. 3. ep. 10, 11, 12 & 13.

<sup>2</sup> Lib. 3. ep. 11.

<sup>3</sup> Lib. 3. ep. 10 & 11.

Monk

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Monk of *Cassino*, and Professor of Divinity there, inviting him to come to *Naples* to supply that Want. This Letter is still preserv'd in the Library of *Cassino*, and is recorded by the Abbot of *Noce*<sup>1</sup>, and bears this Inscription: *Honestissimo, & peritissimo viro Magistro Hieronymo Monacho Cassinensi Theologicæ Scientiæ Professore: Univerſitas Doctorem, & Scholarium Neapolitani Studii Salutem, & optatæ felicitatis augmentum.*

THIS University had likewise Professors of the *Canon Law*; and *Summontes* says, There is a Writ in the Royal Archives of *Naples*, in the Register of the Emperor *Frederick II.* which mentions the Institution of this University, which begins thus: *Scriptum est Clero, Baronibus, Militibus, Bajulis, Judicibus, & Univerſo Populo Neapolitano*; wherein, among other Things, 'tis ordain'd, That no Person born in the Cities of *Lombardy*, that had lately rebell'd against him, should be receiv'd in this University. Among the other Doctors which he invited, *Bartolomeo Pignatello* of *Brindisi*, a famous Canonist, was one.

*FREDERICK* likewise provided this University with Professors of *Physick*; so that *Naples* began to vie with the College of Physicians of *Salerno*, and he ordain'd by a Constitution<sup>2</sup>, that none should presume to teach *Physick* or *Chirurgery*, in any part of the Kingdom, except in *Naples* or *Salerno*; and that none should receive a Degree in *Physick* or *Surgery*, before they were examin'd by the Physicians of these Two Universities; and that after these Physicians had given their Letters of Approbation, they should not practise *Physick* till they were presented to his Officers and Professors of that Art, deputed by him for that Effect; and however qualified and fit they were declar'd to be, they should not practise without the express Licence of the Prince, or in his Absence, of his Viceroy<sup>3</sup>. Whence *Luca di Penna*, and *Agnello Acramone* have written, that formerly our Kings alone licens'd Physicians<sup>4</sup>. According to *Andrea d'Isernia*<sup>5</sup>, this was alter'd by the succeeding Kings, who order'd, that those who had a mind to take the Degree of Doctor, should present themselves before the Person appointed by the King to have the Inspection of the Universities; and at this very Day in *Naples*, the Power of conferring the Degree of Doctor of *Physick*, or of other Professions, is lodg'd in the High Chancellor of the Kingdom; but in *Salerno*, the Power of conferring the Degree of Doctor of *Physick* belongs to the College of Physicians; whence the University of *Naples*, has not, like other Universities of *Europe*, Power to confer the Degree of Doctor, but only to give Letters of Approbation, the King having reserv'd that Prerogative to himself, and deputed the High Chancellor, to exercise it in his Name.

*FREDERICK*, besides having provided this University with Professors of all Faculties, and granted them Power to give Letters of Approbation to those who had a mind to take Degrees, likewise endow'd it with many noble Privileges, both with respect to the Persons of the Professors, and Scholars.

IN order to render this University more famous and numerous, he ordain'd that none but Professors should teach there, and that no Scholars should go to any City, either of this Kingdom or of *Sicily* to be taught, but to *Naples* only<sup>6</sup>. He was so nice and positive in that Point, that when by the severe Prohibition of all Schools in any other Part of the Kingdom, the *Justice of Terra di Lavoro* doubted, whether Grammar Schools were comprehended in the Edict; *Frederick* in a Letter, which we likewise find in the Six Books of Letters of *Pietro delle Vigne*<sup>7</sup>, declar'd they were not.

HE also granted to this University, and to the Doctors and Masters thereof, Jurisdiction and Power to take Cognizance of the civil Causes of the Scholars, as we read in that Letter, which he directed to the Scholars themselves, inviting them to this University: *Item omnes Scholares in civilibus, sub eisdem Doctoribus, & Magistris debeant conveniri*<sup>8</sup>. And in order to make it the more numerous, he commanded all the Governors of Provinces, to oblige, under severe Penalties, all the Scholars within their Jurisdictions, to come and study in *Naples*, and not to go to

<sup>1</sup> Abb. de Nuce in notis in Prolog. lib. 4. Chron. Cass.

<sup>2</sup> Constitut. in Terra qualibet.

<sup>3</sup> Constitut. Utilitati. Glosi. & Affl. in dicta Constitut.

<sup>4</sup> Luc. de Penna in l. contra publicam, col. 2.

<sup>5</sup> Andr. de Isern. in dicta Constit. Utilitati.

<sup>6</sup> Lib. 3. ep. 11. Besold. in disert. de jure Academi. cap. 2. in fine.

<sup>7</sup> Lib. 3. ep. 13.

<sup>8</sup> Lib. 3. ep. 11.

any

any Place else, either within or without the Kingdom <sup>1</sup>. He likewise sent express Orders to the Lieutenant of *Sicily*, to invite all the Youth of that Island to come and study in *Naples*, where they should enjoy many Privileges, Franchises, and Immunities <sup>2</sup>. And in the Year 1226, when *Bologna* rebell'd against him, he order'd, that all the Scholars there should go to study in *Naples* or *Padua*; and in the Year 1233, this University having suffer'd very much, by reason of the Broils that happen'd in the Kingdom on account of the Differences betwixt *Frederick* and the Pope; which *Frederick* made up, and restor'd them to their former State <sup>3</sup>.

THIS Prince, in order to encourage Youth in the Study of Learning, granted the Scholars many Privileges. He declar'd that he would take them under his particular Care and Protection, and that both on their Journey to, and Stay in *Naples*, they should be well treated, and no wise molested in their Persons or Goods; that they should have the best Lodging in the City at easy Rates; that Money should be lent them for their necessary Occasions; that they should be furnish'd with Grain, Wine, Flesh, Fish, and all other Necessaries of Life, at the same Price with the *Neapolitan* Citizens; and besides these Privileges, which we read in one of his Letters recorded by *Pietro delle Vigne* in his third Book <sup>4</sup>, *Frederick* made many other Provisions for this University, of which, as occasion offers, we shall make mention. *Manfred* his Son followed his Example, and we read some of his Letters in *Baluzius* <sup>5</sup>, where he shews how much he had at Heart to provide this University with able Professors, in order to make Learning flourish.

AFTER *Frederick* had instituted so illustrious an University in this City, and brought the Scholars of both the Kingdoms of *Sicily* to it, *Naples* began to raise its Head above all the other Cities of these Provinces; and this was the first Step towards its becoming the Metropolis of the Kingdom.

THIS renown'd Prince, during his frequent Residence in *Naples*, added many other Advantages to it; for his *High Court*, in these Times the supreme Tribunal, where the most weighty Cases are decided, made this City to be much frequented; and though in his Time this Court had not acquir'd that Superiority over all the other Courts of the rest of the Cities of these Provinces, as that all Pleas could be brought before it by way of Appeal, yet it had the Power of judging Criminal and Feodal Causes, High Treason, &c. (as we see establish'd in his Constitutions) of which the other Courts were not competent Judges.

THIS Prince likewise gave more Judges to *Naples* than to the Cities of other Provinces; for in them there were only three Judges, and one Notary, but *Naples* and *Capua* in this Kingdom, had five Judges, and eight Notaries, as *Messina* in *Sicily* had.

<sup>1</sup> Lib. 3. cit. ep. 11.

<sup>2</sup> Lib. 3. ep. 12.

<sup>3</sup> Ric. S. Germ. Studium, quod Neapoli per Imperatorem Statutum fuerat, quod extitit turbatione inter Ecclesiam & Imperium secuta, peni-

tus dissolutum, per Imperatorem Neapoli reformatur.

<sup>4</sup> Lib. 3. ep. 11.

<sup>5</sup> Baluz. Miscellan. pag. 483, 484, 485, 486, & 487. V. Nicod. in Bibliot. Top. v. Manfredi.





## C H A P. IV.

*Of the Lawyers who flourish'd amongst us in these Times.*



NAPLES became likewise famous by the knowing and learned Lawyers and Judges of the High Court; particularly *Pietro delle Vigne*, *Taddeo da Sessa*, and *Roffredo Beneventano*, famous Lawyers in these Times, added much to its Glory. Among *Frederick's* Letters we have one written to *Roffredo*, inviting him to go immediately to *Naples*, to take the Charge of his Court, of which he had chosen him Judge<sup>1</sup>. And *Riccardo da S. Germano*<sup>2</sup> says, that *Frederick* employ'd this Lawyer in his most weighty Affairs, he having sent him to *Rome* to bear him out against the Censures which *Gregory IX.* had thunder'd out against him. Thus from this Time *Naples*, on account of the Excellency of its University, its famous Professors, the Tribunal of the High Court, and its learned Judges, began to be distinguish'd above all the other Cities of the Kingdom; and *Charles I.* of the Family of *Anjou*, chose to fix his Royal Seat there; so that being the Head and Metropolis of all the other Cities, in process of Time it came to be what we now look on with Admiration.

HERE we have the Reason, why, in our Kingdom, the *Longobard* Laws began to give way to the *Roman*, and by Degrees, in the following Centuries, to be disus'd and forgotten; for the *Pandects*, and the other Books of *Justinian* had already got footing in the other Universities of *Italy*, such as *Bologna*, *Padua*, and others, and were publickly taught there; and the Professors, enamour'd with the Elegancy of the Stile, and the Wisdom of the Laws, slighted the *Longobard* Laws as barbarous, and applied themselves to the Study of the *Roman* Law; (besides those Lawyers who flourish'd in the Time of *Frederick I.* *Accursius* a *Florentine*, and many others were famous in the Time of *Frederick II.*) the same was our Case after *Frederick* establish'd the University in *Naples*, for the Professors thereof explain'd *Justinian's* Books in the Schools; from whence they crept into the Tribunals, and the Judges being bred up in these Schools greedily espoused these Laws, and thus by piece-meal the *Roman* Laws began to get Footing, and have the Authority and Force of Laws in the Courts of Justice. Nevertheless the *Longobard* Laws were not quite laid aside, for *Andrea Bonello da Barletta*, Attorney-General to *Frederick II.* compos'd a Treatise concerning the Difference betwixt the *Longobard* and *Roman* Laws, of which we have treated at large in the Tenth Book of this History.

THESE flourish'd with us in this Age, besides *Andrea Bonello*, other famous Lawyers, according to the Times, and we have yet the Remains of some of their Works; but as for *Petrus d' Ibernica*, *Roberto da Varano*, and *Bartolommeo Pignatello*, Professors of the Civil and Canon Laws in the University of *Naples*, we have no other account of them than what *Frederick* himself gives us, that they were *Civilis Scientiæ Professores, magnæ Scientiæ, notæ virtutis, & fidelis experientiæ*<sup>3</sup>.

EVERY Body knows, that the famous *Pietro delle Vigne* of *Capua*, was a noted Lawyer in these Times; and that for his great Learning, Wit, and Eloquence,

<sup>1</sup> Lib. 3. epist. 81.

<sup>2</sup> Ric. anno 1227. Tunc prudentem virum Roffredum de Benevento misit ad Urbem cum excusatoriis suis, quas idem Magister publice

legi fecit in Capitolio de voluntate Senatus, Populique Romani.

<sup>3</sup> Lib. 3. epist. 11.



though born of mean Parents, he was rais'd by *Frederick* to the first Honours of the Kingdom, such as Privy-Counsellor, Secretary of State, Judge of the High Court, Protonotary of the Empire, and Lieutenant of both the Kingdoms of *Puglia* and *Sicily*; and, which is more, was let into all the Secrets of his Prince. The *Germans* have endeavour'd to rob us of this famous Lawyer, by making him a *German*, and not a *Capuan* (as the *French* afterwards claim'd *Luca di Penna* as their Countryman) and *Joannes Tritemius* is positive in it<sup>1</sup>; perhaps he was deceiv'd by his Surname, which he believ'd was taken from *Vigna*, a famous Monastery of *Suevia*, near *Ravensburg*. But nothing is more clear, than that he was born in *Capua*, as is manifest from his own Letters<sup>2</sup>, and from one written to him by the Chapter of *Capua*, which is inserted in the six Books of his Letters<sup>3</sup>.

HE was most skill'd in the *Roman Laws*, and altogether intent on restoring them to their antient Splendor, whence in these Provinces the Study of the *Pandects* and the Code began to be lik'd, and the Laws contain'd in them to be quoted in the Courts of Justice. *Frederick* himself speaks thus of them<sup>4</sup>: *Nam legis armatus peritia, Digesta digerit, & Codicis Scrupulositates elimat*. Whence, by our modern Authors, he is reputed one of the most learned and able Lawyers of the Times, which Character *Matteo d' Afflitto* and others give him<sup>5</sup>.

ON this account, *Frederick* intrusted him with the Collection of the Constitutions of our Kingdom, of which more hereafter; and he employ'd him in the most weighty and difficult Affairs of State, whence *Dante* in his Comedy introduces him speaking thus:

*Of Frederick's Heart both the Keys I keep, &c.*

BESIDES the Books of our Constitutions, he compos'd six Books of Letters, both in his own, and his Master's Name, written in a very elegant Stile, according to the Age in which he liv'd; these Letters contain many useful and valuable Things, and give great Light into the History of these Times; and *Joannes Cuspinianus*, an excellent Historian and Poet, says, that almost all *Frederick's* Actions, and the History of these Times may be very distinctly gather'd from these Books; whence the most accurate and careful Historians, such as *Theodore of Nismes*, *Nauclerus* and others, not only quote them in describing *Frederick's* Exploits, but likewise in giving account of other Points of History. These Books lay long neglected, till *Simon Schardius* brought them to light, and in the Year 1566. caus'd them to be printed in *Basil*, which Copies are now become very scarce.

THIS Lawyer likewise wrote an Apology, intitled, *De potestate Imperatoris, & Papæ*, in Defence of the Rights of the Empire against the Popes; and 'tis said, that *Innocent IV.* took in Hand to confute it<sup>6</sup>. He made many Orations in Defence of *Frederick* against the Excommunications which the Popes thunder'd out against him, and among the rest a very learned and elegant one in *Padua*, on the Excommunication fulminated by *Gregory IX.* against the Emperor. He also compos'd some pretty *Italian Songs*, which we read as yet with those of *Frederick*, and *Entius* his Bastard Son, King of *Sardinia*.

SOME believ'd him to be the Author of the Book *De tribus Impostoribus*; but that is false, and so far was *Frederick* from employing him to compose that Book, that 'tis doubted whether ever such a Book appear'd in the World.

BUT the unhappy End of this renown'd Lawyer, is a clear Instance of the Instability of worldly Things, of which we shall take notice hereafter in the Year 1243.

IN these Times flourish'd likewise *Taddeo da Sessa*, who distinguish'd himself so much in the Council of *Lyons*, and was also a famous Lawyer, and Judge of the High Court, and as well as *Pietro*, was employ'd by *Frederick* in the Affairs of State; but he left nothing to transmit his Memory to Posterity: Which cannot be said of *Roffredo Epifanio da Benevento*, who was a most renown'd Doctor, and Judge of the High Court under *Frederick*, and the most learned of all that ever had bore that Office. He compos'd many Treatises, which in these Times much illustrated the Law; he compos'd one *De libellis, & ordine Judiciorum*, and divided it in this manner: I. *De Prætoriiis actionibus*. II. *De Interdictis*. III. *De Edictis*. IV. *De Actionibus*

<sup>1</sup> Jo. Trit. lib. de Script. Eccl.

<sup>2</sup> Lib. 3. ep. 45.

<sup>3</sup> Idem, epist. 43.

<sup>4</sup> Idem, epist. 45.

<sup>5</sup> Aff. in prælud. Constit. in princ.

<sup>6</sup> Simon. Schard. in vita P. de Vineis.

*civilibus.*

*civilibus. V. De Officio Judicis. VI. De bonorum possessionibus. VII. De Senatus consultis. VIII. De Constitutionibus.* In the late Editions there are added, *Libellorum opus in jus Pontificium, ac quinquaginta quatuor Sabbatinæ quæstiones.* Besides these Works, Bishop *Liparus* <sup>1</sup> in his Commentaries on *Odofredo*, tells us, that *Camerarius* the famous Lawyer had twelve large Volumes on the Civil and Canon Laws, compos'd by *Roffredo*, and were thought to be written with his own Hand, which *Camerarius* was resolv'd to publish.

*ROFFREDO*, when a Youth, went to study the Law in *Bologna*, whither the Fame of its University drew all the Youth of *Italy*; and he had for his Masters the chief Doctors of these Times: The First, according to *Odofredo*, was *Ruggieri*, one of the first Glossators of the Pandects: He afterwards had *Azo*, *Kilianus*, *Otho Papienfis*, and *Cyprianus*, all of them famous Lawyers, as he himself in many Places declares. After he had made a wonderful Progress in this Study, in the Year 1215. (as he says in the first of his *Quæstiones Sabbatinæ*) he was invited to *Arezzo* to explain the Laws. And finding that the *Quæstiones* of *Pileus*, which were read in *Bologna* to teach the Youth to plead, were of little use, he laid them aside, and resolv'd to explain to his Scholars such Questions as daily occur'd in the Courts of Justice, and because he made them to be recited every *Saturday*, he call'd them *Quæstiones Sabbatinæ*. Upon his Return to our Kingdom, in the Year 1227. *Frederick* chose him for his Advocate, and sent him to *Rome* on occasion of the Dispute between him and *Gregory IX.* His Fame became so great in After-times, that upon the Faith that *Papinian* was of *Benevento*, he got the Name of the second *Papinian*. He was buried in *Benevento*, where, according to a late Writer of *Sannio* <sup>2</sup>, his Tomb is to be seen in the Church of *S. Dominick*.

IN the latter Part of *Frederick's* Reign *Andrea di Capua* his Attorney-General flourish'd, and was Father of *Bartolommeo* the great and famous Doctor of his Time, who, by his Virtue and great Parts, rais'd his Posterity to that Grandeur which they now possess.


<sup>1</sup> Lipar. in usib. feud. in præludiis.

<sup>2</sup> Ciarlant. lib. 4. cap. 14.



## CHAP. V.

*Pope Honorius III. presses the Emperor Frederick to undertake the Expedition to the Holy Land, but this Pope dies before it was put in Execution.*

 **A**FTER *Frederick* had adorn'd *Naples* with so famous an University, he was employ'd in a War in *Sicily*, in order to extirpate the *Saracens* out of that Island; for supporting which War, he laid a Tax upon the whole Kingdom, whereby he rais'd a vast Sum of Money; for a certain *Urbano da Teano*, his Collector, brought him 300 Ounces of Gold from the Lands belonging to the Abbey of *S. Benedict* alone, a considerable Sum in these Times for one Monastery; and because *Honorius* was grievously offended, that the Churches and Ecclesiasticks should be tax'd; *Frederick*, with a Design to pacify him, and have him for his Friend, dispatch'd Letters to the Justice of *Terra di Lavoro*, ordering him to exempt the Monks and Clergy, their Lands,

Lands, Castles, and Goods from all Taxes whatsoever, as they were in the Time of *William the Good*, his Cousin <sup>1</sup>.

BUT the War against the *Saracens* still requiring more Subsidies, he was forc'd to lay another Tax upon the Kingdom: and to avoid giving *Honorius* Offence, he order'd the same Sum of 300 Ounces of Gold to be levied out of the Lands of the Abbey of *S. Benedikt*, but under the Name of a Loan, and not of a Tax. This cunning Shift has been practis'd since by many Princes, in order to shun Disputes with the Popes, who, according to the Maxims then lately introduc'd, pretended that Princes, even for the most pressing Occasions of their States, could not impose Taxes upon Churches or Ecclesiasticks, as being contrary to the antient Discipline of the Church, and not within the *Regalia* of Princes.

THE Year following 1225. King *John* of *Brenna*, with *Berengaria* his Wife, big with Child, came from *France* to our Kingdom, and by the Emperor's Order were honourably receiv'd in *Capua*, where, in the Month of *April* *Berengaria* brought forth a Daughter, and from thence they both went to *Melphis* in *Puglia* to wait on *Frederick*, who was shortly expected from *Sicily*.

*FREDERICK*, having left a great Army to carry on the War against the *Saracens*, came over to *Puglia*; and at the same Time gave the Duke of *Bavaria* the Charge of the Affairs of *Germany*, and of his Son *Henry*, who had been created King of the *Romans*, and married to *Agnes* of *Austria*, and to whom his Father, according to his Promise made to the Pope, had yielded the Kingdom of *Sicily*.

IN the mean Time *Honorius* being tormented with the Tumults and Revolutions in *Rome*, occasion'd by *Parenzo* a Senator, left that City, and retir'd to *Trivoli* <sup>1</sup>, whither *Frederick* sent King *John*, and the Patriarch of *Alexandria*, to ask a longer Time than what had been allow'd him for going to *Palestine*, because the Affairs of the Kingdom, and the Rebellion of the *Saracens* requir'd it, and likewise because he was afraid, that the People of the *Milaneſe* and the *Bologneſe* in his Absence would raise a Rebellion in *Lombardy*. The King and the Patriarch got a favourable Answer from the Pope, which they signified to *Frederick*, who, on the 22d of *July*, together with the Prelates of the Kingdom, went to *S. Germano* <sup>2</sup>, whither the Pope sent *Pelagio Calvano* Cardinal of *Albano*, *Giacomo Gualla di Bicchaeri da Vercelli* Cardinal of *S. Sylvester*, and *Martino*, to take his Oath anew, that he should go to the Holy Land: These Cardinals made him likewise read the Articles set down by *Honorius* for that Expedition, which among other Things contain'd, that two Years thereafter, which would be ended in the Month of *August* 1227, he should go and make War in *Palestine*, and at his own Charges carry with him, to remain there for two Years, a thousand Soldiers, a hundred *Chelandri* <sup>3</sup>, a Name of Ships us'd in these Times, and fifty Gallies well-arm'd, and provided with all Necessaries; and that he should transport in his Vessels other Two thousand Soldiers with their Families, reckoning three Horses for each Soldier, according to *Riccardo da S. Germano*. *Frederick* having heard these Articles, promis'd punctually to observe them under the Pain of Excommunication, in Presence of many Prelates, German Lords, and native Barons <sup>4</sup>, and caus'd *Rinieri* Duke of *Spoletto*, to swear in his Name, and then he was absolv'd by the Cardinals from his former Oath, which he had taken at *Veroli*; and soon after he return'd to *Puglia*, from whence he dispatch'd Letters to the German and Italian Lords, ordering them to come to *Cremona* the *Easter* following <sup>5</sup>, where he design'd to hold a General Assembly. Thereafter he collected anew a great Sum of Money under the Name of a Loan; and *Pietro* Lord of *Evoli*, and *Niccolo di Cicala* Justice of *Terra di Lavoro*, receiv'd from the Lands belonging to the Monastery of *Monte Cassino* 1300 Ounces of Gold.

SHORTLY after there arose some Heart-burnings betwixt *Frederick* and *Honorius*, because, according to *Riccardo da S. Germano* <sup>6</sup>, the Churches of *Consa*, *Salerno*, *Aversa*, and *Capua*, and the Abbey of *S. Vincent* in *Vulturno* being vacant, *Honorius*, *inſcio & irrequisito Imperatore*, sent five Prelates from *Rome* to take Possession of these Churches and Abbey: These Prelates were the Prior of *S. Maria della*

<sup>1</sup> Ric. S. Germano.

<sup>2</sup> Idem.

<sup>3</sup> Idem, anno 1225.

<sup>4</sup> Idem, Et ducit secum centum Chelandros.  
V. Dufresne in Glossar. V. Chelandium.

<sup>5</sup> Idem, Promisit, Imperator se publice servaturum, Excommunicatione adjecta in se, & terram suam, si hæc non fuerint observata.

<sup>6</sup> Idem.

<sup>7</sup> Idem, Mense Septembri.

*Nuova* to be Bishop of *Consa*; the Bishop of *Famagosta* to be Archbishop of *Salerno*; the Chanter of *Amalphis* to be Bishop of *Aversa*; the Bishop of *Patti* to be Archbishop of *Capua*; and a *Benedictine* Monk, nam'd *Giovanni di S. Liberatore*, to be Abbot of *S. Vincent*. *Frederick* being grievously disoblig'd at this Injury done him in spite of his Right, would not suffer any of them to be admitted into these Churches<sup>1</sup>; and going afterwards to *Sicily*, he serv'd *Fra. Niccolo da Colle Pietro*, made Abbot of *S. Lorenza* in *Aversa* the same way, though he had brought particular Letters from the Pope; and at the same Time sent Ambassadors to the Pope to complain of the Wrong done him<sup>2</sup>.

IN the mean Time the new Empress *Jole*, having imbark'd in the Gallies, after a prosperous Voyage, landed at *Brindisi*, whither the Emperor had gone from *Sicily* to wait her coming, and where on the 9th of *September* the Marriage was solemniz'd with great Pomp and Magnificence; and as a Remembrance of this Solemnity, he caus'd a new Coin to be struck, call'd *Imperiali*, and cry'd down the old<sup>3</sup>.

*ENTIUS*, *Frederick's* bastard Son, was born this Year 1239. whom he afterwards crown'd King of *Sardinia*; and this same Year the Emperor one Day hunting in *Puglia*, and having kill'd a wild Boar of a prodigious Size, order'd a Supper to be dress'd on the Spot, where a Castle was afterwards built, which to this Time is call'd *Apricena*.

IN the Beginning of the Year 1226. *Honorius* sent to press *Frederick*, who, after the Solemnity of his Marriage, had gone to *Troja* in *Puglia*, to make ready for the Expedition to the Holy Land; whereupon the Emperor order'd his Barons to meet him at *Pescara*, in order to accompany him to the Dyet of *Cremona*, which had been summon'd the preceding Year. From *Troja* he went to *Terra di Lavoro*, and left the Empress in *Terracina*, a Castle near *Salerno*, now demolish'd, and return'd to *Puglia*, and having committed the Government of the Kingdom to *Errico di Morra* Lord Chief Justice, he went to *Pescara*, and from thence with all his Army he march'd to *Spoletto*, and order'd the *Spoletians* to take Arms and follow him to *Lombardy*<sup>4</sup>; the *Spoletians* refusing to obey without they had the Pope's Orders, he commanded them a second Time to obey upon their Perils; but they sent his Letters to the Pope, who for other Reasons was grievously offended with *Frederick*, both on account of the Prelates, whom he kept out of Possession of their Churches, and because he had combin'd with *Ezzelino*, and publish'd a Constitution, whereby he ordain'd that Monks and Priests that had committed Homicide, or other enormous Crimes, should be punish'd by his Secular Magistrates, and because he had infring'd the Ecclesiastical Immunities in taxing the Clergy: All these had so exasperated the Pope, that he wrote most bitter Letters to *Frederick*, complaining heavily of these Things. *Frederick* looking upon these Letters to be too arrogant, answer'd them with the like Boldness; whereupon *Honorius*, more furiously inrag'd, wrote again in a more haughty, insolent, and threatenng manner. *Frederick*, unwilling to quarrel with the Pope, in order to soften him, wrote him a most submissive Answer, *in omni subjectione*, as *Riccardo* says: Whereupon they were again reconcil'd, and the Pope sent *Cinzio Savello* Cardinal of *Porto*, to adjust their Differences, that the Expedition to the Holy Land might not be retarded, and the Affairs of *Lombardy* might be settled. Then *Frederick* left *Spoletto*, and went to *Ravenna*, where he kept his *Easter*, and wrote to his Son *Henry* to assemble a strong Army, and march from *Germany* to *Lombardy*, where he would meet him; and *Faenza* not being in his Interest, he did not take that Rout, but march'd with his Army to *S. Giovanni* in the Territories of *Bologna*, and from thence to *Imola*; when he enter'd *Lombardy*, only *Modena*, *Reggio*, *Parma*, *Cremona*, *Asti*, and *Pavia* sent him Ambassadors, and offer'd him their Service. The other Cities not only did not shew him any Civility, but enter'd into a Confederacy against him; these were, according to *Riccardo*, *Milan*, *Verona*, *Piacenza*, *Vercelli*, *Lodi*, *Alessandria*, *Triviggi*, *Padua*, *Vicenza*, *Torino*, *Novara*, *Mantua*, *Brescia*, *Bologna*, and *Faenza*: These Cities joining with *Goffredo* Count of *Romagna*, and *Bonifacio* Marquis of *Monferrato*, and other Cities of *Marca Travigiana*, form'd an Army, and march'd to take the Pass at the Foot of the *Alps*, and prevent *Henry's* entering *Italy*. In the mean Time the Emperor march'd to *Cremona*, where he was

<sup>1</sup> Ric. S. Germ. Quos tanquam in suum pre-judicium promotos, recipi Imperator in ipsis Ecclesiis non permittit.

<sup>2</sup> Idem, Imperator pro facto Prælatorum,

quos Papa creaverat, suos ad eum Nuncios mittit.

<sup>3</sup> Ric. S. Germ.

<sup>4</sup> Idem.

honourably receiv'd by the Citizens, and held the appointed Dyet, but a very thin one, without a Baron, or Ambassador from any of the confederated Cities.

AFTER the Dyet was over the Emperor left *Cremona*, and march'd to *Parma*, where he was waited upon by many Counts and Knights of that Country, and of the Territories belonging to *Lucca* and *Pisa*, and particularly the Marquis of *Malespini*, and he Knighted many of them with his own Hand, which was look'd upon as a great Honour in those Days; from thence he went to meet with the Pope's Legate in the Village of *S. Donnino*, to get him to facilitate his Coronation with the Iron Crown, which was kept in *Monza* by the People of the *Milaneſe*, who, mindful of the Injuries they had receiv'd from his Grandfather *Barbarossa*, by no means would consent to his Coronation in their City; therefore *Frederick* finding that neither Intreaties, nor mild Usage were able to regain these People, nor any of the other confederated Cities to his Interest, in great Wrath he put them all under the Ban of the Empire, declar'd them Rebels, and got the Legate to interdict them, and removing the University from *Bologna*, he transferr'd it to *Naples* and *Padua*, and order'd all the Scholars to leave *Bologna*, and go to these two Cities to study; but *Sigomius* says, that none obey'd his Orders.

THE Emperor not having Success in *Lombardy*, left it, and went to wait on the Pope in *Rieti*; and after he had complain'd to the Pope of the Obstinacy of the *Lombards*, he came to *Puglia*, from whence he sent a fresh Recruit of Soldiers to the Holy Land; and *Pietro* Lord of *Evoli*, and *Niccolo di Cicala* having laid down their Offices of Justices of *Terra di Lavoro*, *Ruggiero di Gallura*, and *Marino Capece* were put in their Places. *Frederick* being now Friends with the Pope, gave Possession of their Churches to all those Prelates whom the Pope had made, to wit, the Archbishops of *Capua*, *Consa*, and *Salerno*, the Bishop of *Aversa*, and the Abbot of *S. Lorenzo*<sup>1</sup>.

THE Pope was very earnest with the Emperor to go upon the Expedition to the Holy Land, which had been diverted and delay'd by the Broils betwixt the Emperor and the confederated Cities; and *Frederick* had publish'd an Edict, whereby he signified, that the Diffentions of *Italy* had put a Stop to the Expedition to the Holy Land; and having sent Ambassadors to the Pope to intimate the same, *Honorius* wrought so effectually, that he made up all Differences; whereupon the Emperor, to please the Pope, promis'd to send immediately a Reinforcement of 1400 Soldiers to the Christians in *Palestine*. The Emperor and Empress *Fole* went then to *Sicily*; and the Pope seeing, that King *John of Brenna*, by reason of the Misunderstanding betwixt him and his Son-in-Law, whose Dominions he had been forc'd to leave, was in great Want, gave him the Command of all that Tract of Land, from *Viterbo* to *Montefiascone*; in the mean Time the Emperor, by the Means of *Errico Morra* his Lord Chief Justice, publish'd new Laws and Ordinances for the Peace and Tranquility of his Subjects, recorded by *Riccardo da S. Germano*. This Year *Francis*, famous for his Miracles and holy Life, who founded the Order of *Minors Friars in Assisi*, the Place of his Nativity, died, and in process of Time was Sainted.

POPE *Honorius*, according to *Riccardo's* Chronicle, died in *Rome* in the Month of *March* this Year 1227. after he had govern'd the Church ten Years, seven Months, and thirteen Days, and was buried in *Rome*, in the Church of *S. Maria Maggiore*, under a very plain Tomb.

ALTHOUGH the Differences which this Pope had with *Frederick*, were weighty and frequent, yet they were not such as to oblige this Pope to excommunicate him, as some have unjustly written. The first that fulminated these Thunderbolts against *Frederick*, were *Gregory XI.* and *Innocent IV.* his Successors, as we shall shortly relate.

<sup>1</sup> Ric. S. Germ.





## C H A P. VI.

## Frederick's Expedition to the Holy Land.



THE Day after the Death of Pope *Honorius*, the Cardinals elected *Ugolino* of the Family of *Conti*, Son of *Tristano d'Alagna*, Brother of *Innocent III.* who was of the *Conti's* of *Segua*, and gave him the Name of *Gregory IX.* who, immediately wrote Letters to all Christian Princes, notifying the Death of his Predecessor, and his own Election, and sent *Fra. Guglielmo*, a *Dominican* Monk, to the Emperor to give him an account of his Promotion, and to exhort him to honour and defend the Church of God, to provide for the good Government of his Subjects, and to undertake the Holy War; and besides, he desir'd that *Frederick* would be pleas'd to order his Subjects to send Provisions and other Necessaries for the Gallies which he design'd to send to *Palestine*, which *Erizzo Morra* Chief Justice, by *Frederick's* Orders, immediately caus'd to be done. *Simon Schardius* mentions a Letter full of Encomiums and high Praises, which *Gregory* wrote to this Prince the first Year of his Pontificate, upon which he assembled all the Justices of the Provinces of his Kingdoms of *Sicily*, to whom he imparted the Contents of the Pope's Letter, that they might make every Thing ready for the Expedition to the Holy Land; and for that end he laid a general Tax upon all his Vassals, and wrote to his Son *Henry* to call a Dyet in *Aix la Chapelle*, and give an Account to his German Barons, that he design'd to set out for the said Expedition in the Month of *August* next, on the Day of our Lady's Assumption, that all who had a Mind to go along with him might be ready, and come to *Puglia*, where he had prepar'd Ships for their Embarkation. And sent the Archbishop of *Raggio*, and *Hermannus Salta*, Great Master of the *Teutonic* Order, to acquaint the Pope that he was ready to embark, and to send Victuals and Provisions necessary for the Gallies.

IN the mean Time *Henry*, according to his Father's Orders, had caus'd a Dyet to be conven'd at *Aix la Chapelle*, to invite the Germans to accompany his Father in the Expedition, whither a great Number of Lords and Prelates came, among the rest *Sifridius* Archbishop of *Mentz*, *Ebedornus* Archbishop of *Triers*, *Henry* Archbishop of *Cologn*, with the Archbishops of *Salzburg*, *Magdeburg*, and *Brème*, with all their Suffragans. There were likewise present the Dukes of *Austria*, *Bavaria*, *Carinthia*, *Brabant*, and *Lorraine*: *Henry* Count Palatine of the *Rhine*, *Lewis* Landgrave of *Turingia*, and *Ferdinand* Count of *Flanders*, who had been taken Prisoner by King *Philip* in the Battle of *Tournay*; and after he had been twelve Years Prisoner in *Paris*, at the Intercession of the Pope and others of his Friends, had been at last set at Liberty. All these mov'd by *Henry* King of Germany, and their own Christian Piety, were ready to undertake so pious an Expedition; so that reckoning these, and others prevail'd upon by diverse Monks and other Ecclesiasticks, sent over all *Christendom* by the Pope, to encourage the People to take the Cross, at the appointed Time, an infinite Number of Christians met at *Brindisi*, and its Neighbourhood, insomuch, that, according to the Abbot of *Usserg*, from the Island of *Britain* alone there came Sixty thousand. But when the great Heats of the Summer in these barren Parts of *Puglia* came on, the Northern People, not accusom'd to them, and

<sup>1</sup> Ric. S. Germ.

labouring under all sorts of Inconveniencies, began to die by Thousands, and among others, the Bishops of *Angers* and *Soissons*, and the Landgrave of *Thuringia* were carried off, whereupon these People thus afflicted, set out in order to return to their own Countries; but most of them died by the Way<sup>1</sup>.

MEAN while *Frederick*, with the Empress *Jole*, in the Month of *August* came from *Sicily* to *Otranto*, where he left the Empress, and went to *Brindisi* to join the Army, which, though, by Death and Desertion, reduc'd to a small Number, he caus'd to be embark'd on the Feast of the *Assumption*, the Day appointed; and returning to *Otranto* to take his Leave of the Empress, he was taken ill there<sup>2</sup>; notwithstanding which he went back to *Brindisi* and embark'd; and after three Days Sailing, not able to bear the Sea, he return'd to *Brindisi*. *Fazzellus* says, That *Frederick* had reach'd the Islands of the *Morea* and *Candia*, and that by contrary Winds and his Indisposition, he was oblig'd to return to *Brindisi*, with those that had rendezvous'd in *Lacedemon*, and Forty thousand of his Army, if we may credit *Sigonius*.

WHILE *Gregory IX.* was in *Anagna*, he had an Account that *Frederick* was return'd, which the Pope attributing to his Unwillingness to go upon the Expedition, transported with Rage, on the 29th of *September* the Feast of *St. Michael the Archangel*, he declar'd, That *Frederick* had incurr'd the Excommunication, which *Honorius* had threatn'd in *St. Germano*, if he did not go to *Palestine*, and accordingly did excommunicate him<sup>3</sup>, which Sentence is recorded by *Bzovius*, and *Sigonius*, it begins thus; *Imperatorem Fredericum, qui nec transfretavit, &c.*

*BZOVIVS* adds, that *Gregory*, besides *Frederick's* returning from the design'd Expedition, had many other Grounds of Quarrel with him; for he not only had forc'd the Ecclesiasticks of his Dominions to pay Taxes, but on account of a private Grudge he bore the Bishop of *Aversa* and *Roger* Count of *Celano*, he compell'd them to go to *Palestine*, and put the Count's Son in close Prison, and other such Grievances, which *Villani* gives us against *Frederick*; but seeing this Author brings no Voucher but himself for what he says, he deserves no Credit; for *Villani*, either through Ignorance of the Transactions of our Kingdom, and especially those of *Frederick*, or as a *Guest*, and consequently his Enemy, or for want of Judgment, or out of Partiality, has committed a vast many Blunders, and related Things that never fell out, of which the Authors, who liv'd at the same Time, such as *Riccardo*, and other careful Recorders of the Transactions of their own Times, make not the least mention.

*FREDERICK* taking this Sentence of Excommunication as a grievous Affront, left *Puglia*, and, as a convincing Proof of his Illness, according to *Riccardo*, went to the Baths of *Pozzuolo* to be cur'd, and from thence he sent the Archbishops of *Reggio* and *Bari*, with *Rinaldo* Duke of *Spoleto*, and *Errico di Malta* his Ambassadors, to the Pope then at *Rome*, to excuse his not going upon the Expedition, and to represent the Cause of his Delay; but all was to no Purpose, for the Pope gave no Credit to any thing they said in his Vindication, and convening all the Ultramountain Bishops in *Rome*, and as many as he could get of our Kingdom, on the Eighth Day after the Feast of *St. Martin*, he again publicly pronounc'd him excommunicated, interdicted his Dominions, and sent Letters to all the Princes of Christendom, to inform them with what he had done. Whereupon *Frederick* likewise wrote to *Lewis* King of *France*, giving him an account of the Injury *Gregory* had done him, which Letter is among those of *Pietro delle Vigne*, and in *Sigonius*, in these Words; *Gregorius IX. Sub ea occasione quod nos in termino nobis dato, infirmitate gravati, transire nequimus ultra mare, contra justitiam primitus excommunicationi subjevit.* Whence 'tis evident, that *Gregory* was the first that excommunicated *Frederick*, and that what *Villani*, and others have written, as if he had before been excommunicated by *Honorius*, contrary to what *Riccardo* relates, is an idle Story. He also wrote to the Cardinals, complaining heavily that no Credit was given to what his Ambassadors said. He also wrote to all the Princes of *Germany*, and sent Letters to all the Kings and Princes of *Europe*, complaining of his being excommunicated, and excusing the Faults laid to his Charge, by giving an Account of the Reasons why the Pope had excommunicated him, and of the

<sup>1</sup> Ric. S. Germ.

<sup>2</sup> Idem, Et ipse tunc etiam Imperator, sicut

disposuerat, superveniente ægritudine, non transivit.

<sup>3</sup> Idem.



Causes of his delaying to go to *Palestine*, and blaming all the Prelates and Ministers of the Church, and more especially the *Romans*, for not opposing such a Sentence. He likewise order'd all the Justices of *Sicily* and *Puglia*, to oblige the Priests and Monks of their Provinces to say Mass, and not to allow them to go out of the Kingdom, nor to travel from one Place to another without a Licence from them; all which Letters were written by *Pietro delle Vigne* his Secretary, and, as we have said, a Man of great Wisdom and Learning, and much belov'd by the Emperor, as may be seen in the Book of his Letters.

AFTERWARDS he call'd a general Meeting of all the Barons of the Kingdom in *Capua*, wherein he oblig'd them to pay a Tax of eight Ounces of Gold for each Fief they held, and for every eight Fiefs, to furnish a Soldier, in order to make up an Army against the Month of *May* following, when he design'd to go to the Holy Land without fail. For the same End, he order'd another Assembly to be conven'd in *Ravenna* in the Month of *March*, whither he summon'd all the Cities and Lords of *Italy*; and from thence he sent *Roffredo Epifanio da Benevento*, a famous Lawyer of these Times, to *Rome*, with his Vindication, which *Roffredo* caus'd to be publickly read in the Capitol, with the Consent of the Senate and People of *Rome*.

IN the beginning of the following Year 1228, *Frederick* assembled in *Puglia* all the Prelates and Barons that were resolv'd to accompany him to *Palestine*, and celebrated *Easter* with great Pomp and Mirth in *Barletta*, where he had got the News, that *Tommaso d'Aquino* Count of *Acerra*, his Marshal in *Palestine*, had defeated and slain in Battle *Conradin* Soldan of *Damascus*, and upon the Count's returning to the Kingdom, *Frederick* sent *Riccardo di Principato* to the Holy Land, with a fresh Recruit of Five hundred Soldiers, who embark'd at *Brindisi* and arriv'd safely in that Country.

AT this very time *Gregory*, after he had celebrated the Feast of *Easter* in the *Lateran*, went to *St. Peter's* Church to renew the Censures against *Frederick*; but the *Frangipani*, and others of *Frederick's* Faction in *Rome*, while the Pope was about it, stirr'd up the People to mutiny, and rebel against him, and after having insulted him with opprobrious Language, they drove him out of the City, and forc'd him to fly to *Perugia* for shelter, where he remain'd for some time.

IN the mean time *Frederick*, after he had collected a vast Sum of Money for his Expedition, from the Churches and Ecclesiastical Persons, notwithstanding the Pope had, by his Letters, order'd them not to pay any; set out for *Barletta*, where he design'd to hold a general Meeting; and when he came to *Andria*, the Empress was brought to Bed of a Son, who was nam'd *Conrade*, and was more belov'd by his Father than any of his other Children; but *Jole* never recover'd of the Hardships she suffer'd in this Birth, and died soon after<sup>1</sup>.

THE Death of this Empress is describ'd by *Villani*, and other modern Authors his Followers, with so many Fables and Stories, that they deserve no Credit; for *Riccardo*, the faithful Chronologer of these Times, says nothing of it, but that the Empress died of Child-birth; and *Corio*, in his History of *Milan*, *Sigonius*, and the Monk of *St. Giustina*, say the same; and no Author, that with due attention has written the Transactions of these Times, makes mention that she died in Prison of Blows she had receiv'd from the Emperor, according to *Villani*; and certainly these Authors, who have not pass'd over in Silence the other Misdeeds of this Prince, would likewise have recorded this, if it had been true; besides, 'tis next to impossible, that he should have had such a Love for the Son *Conrade*, as will be seen in the Course of this History, if he had so hated the Mother, as to be the Occasion of her Death.

AFTER the Death of *Jole*, *Frederick* held his Parliament at *Barletta*, and being bent on the Expedition to the Holy Land, before he set out, resolv'd to provide for his Kingdoms in case he should die; whereupon, in Presence of the Prelates and great Men of the Kingdom, and an infinite Number of others, he caus'd the following Articles drawn up by himself, by way of last Will, as recorded by *Riccardo*, to be read with a loud Voice. First, it was his Will, that all his Subjects, Prelates and Barons, and their Vassals, should live in the same Peace and Tranquility which they enjoy'd in the Time of the good King *William II.* therefore he left as

<sup>1</sup> Ric. S. Germ.

his Vicar and Guardian of the Kingdom, *Rinaldo Duke of Spoleto*. Secondly, if he should happen to die in the War, which he was going to make in *Palestine*, his eldest Son *Henry* should succeed him in the Empire and the Kingdom, and if *Henry* should die without Issue, his second Son *Conrade* should succeed him, and if he should likewise die without Children, his own other Children born of lawful Wedlock, should succeed, causing *Rinaldo Duke of Spoleto*, *Errico Morra*, and others of the most considerable Men present to swear, That, if he should die, and make no other Will, they should see what he had thus ordain'd, punctually put in Execution. Thirdly, That no Person in the Kingdom should be oblig'd, either by way of Tax, or Collection, to pay any thing, except for the Good of the Kingdom, or on some emergent Occasion.

AFTER these Articles had been thus read, and in *Frederick's* Name sworn to by the Duke of *Spoleto*, and *Errico Morra* his Lord Chief Justice, &c. according to *Bzovius*, and the Abbot of *Usparg*, on the Eleventh Day of *August*, he set sail from *Brindisi* with Twenty Gallies, and having before order'd all the transport Ships to rendezvous at *St. Andrea dell' Isola*, he join'd them there, and touching at *Otranto*, from thence in a short Time he arriv'd in *Palestine*, and prepar'd himself for noble Undertakings.

GEORGE IX. who was still in *Perugia*, hearing of the Emperor's Departure, without being first absolv'd by him from the Censures, as he pretended, in great Indignation wrote to the Patriarch of *Jerusalem*, and to the Master of the Holy Sepulchre, strictly charging them to beware of *Frederick*, and give him no Assistance, for he had gone away under the Sentence of Excommunication, and might be of great Detriment to them; besides in *Italy* the Pope stirr'd up the People of the *Milanese*, Enemies of *Frederick*, to enter into a Confederacy with himself against him, and divided *Italy* into Factions, whence the Number of *Guelfs* increas'd; and in the mean time he resolv'd upon a new Expedition into the Kingdom of *Puglia*, with a Design to rob this Prince of it, at the same time that he was at a Distance, and intent on the Expedition of the Holy Land.

ON the other hand *Rinaldo Duke of Spoleto*, as *Frederick's* Vicar of the Kingdom, in order to put a Stop to the Pope's Designs, and to involve him in a War in his own Dominions, invaded *la Marca*, and his Brother *Bertoldo*, assaulted the Territories of *Norcia*, and demolish'd the Castle of *Brusca*, which had stood out against him, and deliver'd up the Inhabitants to the Mercy of the *Saracens* he had brought with him from *Puglia*, who put them all to a cruel Death.

THESE Things being told the Pope, and that the Duke in a hostile Manner, had enter'd the State of the Church, where he had done great Damage, he admonish'd him to be gone, and leave his Subjects in Peace; but the Duke had no regard for that Order, and the Pope inrag'd, excommunicated him with all his Followers: And seeing the Censures stood him in no stead, with the Assistance of the People of the *Milanese*, and all the confederated Cities of *Lombardy*, call'd the *Militia of Christ*, he assembled a strong Army, gave the Command of it to *John of Brenna*, formerly King of *Jerusalem*, and *Frederick's* Enemy, and *Gio. Colonna*, the Cardinal Legate, and sent them against Duke *Rinaldo*.

† Ric. S. Germ.





## C H A P. VII.

*Pope Gregory IX's Expedition into Puglia.*

POPE Gregory finding, that these Forces were not sufficient to stop the Duke's Progress, who had already subjected *la Marca*, as far as *Macerata*, to the Dominion of the Emperor, resolv'd to make War in the Kingdom of *Puglia*, and to turn his Arms against these Provinces, that by putting them in Confusion, the Duke might be oblig'd to come to their Assistance, and leave his Dominions. Therefore, having assembled a new Army, he gave the Command of it to *Pandolfo d'Alagna* his Legate, *Ruggieri dell'Aquila* Count of *Fondi*, and *Tommaso* Count of *Celano*, Rebels and Enemies to *Frederick*.

ON the 18th Day of *January* this Year 1229, these Commanders with their Soldiers, who were call'd *Chiavesegnati*, by the way of *Cepparano*, enter'd *Terra di Lavoro*, and on a sudden attack'd and took the Castle of *Ponte Solarato*, which was then the Key of the Kingdom, and the first strong Hold on that side of the Borders of the State of the Church, and was commanded for the Emperor by *Adenolfo Balzano*. The Loss of this Castle struck such a Terror in *Bartolommeo di Supino* Lord of *S. Gio. in Carrico*, and *Roberto dell'Aquila* Lord of the Castle of *Pastena*, that without making the least Defence, they likewise yielded; from thence the Pope's Army cross'd the River *Teleso*, and march'd towards the County of *Fondi*.

IN the mean time *Errico Morra* Lord Chief Justice, upon the News of this War, forthwith assembled a good Body of Troops, and march'd to *St. Germano*, to dispute the further Passage of the Pope's Troops. But this Opposition was not sufficient to put a Stop to the Pope's Army, which over-run many Places of this Province, and took many Forts and Castles as far as *Gaeta*. Though many Places were daily submitting to the Pope's Legate, yet this City stood it out, and continued faithful to the Emperor, and prepar'd for a vigorous Defence, for which Cause the Cardinal *Pelagio* Bishop of *Albano*, the Pope's Legate, interdicted it. *Pontecorvo*, with all the other Towns belonging to *Monte Cassino*, the Castle of *Ervandro*, *Trajetto* and *Sugio*, yielded to the Legate, and at last the City of *Gaeta* was forc'd to surrender; and its Castle, which the Emperor, at a great deal of Charges, had caus'd to be built, was demolish'd and levell'd, and many of the Inhabitants, who were faithful to *Frederick*, rather than be subject to the Pope, chose to quit their Habitations; and the *Beneventans* hearing of the good Success of the Pope's Army, began the War on that Side, made an Inroad into *Puglia*, carried off the Oxen and other Cattle, and in their Return put the Count *Raone di Valvano*, who had come against them, to flight; for which Cause the Lord Chief Justice, with all the loyal Barons, march'd against the *Beneventans*, and laid waste and destroy'd many of their Farms on the Side of the Gate *Somma*, where the Castle is situated.

THE *Minors* Friars, and the Monks of *St. Benedict*, were busy in carrying the Pope's Letters and Messages to many Barons, Prelates, City Corporations and Castles, inviting them to rebel, and come over to the Pope, and falsely giving out that *Frederick* was dead, and would never return to *Puglia*<sup>1</sup>; which Report being

<sup>1</sup> Ric. S. Germ.

credited by many of these Cities, they rebell'd, and put to Death all the *Germans* that liv'd in them, and, according to the Abbot of *Uspberg*, all the other Cities would have done the same, if they had not been prevented by the Discovery of the Cheat, and that *Frederick* was soon to return to the Kingdom; for which Reason the Duke of *Spoletto* expell'd all the *Minors* Friars, and all the Monks of *Cassino* out of the Kingdom: some of them accordingly left it, others quitting the Habits of their Order, liv'd hiddenly as Laicks.

MEAN while King *John*, and the Cardinal *Colonna*, after diverse Skirmishes, had oblig'd the Duke of *Spoletto* to quit *la Marca*, and retire to *Abruzzo*, whither they follow'd him, and besieg'd him in the City of *Sulmona*. As soon as the Cardinal *Pelagio* heard of this Siege, he sent to desire King *John* to come and join him, that they might carry on the War more vigorously in *Terra di Lavoro*; whereupon King *John* rais'd the Siege of *Sulmona*, and by the Valley of *Sangro*, march'd into the County of *Molise*, and on his March took *Alfidena* and its Castle, he also took *Paterno* and other Places, and burnt the Castle of *Sangro*; and at the same time the Count of *Campagna* with a good Body of Horse and Foot, lately rais'd by the Pope for reinforcing his Army in *Puglia*, surpriz'd and took *Sora*, but the Imperialists kept Possession of the Castle; from thence he march'd, and with the same Ease took *Arpino*, *Fontana*, and the Valley of *Sora*, with all the Country of the *Marfi*; and on the other hand King *John* and the Cardinal *Colonna*, being join'd in *Terra di Lavoro*, and passing the River *Volturno*, join'd the Army of Cardinal *Pelagio* near *Telese*, and thus united, they march'd and incamp'd near *Cajazza*.

WHILE *Gregory* was thus harassing *Puglia*, *Frederick* was employing his Arms in the Conquest of the Holy Land; for soon after his Departure in the Month of *August*, he arriv'd at *Acone*, from thence he sail'd to *Cyprus*, and after sundry Expeditions, landed in *Palestine*, and join'd the Army of the *Crucesignati* at *Joppa* the 15th of *November*, and fortify'd that City, which had been dismantled; in which Work he spent all the Time of *Lent*, and was like to be forc'd to give it over, and go over Land to *Ptolemais*, for want of Provisions, because the Vessels appointed to bring them were hinder'd by tempestuous Seas; but fair Weather coming on, he had Necessaries in Plenty. After he had fortify'd *Joppa*, he march'd to *Ptolemais*, from thence to the Castle of *Cordana*, where he halted, and sent *Baglianus* Lord of *Tyre*, and the Count of *Lucerna* his Ambassadors to the Soldan of *Egypt*, who, with his Army, and his Brother, was incamp'd near *Neopolis*: After the Ambassadors had deliver'd to the Soldan some rich Presents from the Emperor, they deliver'd their Embassy thus; That *Frederick* was desirous to have him for a Brother and Friend, if he thought well of it, and that he was not come to *Palestine* to rob him of any of his Dominions, but only to recover the Kingdom of *Jerusalem* with Christ's Sepulchre, which had been already in the Possession of the Christians, and now by Right of *Jole* his Wife, who was his lawful Queen, belong'd to *Conrade* their Son. To whom the Soldan reply'd, That after he had consider'd of it, he would send his Ambassadors to the Emperor with his Answer; and after he had charg'd them with some suitable Presents, dismiss'd them. At this very nick of Time, the Letters, which Pope *Gregory* had sent by two *Minors* Friars to the Patriarch of *Jerusalem*, arriv'd, whereby he order'd him to declare *Frederick* excommunicated and perfidious, for not having gone to the Holy Land at the appointed Time, nor sufficiently provided for such an Expedition; and commanded the Knights *Hospitalers* and *Templars*, and the *Germans* not to obey him in any thing.

ALTHOUGH the Soldan knew very well that the Emperor was in Want of Provisions, and that by reason of the Discord betwixt him and the Pope, he had been newly excommunicated, and that he was but ill obey'd by the *Pilgrims* (under which Name the Soldiers, who constantly serv'd in the Wars in *Palestine*, went) yet, being much afraid of the Bravery of the Christian Army, he sent Ambassadors with fair Words, many Elephants, Camels, and *Arabian* Horses, and other rich Presents, without coming to any Agreement, but only told the Emperor, That if he would send anew some of his Barons, he would not fail to conclude an Agreement upon just and reasonable Terms; whereupon the Emperor sent some of the chief Men of his Court, who, being arriv'd at *Neapolis*, found that the Soldan was gone from thence, and had left Orders for them to follow him to *Gaza*, which they would not do, but return'd to the Emperor. *Frederick* finding himself thus deluded by the barbarous Cunning of the Soldan, who had given him fair Words, in order

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to spin out the Business, conven'd the chief Men of the Cities, the Pilgrims, and Soldiers in *Ptolemais*, and told them, that in order to be nearer *Jerusalem*, he was resolv'd to attack *Sappho*, whither they might likewise come. To which the Masters of the *Hospitalers* and *Templars*, in Name of all the rest, answer'd, That notwithstanding they had been forbid by the Pope, whom they were oblig'd to obey, to have any Commerce with him, or assist him, nevertheless for the Good of the Holy Land and Christianity, they were ready to join with him in that Undertaking ; but they would have the Watch-word, and the Orders for the Army to be given in *Nomine Dei, & Reipublicæ Christianæ*, without making the least mention of the Emperor ; this so provok'd *Frederick*, that by no means he would consent to it, but left them, and march'd forward to the River *Monder*, which runs betwixt *Cæsarea* and *Artus* ; whereupon the Knights *Hospitalers* and *Templars*, and the Pilgrims, consulting what they had best do for the publick Good, and afraid that the Emperor might be over-power'd by the Soldan, who had assembled a prodigious Army, began to follow *Frederick* at some Distance, and incamp always in Sight of him, that if they should see Occasion, they might be at hand to assist him ; but the Emperor, sensible of the Danger he run by this Division, out of cruel Necessity, was forc'd to yield, and allow, that all Orders whatsoever, should be given in *Nomine Dei, & Reipublicæ Christianæ*, without taking notice of him ; so that he join'd them at a ruinous Castle, while they were about repairing it.

AT this very Time, being the middle of Winter, *Frederick* had the News brought him by a light Vessel, that the Pope's Army had over-run the Kingdom of *Puglia*, and taken Possession of many Places thereof, and that the rest were also in danger of being lost.

THIS unlucky News put the Affairs of *Palestine* into the utmost Confusion ; for *Frederick* was immediately for clapping up a Peace with the Soldan, that he might return to *Italy* for the Relief of his own Dominions ; whence *Riccardo da S. Germano* justly writes : *Vere simile enim videtur, quod si tunc Imperator cum gratia, & pace Romanæ Ecclesiæ transisset, longe melius & efficacius prosperatum fuisset negotium Terræ Sanctæ, sed quanta in ipsa sua peregrinatione adversa pertulerit ab Ecclesia, cum non solum ipsum Dominus Papa excommunicaverit, verum etiam quod ipsum excommunicatum scirent, & tanquam excommunicatum vitarent eundem Patriarcho Ierosolimitano mandavit.* And the Abbot of *Usparg* <sup>1</sup> could not forbear crying out against such doings : *Quis talia facta recte considerans non deploret, & detestetur, quæ indicium videntur, & quoddam portentum & prodigium ruentis Ecclesiæ !*

ALTHOUGH the Peace with the Soldan was made at a critical Time, yet it was as advantageous as could be expected for *Frederick* ; these are the Articles, That there should be a Truce for Ten Years, by virtue of which the Soldan restor'd the City of *Jerusalem*, with all its Territories, to the Emperor ; that Christ's Sepulchre should be kept by the *Saracens*, because they had been long in use to pray there, nevertheless the Christians should have free Access to go and perform their Devotions there ; the Cities of *Bethlehem* and *Nazareth*, and all the Towns on the High-way to *Jerusalem*, with the Cities of *Tyre* and *Sidon*, and some other Castles formerly possess'd by the Knights *Templars*, were likewise restor'd to the Emperor, with liberty to fortify *Jerusalem* with Walls and Towers as he should think fit ; as also to fortify the Castles of *Joppa*, *Cæsarea*, *Monteforte* and *New Castle*. That every thing should be restor'd to *Frederick* that had been possess'd by *Baldwin IV.* and had been taken from him by *Saladin* ; and that all Prisoners should be set at Liberty without any Ransom.

THUS did *Frederick* conclude this Peace, for which some have blam'd and condemn'd him, because he left Christ's Sepulchre, the first Ground of the War, in the Hands of the *Saracens* : There are likewise some modern Authors that treat him very scurvily, calling him Coward and Silly, and say, That he suffer'd a Thousand Indignities from the Soldan and his Soldiers. But the Chronicle of *Riccardo da S. Germano*, a Cotemporary Writer, clearly evinceth all these to be nothing but Forgeries and Calumnies : Neither ought we to give Credit to our *Italian* Writers, nor to the Letters of the Patriarch of *Jerusalem*, because they were for the most part *Guelfs* and Partisans of the Pope. And the same *Riccardo* shews us the Necessity *Frederick* was under to leave the keeping of Christ's Sepulchre

<sup>1</sup> Abb. Usp. anno 1228.

to the *Saracens*, *Quia*, speaking of the *Saracens*, *diu consueverant orare ibidem, & ut liberum introitum, & exitum habeant illuc accedentes orationis causa*: But it was likewise stipulated, that the Christians should have the same Liberty, & *Christianis similiter orationis causa sit expositum*; whence we may see how impudent a Lyar and Flatterer *Bossius* is<sup>1</sup>, who in his History of the Knights of *Malta*, says, That the Christians were not allow'd to enter the Sepulchre. And to charge *Frederick* with Cowardize and Silliness, is repugnant to all History, for he was a great and gallant Prince, of a high Spirit, which his many noble Exploits clearly testify; neither is it likely, but rather impossible that he would have born with those Affronts and Abuses of the effeminate *Egyptians*, and despicable *Arabians*, which he could neither bear of the *Lombards*, *Germans*, nor any other brave Nations, over whom he gain'd many Victories.

NOW that the Peace was settled, *Frederick* resolv'd to return to the Relief of his Dominions of *Italy* and *Puglia*, but before he would leave *Palestine*, he had a Mind to take Possession of the Crown and Kingdom of *Jerusalem*; therefore he order'd *Hermanus Saltza* to write to the Patriarch of *Jerusalem* to come and accompany him to that City, in order to crown him there; but the Patriarch, who was a Partisan of the Pope, answer'd, That he could not do it, till he had first seen the Articles of the Peace concluded betwixt the Emperor and the Soldan. *Hermanus* immediately sent them to him by a *Dominican Monk*. When the Patriarch saw the Articles, he refus'd to come, saying, that he could not trust himself in the Hands of these Barbarians, seeing the Clergy were not mentioned in the Treaty, neither had the Soldan of *Damascus*, to whom that Kingdom of Right belong'd, sworn to it, and therefore the Peace was neither safe, nor could it be durable. And under pretence that the Temple, and the Sepulchre of Christ were in the keeping of the *Saracens*, to prevent *Frederick's* being crown'd there, he sent the Archbishop of *Casarea* as his Legate, who by his Order interdicted the Holy City of *Jerusalem*, and the very Sepulchre of Christ, forbidding the Celebration of Divine Offices there; so that instead of a Blessing on this Expedition, *Frederick* got a Curse, as *Riccardo* expresseth it; *Primitas recuperationis ipsius, non benedictione, sed anathemate profectus*; but the Emperor little minding the Interdiction, on the 17th of *March* made his Entry into *Jerusalem*, and the next Morning, with suitable Pomp, accompanied by the Great Master *Hermanus*, and all his Courtiers, went to the Church of the Sepulchre, and after he had pray'd for a long Time, and given Thanks to God, finding, that because of the Interdiction, none would venture to celebrate Mass, nor any other proper Office, nor would even the *German* Prelates be present, though he had invited them, but said, they had no mind to be excommunicated by the Pope; with his own Hands he took the Crown from the Altar, and crown'd himself; and the Great Master of the *Teutonicks* made a long Oration in Praise of *Frederick*, enlarging, that it was by his Conduct and Valour that the Kingdom and City of *Jerusalem* had been restor'd to the Christians<sup>2</sup>; and after his Coronation, *Frederick* gave Orders to fortify *Jerusalem*, and repair the Walls, which had been thrown down by *Conradin* Soldan of *Damascus*; and forthwith upon the News of *Puglia's* being invaded by the Pope, he set forward and came to *Sappho* and *Prolemais*, where he appointed Two Governors to command the Places that had been conquer'd; and made the Great Master of the *Teutonicks* Commander of the *Germans* that were to return with him to *Puglia*, and after having suffer'd and surmounted many Acts of Hostility done by the Patriarch of *Jerusalem* and the Masters of the *Hospitalers* and *Templars*, at last, after a prosperous Voyage, he arriv'd at *Brindisi*.

*FREDERICK* was no sooner landed at *Brindisi*, than he sent the Archbishops of *Reggio* and *Bari*, with the Great Master *Hermanus*, his Ambassadors to Pope *Gregory*, who went first to *Cajazza*, which was then besieg'd by the Cardinals of *S. Praxides* and *Albano*, from whom they got Letters to the Pope, and from thence went to *Rome*; and after they had given his Holiness an Account of what had pass'd in *Palestine*, they besought him in the Name of the Emperor, that he would be pleas'd to absolve him from the Excommunication, and be at Peace with him.

<sup>1</sup> Boss. lib. 16.

<sup>2</sup> Bzovius Hist. Rel. Rod.

BUT

BUT the Patriarch of *Jerusalem* having written to the Pope, that the Treaty which the Emperor had made with the Soldan, was prejudicial to the Christians, *Gregory* was so inrag'd, that he would condescend to nothing the Ambassadors desir'd of him; for which Cause the Great Master remain'd in *Rome*, and the two Archbishops return'd to *Puglia*.

IN the mean while, by the Means of *Adinolfo* and *Filippo d'Aquino*, the Castles of *Atino* and *Celio* surrender'd to the Emperor, who with his Army of *Crucesignati*, march'd to *Terra di Lavoro* against King *John* and the Cardinal Legates, who were besieging *Cujazza* with the Army of *Clavesignati*; *Frederick's* Approach struck such a Terror in the Besiegers, that they rais'd the Siege, burnt the Machines, and in great haste retired to *Teano*, from whence Cardinal *Colonna* went to *Rome* to seek Money from the Pope to pay the Army.

*RICCARDO* likewise writes, that Cardinal *Pelagio* not having wherewithal to subsist the Army, took all the Treasure and costly Furniture of Gold and Silver that were in *Monte Cassino*, to make Money of them, and resolv'd to serve the Church of *S. Germano* the same Way, had not the Clergy of that Church compounded for a certain Sum: In the mean Time the Emperor return'd from *Naples* to *Capua*, and from thence march'd to *Calvi*, which he took by Storm, and caus'd many of the Pope's Soldiers, who defended it, to be hang'd; and though King *John* endeavour'd to interrupt his March, yet he advanc'd by the Way of *Riardo* to *S. Maria della Ferrata*, where he halted three Days, during which Time *Vairano*, *Alife*, *Venafro*, and all the Territories belonging to the Sons of *Pandolfo* submitted to him; this prosperous Success so dishearten'd King *John* and Cardinal *Pelagio*, that in all haste they march'd to *Mignano*, and from thence to *S. Germano*; but finding that the Emperor was pursuing them close at the Heels, they presently disbanded the Pope's Army, and made what haste they could to *Campagna di Romagna*, and King *John* with all the Prelates of the Pope's Faction retir'd to *Rome*.

MEAN while the Emperor with his Army enter'd the Lands of the Monastery of *Monte Cassino*, took, and deliver'd up to be plunder'd by the Soldiers, the Town of *Piedmonte*, and gave its Castle to the Lords of *Aquino*. Then he made an Attempt upon *Monte Cassino*, but was repuls'd; and while he was there, by the Means of *Taddeo di Sessa*, Judge of his High Court, the City of *Sessa* submitted to him. *Presenzano*, the Castle of *Ervandro*, *Isernia*, *Arpino*, and *Fontana*, with all the other Towns belonging to *S. Benedict*, likewise submitted; and at last *S. Germano* with its Castle also yielded. *Frederick*, being now resolv'd to settle his other Affairs of *Italy*, and to treat of a Peace with the Pope, caus'd all the Magistrates and Corporations of the Cities of *Lombardy* to be conven'd; and by a Letter written from *S. Germano*, notified to them his Return to *Puglia*, and his Victories in that Kingdom, which Letter is recorded by *Riccardo*, and among others contains these Words: *Nos de Ultramarinis partibus prospere per Dei gratiam redeuntes, de inimicis nostris, qui Regnum nostrum invaserant feliciter triumphavimus, dum audientes nos contra eos in manu valida, et potenti venturos, non expectatis, aut expertis viribus nostris, in Campaniae finibus, fugæ sibi præsidium elegerunt. Sicque Domino cooperante, et nos comitante Justitia, qui de Cælo prospexit, quod ipse in Regno nostro, nobis absentibus, per annū dimidium occupaverant, nos brevi dierum spatio recuperavimus, et revocavimus ad Germanium, et dominum nostrum.*

THE City of *Teano* was the next that surrender'd, upon Condition, that its Bishop should have it in his Choice either to depart, or remain in the City. From *S. Germano* the Emperor sent Two hundred Soldiers into the Country of the *Marfi*, commanded by *Bertoldo* Brother of the Duke of *Spoleto*, who easily subdu'd all that Country; and after *Frederick* had halted seven Days in *S. Germano*, he march'd to *Aquino*, from whence he wrote to all the Princes of *Christendom*, to clear himself from the bad Opinion which had been conceiv'd and propagated concerning the Treaty made with the Soldan, and gave them an Account of the Affairs of the Holy Land; and that what the Patriarch of *Jerusalem* had represented was not true Matter of Fact, taking the Bishop of *Winchester*, the Great Masters of the Knights *Hospitallers* and *Teutonicks*, and many other Knights of these Orders, and also the Preaching Friars, who were present at the Treaty, to witness the contrary. Some Ambassadors from the Senate and People of *Rome* came to *Aquino* to wait upon the Emperor,

<sup>a</sup> Ric. S. Germ.



and congratulate him upon his safe Return, and to treat about other Affairs, and at the End of three Days they return'd to *Rome*. After he had added some new Works to the Fortifications of *S. Germano*, he left *Aquino*, and march'd to besiege *Sora*, which, because it made a shew of Resistance, he took by Storm, burnt it, and kill'd and ruin'd the Citizens.

*HERMANNUS SALTSA*, who had remain'd in *Rome* to treat of a Peace with the Pope, went from thence, accompanied by *Giovanni* Cardinal of *S. Sabina*, and *Tommaso* Cardinal of *Capua*, the Pope's Legates, to wait on the Emperor in *Aquino*, whither he had return'd from *Sora* the fourth Day of *November*, and after they had had an Audience of him, the same very Evening they went to *Monte Cassino*, and perswaded Cardinal *Pelagio* to retire from that Place with his Men. And the Bishops were allow'd to return to their Sees without any Molestation. *Frederick* likewise restor'd all the Places taken from the Abbot *Adenolfo*, and put them under the Command of the Great Master *Hermannus*, till the Peace should be settled with the Pope; and *Hermannus* being oblig'd to return to *Perugia* with Cardinal *Pelagio* to settle some Articles of the Peace, he substituted in his Place *Fra. Lionardo* a *Teutonic* Knight, till he should return. And *Frederick* having gone to *Capua*, where he kept his *Christmas*, set many of the Citizens of *Sora*, that had been made Prisoners after the taking of that City, at Liberty.

IN this prosperous Situation were *Frederick's* Affairs at the Close of the Year 1229. In the Month of *January* 1230. he order'd the said *Fra. Lionardo*, Deputy-Governor of *Monte Cassino*, to pick out some of the best Soldiers that he could light on, in order to garrison the Monastery, and made him swear to guard it with all the Effects and Monks within it, and not to deliver them to any Person but the Great Master *Hermannus*. After the Archbishop of *Reggio*, the Great Master of the *Teutonic* Order, and Cardinal *Pelagio* had made several Journeys to and again, betwixt *Rome* and *Puglia*, about the Treaty of Peace, at last they met in a Congress held in *S. Germano*, where were likewise present the Patriarch of *Aquileja*, the foresaid two Legates, *Giovanni* Cardinal of *S. Sabina*, *Tommaso* Cardinal of *Capua*, *Bernard* Archbishop of *Saltzburg*, *Sifridus* Bishop of *Ratisbone*, *Leopold* Duke of *Austria* and *Stiria*, *Bernard* Duke of *Moravia*, and *Fra. Lionardo* Knight of the *Teutonic* Order; and after various Speeches the Treaty was begun, and in a short Time was concluded betwixt the Emperor and the Pope, as shall be told. And in the mean Time some Cities of *Puglia*, which in the late Troubles had revolted, submitted to the Emperor, such as *Civitate*, *Larino*, *S. Severo*, *Casalnuovo*, and *Foggia*. We ought not to give Credit to the Author of a small Treatise intitled *Itinerario dell' Imperador Federico*, for it begins with an impudent Lye, and is full of fabulous Stories and Dreams; for *Frederick* was not three Years, but only three Months in the Holy Land; he did not besiege *Jerusalem*, because the Soldan soon deliver'd it up; he did not touch at any Port of *Sicily* as he return'd, but landed at *Brindisi*, which did not want Relief, because it was not besieg'd, neither had he Occasion to hire *Saracens* in the Island of *Zerby*, while he could have had plenty in *Sicily* and *Puglia*.

WHILE the Emperor was keeping his *Easter* in *Foggia*, on *Holy Thursday* *Gregory* excommunicated *Rinaldo* Duke of *Spoletto*, and his Brother *Bertoldo*, for having invaded *La Marca*, and other Places belonging to the Church.

ALL the Prelates, Dukes and others, who after the Congress in *S. Germano* had gone to *Rome*, return'd from thence with the Cardinal Legates, in order to absolve the Emperor from the Excommunication, and the Legates desir'd the Great Master of the *Teutonic* Order to acquaint the Emperor to come to *Capua*, where they with all the Prelates that had fled the Kingdom for fear of him, were to wait on him; but when they were inform'd, that he had caus'd the Walls of *Foggia*, *S. Severino*, and *Casalnuovo* to be demolish'd, and that he was on his Way from *Puglia* to *Capua*, with Design to have *Gaeta* and *S. Agata* secur'd to him by the Articles of Peace, and that they should not continue subject to the Church as the Pope claim'd, they made all the Bishops of the Kingdom return to *Cepparano*, and they themselves, with the Abbot *Adenolfo* went to *Capua*, where *Frederick* arriv'd the 30th of *May*, with whom the Cardinals had an Interview; but when they could not agree about the Article concerning *Gaeta* and *S. Agata*, they went to *Sessa*, and after treating with the *Gaetans*, they brought over *Pietro delle Vigne*, and *Filippo di Citro* Constable of *Capua*; but new Difficulties still arising, the Peace could not be agreed upon, therefore the Archbishop of *Reggio*, and the Great Master of the *Teutonic* Order, were

were oblig'd to make several Journeys betwixt *Rome* and *Capua*; till at last, by the Means of *Fra. Qualdo*, of the Order of Preaching Friars, the Pope coming to the Monastery of *Grotta Ferrata*, and the Emperor to *S. Germano*, to be near one another, the Peace was concluded to the great Joy of every Body, and was publish'd with universal Acclamations and Rejoycings at *S. Germano* and all the neighbouring Places; and, to crown the Work, on the 9th Day of *July*, the Cardinal Legates, the Patriarch of *Aquileja*, the Archbishop of *Salzburg*, the Bishops of *Ratisbone* and *Reggio*, the Dukes of *Carinthia* and *Moravia*, the Archbishops of *Palermo*, of *Reggio* in *Calabria*, and of *Bari*, the Abbot of *Monte Cassino*, and many other Prelates that had fled to *Rome*, *Rinaldo* Duke of *Spoletto*, *Tommaso d' Aquino* Count of *Serra*, *Etrico di Morra* Lord Chief Justice, and a great Number of Barons and Ministers of the Empire, met in the great Church of *S. Germano*, in Presence of whom the Emperor promis'd to satisfy the Holy Roman Church in all the Points for which he had been excommunicated, and made *Tommaso* Count of *Cerra*, and all these *German* Prelates and Lords, who drew up the Instrument and Articles of Agreement, as they are recorded by *Riccardo* in his Chronicle, to swear to his Performance; the chief Articles follow.

I. T H A T within the Space of a Year common Umpires shall be chosen to agree on the Form and Manner of restoring *Gaeta* and *S. Agata* to the Emperor, and securing the Inhabitants of the Kingdom; and that in the mean Time the Emperor shall not molest the Cities he had lost, nor suffer them to be molested by his Officers.

II. That the Emperor shall pardon all the *Germans*, *Lombards*, and *Tuscans*, and generally all the *Sicilians* and *French*, who have sided with the Church of *Rome* against him, and shall not suffer them to be molested on that account.

III. The said Emperor shall repeal all Decrees, Constitutions, and Proclamations publish'd against them on account of the late War.

IV. T H E Emperor likewise promises, that the Lands of the Church in the Dukedom of *Spoletto*, *La Marca*, and other Places of her Patrimony, shall not be invaded, or laid waste by him or his.

T H E said *German* Princes promise to be Guarantees of the above Articles agreed upon.

T H E N the Archbishop of *Salzburg* made a long Speech on the Emperor's good Inclinations towards the Church of *Rome*, and apologiz'd for the by-past Misunderstanding; and the Cardinal of *S. Sabina* made an eloquent Speech in answer to him: And the same Day the Cardinal Legates, in the Name of the Pope, made the Emperor swear to restore all that he had taken, or caus'd to be taken in *La Marca*, and the Dukedom of *Spoletto*, or in any other Part of the Patrimony of the Church, and all the Territories and Castles of Monasteries or Abbies, and particularly of the Monastery of *S. Ciricus d' Introducco*, and all the Possessions of the Knights Templars, and Hospitalers, and of all Barons or other Noblemen of the Kingdom whatsoever, who have been Adherents and Partisans of the Pope, and to restore to their Sees the Archbishop of *Taranto*, and all the other Bishops and Prelates that had been banish'd the Kingdom. And besides made him swear; *Ut de cætero nullus Clericus in civili, vel in criminali causa conveniatur, & quod nullus talleas, vel collectas imponat Ecclesiis, Monasteriis, Clericis, & viris Ecclesiasticis, seu rebus eorum; & quod Electiones, postulationes, & confirmationes Ecclesiarum, ac Monasteriorum libere fiant in Regno secundum statuta Concilii Generalis* <sup>1</sup>.

T H E N, by Order of the Pope, Friar *Gualdo* took off the Interdiction under which Cardinal *Pelagio* had put the Churches of *S. Germano*, and other Places belonging to the Monastery of *Monte Cassino*, and allow'd them to celebrate the Divine Offices, but excluded from hearing them, the Duke of *Spoletto* and all those that with him had made War in *Marca*. And in pursuance of the Treaty, the Emperor soon after restor'd *Trajetta* and *Suggio*, with the County of *Fondi* to *Ruggieri dell' Aquila*, and Castle *Fanola*, to *Adenolfo* Abbot of *Monte Cassino*, on Condition however, that the said Castle should be kept by *Rinaldo Belenguino di Santa Elia*, till the Emperor should be absolv'd from the Censures. *Frederick* having gone to the Castle of *Arce*, caus'd the Lords of *Aquino*, who had the Charge of *Ponte Corvo*, *Piedmonte*, and *Castel Nuovo*, to restore them to the Abbot *Adenolfo*; and from thence, with a good Body of Troops, he march'd to *Cepparano*, where, on the Feast of *S. Augustine* in

<sup>1</sup> Ric. S. Germ.

the Month of *August* in the Chapel of *S. Giusta*, he was absolv'd from the Excommunication by the Cardinal of *Capua* Bishop of *Sabina*, and on the last Day of the said Month went to meet with *Gregory* in *Alagna*, having sent at the same Time Letters over all the Kingdom concerning the Immunity of Churches, Monasteries, and Ecclesiastical Persons, and their Goods and Possessions, ordering the Counts, Barons, Justices, Chamberlains, and Bailiffs of the Kingdom of *Sicily*, *ne ullus Monasteriis, Ecclesiis, Personis Ecclesiasticis, aut rebus eorum talleas, vel collectas præsumat imponere, salvo illis servitiis, ad quæ certæ Ecclesiæ, vel personæ tenentur nobis specialiter obligatæ*, according to his Diploma transcrib'd by *Riccardo* in his Chronicle.

*FREDERICK* incamp'd without the Walls of *Alagna*, and the first Day of *September* made his Entry into it, where he was met and receiv'd with all Marks of Honour by the Cardinals, and all the other Prelates and Ministers of the Pope, and was invited to eat with him, and for three Days running they continued together conversing on their weighty Affairs, in Presence only of the Great Master of the *Teutonic* Order. And after reciprocal Marks of Kindness, he took leave of *Gregory*, and return'd to the Camp; and while he was there, he gave to *Giovanni di Poli* the County of *Albi* in exchange for the County of *Fondi*, and restor'd it to *Ruggieri dell' Aquila*; and at the Emperor's Desire the Pope absolv'd the Abbot of *S. Vincenzo*, and the Prelates that had been excommunicated for adhering to the Emperor. And in the mean Time the Bishops of *Tiano*, *Alife*, and *Venafro*, and all the other Prelates that had fled the Kingdom, return'd to their Sees, and the Prelates, and Princes of *Germany* to their own Country. *Bzovius* in his Annals adds, that some German Authors write, that the Emperor, in order to be Friends with the Pope, paid him a Hundred and Twenty thousand Ounces of Gold for the Losses he had sustain'd by the War. *Girolamo dalla Corte*, in his History of *Verona*, says, there were only Twelve thousand Ducats paid; but *Riccardo*, who gives a particular Account of these Transactions, makes not the least mention of any Sum paid.

THIS Peace being thus concluded, the Emperor decamp'd from *Alagna*, and march'd back to *S. Germano*, and from thence, by the Way of *Capua*, march'd into *Puglia*, and halted in *Melpis*; and being disingag'd from this War, and the Kingdom in Peace, he resolv'd the Year following 1231. to put it upon a better Footing, and with new Laws to settle Peace and Tranquillity, and repair the by-past Losses.



## C H A P. VIII.

### *Of the Constitutions of the Kingdom.*



OUR Professors, being ill versed in History, have treated no part of the Laws of our Country so confusedly and carelessly, as that concerning the Body of our Constitutions. There is no-body but knows, that the Emperor *Frederick* committed the Work to *Pietro delle Vigne*, and that he did it by his Command; but how, and when it was publish'd, of what Constitutions, and of what Princes it consists, and of what Authority it was with us, and how the Laws contain'd in it have been explain'd and commented on by our Writers, they are profoundly silent. Therefore many have confounded the Constitutions, and attributed those of one Prince to another, as has been observ'd in the preceding Books of this History, where many of *Roger's* Laws have

have been ascrib'd either to the two *Williams* or *Frederick*; and, on the contrary, many Constitutions of that Emperor have been father'd upon *Roger*. Many through Ignorance of the Scope and Design of them, and of the Customs of these Times, have put strange Constructions upon them, and others have reckon'd some of them Impious and Sacrilegious.

*FREDERICK* then, a most prudent Prince, who would imitate the wisest Kings of the Earth, both in Arms and Laws, having this Year 1231. made Peace with Pope *Gregory*, and quieted his Kingdoms of *Sicily* and *Puglia*, turn'd his Thoughts to the Laws, in order to settle a more durable and lasting Tranquillity among his Subjects. Not that he publish'd all the Constitutions this Year, which we read in this Volume, divided into Three Books. The Collection was made this Year, but the Laws were made, some before, and some after this; for many other Constitutions were added afterwards, whence they bear this Inscription, *nova Constitutio*. He would have the Constitutions of the Kings of *Sicily* his Predecessors inserted in this Code, among these he picked out many of King *Roger I.* his Grandfather; some of *William I.* his Uncle, and a few of *William II.* his Cousin-German, of which we have treated at large in the preceding Books. He had no Regard for what had been made by *Tancred* and *William III.* whom he did not look upon to have been lawful Kings, but Usurpers, as we have observ'd elsewhere. Besides the Constitutions of these Princes his Predecessors, he would have his own, publish'd at different Times, on various Occasions, and in sundry Cities of his Kingdoms of *Sicily* and *Puglia*, to be inserted, and he abrogated and repealed the antient Laws and Customs that any ways clash'd with these Constitutions, and ordain'd that these alone should be observ'd, and have all Force and Authority in the Kingdom of *Sicily*, which he calls *Hereditas pretiosa*<sup>1</sup>. And it must be observ'd, that by the Kingdom of *Sicily*, he means not only that Island, but likewise our Kingdom, which was sometimes call'd *Puglia*, and sometimes *Sicily* on this Side the *Phare*, and at last was call'd the Kingdom of *Naples*; so that they are widely mistaken, who reckon the said Constitutions to have been made for the Island of *Sicily* only; neither is *Ramondetta* to be pardon'd, for writing, that these Laws were not made for the People of that Island, but for those of the Kingdom of *Naples* only; which is so manifest an Error, that there is not one Constitution but what proves it to be such.

*FREDERICK* had establish'd many Constitutions for the Government of these Realms before this Year 1231<sup>2</sup>; and from the very Beginning of his Reign, after the Guardianship of *Innocent III.* in several Parliaments held in *Puglia*, and other Parts of the Kingdom, he began to enact Laws. Besides these Laws which he made in *Rome* after his Coronation by *Honorius*, whereof we have spoken in the preceding Book, and which have no relation to ours, after his Coronation, when he came from *Rome* to *Capua* in the Year 1220. he held a general Parliament for the Good of the Kingdom, and publish'd his Ordinances contain'd in twenty Chapters, according to *S. Germano*<sup>3</sup>: *Et se recto tramite Capuam conferens, & regens ibi Curiam generalem pro bono statu Regni suas assisas* (that is to say, Regulations which were wont to be establish'd in General Courts for the publick Good, and the Benefit of the Vassals<sup>4</sup>) *promulgavit, quæ sub viginti capitulis continentur.*

THERE are some who write, that in the following Year 1221. he call'd a General Meeting in *Melphis*, and publish'd other Constitutions; but seeing *Riccardo* makes no mention of them, we will not take upon us to affirm it; those, who have written so, have been deceiv'd by the Date, for, in the vulgar Editions, instead of 1231. by an Error of the Press, we read 1221. These other Constitutions, which we likewise find inserted in this Volume, according to *Riccardo*, were not publish'd this Year in *Melphis*, but in *Messina*: *Imperator per Apuliam, & Calabriam iter habens, feliciter in Siciliam transfretat, & Messanæ regens Curiam generalem, quasdam ibi statuit assisas observandas contra lufores, &c.* which we also find in the Third Book, under the Titles *De his qui ludunt ad dados, &c.* *De blasphemantibus Deum, &c.*

THE same *Riccardo* says, that in the Year 1222. *Frederick sua statuta per Regnum dirigit in singulis Civitatibus & Villis*; and in the Year 1224. many Laws were publish'd concerning the Establishment of the University erected in *Naples*, as we

<sup>1</sup> *Constit. de legib. in princ. lib. 1. §. pre-sentes: Regnum Siciliae Sanctiones, & nostras, &c.*

<sup>2</sup> *V. Andreys disp. Feud. cap. 1. num. 1.*

*who says that the Constitution, Ut de Successionibus, was made in the Year 1221.*

<sup>3</sup> *Ric. anno 1220.*

<sup>4</sup> *Dufresne in Glossar. v. Assisa.*

have observ'd elsewhere; and in the Constitution *nihil veterum*<sup>1</sup> there is mention made of *Frederick's* Expedition into *Lombardy* to curb the rebellious *Lombards*, and of his sudden Return to *Puglia*, which, according to *Riccardo*<sup>2</sup> and *Errico Sterone*<sup>3</sup>, both of them Contemporary Writers, fell out in the Year 1226; and thus from Time to Time after *Frederick* return'd from *Palestine* in the Year 1229. he publish'd other Constitutions on various Occurrences<sup>4</sup>; and in the Beginning of this same Year 1231. *Riccardo* says<sup>5</sup>, that *Frederick* sent his Ordinances concerning the Concessions and Privileges granted by himself, and *Rinaldo Duke of Spoleto*, after he went to *Palestine*, to *Stefano d'Anglone* his Chief Justice of *Terra di Lavoro*, ordering him to lay them before his Imperial Court by a certain Time, otherwise they were to be reputed void, and of no Force; as we read in this Code under the Title *De Privilegiis* in the Second Book.

AT the same Time, according to *Riccardo*, he forbad his Barons to build new Walls and Towers in their Towns and Castles, as we also read in the Third Book under the Title *De novis Edificiis*: He likewise made other Laws concerning the Subsidies which the Counts, Barons, and Prelates, who held Fiefs, were oblig'd to pay, of which there are some Vestiges remaining in the Three Books of these Constitutions. And we have good Grounds to believe, that the so famous and remarkable Constitution *Inconfutilem*, full of Rigour and Severity against the *Patareni*, and other Hereticks of these Times, was publish'd by *Frederick* in the Month of *February* this very Year 1231. to prevent the Mischiefs, which their daily growing Number might occasion in these Kingdoms. *Riccardo* says, that the Number of the *Patareni* increas'd to that Degree in *Italy*, as even *Rome* itself, the Seat of Religion, was defiled and infected, and great Rigour was us'd in order to extirpate them; insomuch that many, who continued obstinate in their Errors, were burnt, and others more tractable, were imprison'd in the Monasteries of *Monte Cassino* and *Cava*, to remain there till they had abjur'd their Errors, and done Penance for them: And their Number grew so great, that they spread further than *Rome*, and also began to infect the Cities of our Kingdom, and especially *Naples*, where they grew to such Numbers, that *Frederick* sent thither the Archbishop of *Reggio*, and *Riccardo di Principato* his Marshal, to punish them with Severity, and accordingly many of them were found and imprison'd, and this was the Reason that mov'd *Frederick* to publish the following Constitution<sup>6</sup> for punishing Hereticks, those that harbour'd them, and their Abettors with the utmost Severity; these are the Words of the Constitution: *Et tanto ipsos persequamur instantius, quanto in evidentiore injuriam fidei Christianæ, prope Romanam Ecclesiam, quæ caput aliarum Ecclesiarum omnium Judicatur, superstitionis suæ scelera latius exercere noscuntur. Adeo quod ab Italiæ finibus, & præsertim a partibus Lombardiæ, in quibus pro certo perpendimus ipsorum nequitiam amplius abundare, jam usque ad regnum nostrum Siciliæ, suæ perfidiæ rivulos derivarunt. Quod acerbissimum reputantes, statuimus, &c.*

*RICCARDO* likewise writes, that in the Month of *June* this very Year *Frederick* made other new Constitutions in *Melphis*: *Constitutiones novæ, quæ Augustales dicuntur, apud Melfiam, Augusto mandante conduntur.* And at the same time Inquiry was made *De campangiis, falsariis, aleatoribus, tabernaris, homicidis, vitam sumptuosam ducentibus, prohibita arma portantibus, & de violentiis mulierum*; and the Guilty suffer'd the Punishments prescrib'd in his different Constitutions, which, under their respective Titles, we now read in this Code.

OF all these Constitutions hitherto establish'd by *Frederick* in the preceding Years, on various Occasions, and of those of the Kings of *Sicily* his Predecessors, *Pietro delle Vigne* this Year compil'd that new Volume, which is now call'd the Constitutions of the Kingdom; and in the Month of *August* of the said Year 1231. in a solemn Assembly held in *Melphis*, all these Constitutions, thus collected, were publish'd to the People, that now the ancient Constitutions being repealed, these were to be observ'd. *Frederick* speaks thus of them: *Accipite gratanter, O Populi, Constitutiones istas, tam in judiciis, quam extra judicia potituri. Quas per Magistrum Petrum de Vineis Capuanum magnæ Curie nostræ Judicem, & fidelem nostrum mandavimus compilari*<sup>7</sup>.

<sup>1</sup> De Offic. Magist. Inst. v. sicque nuperrime.

<sup>2</sup> Ric. anno 1226.

<sup>3</sup> In Chron. an. 1229.

<sup>4</sup> Const. cum concessiones de privileg. lib. 2.

<sup>5</sup> Ric. anno 1231.

<sup>6</sup> Constit. Inconfutilem. Const. de Recepta-  
toribus, &c. lib. 1.

<sup>7</sup> Tit. ult. lib. 3. Constit.

**RICCARDO** in his Chronicle witnesseth, that this was done in the Month of *August* 1231, *Constitutiones Melfiæ publicantur*. And the old correct Editions, agree with him in the Date; *Actum in Solemni Consistorio Melfensi, anno Dominicæ incarnationis M. CC. XXXI. mense Augusti, indictionis quartæ*. And the reading was the same in the old Edition, of which our *Matteo dell' Afflitti* made use, when he made his large Commentary upon these Constitutions, not doubting that they were publish'd that Year, as *Matteo* himself writes: *Ex quo istæ Constitutiones editæ fuerunt mandante dicto Imperatore per doctissimum virum Petrum de Vineis in anno Domini 1231*. Whence 'tis evident, that in the new and vulgar Editions, which are handed about, there is a manifest Error, in dating them in the Year 1221.

**T I S** likewise to be observ'd, that after this Work was publish'd, *Frederick* made other Constitutions at different Times in the following Years, and which *Taddeo di Sessa*, *Roffredo Beneventano*, and lastly, *Andrea*, and *Bartolommeo di Capua*, inserted in this Code under their proper Titles, whence they are call'd *Novæ Constitutiones*. Thus did *Frederick* cause to be publish'd in the Month of *February*, the following Year 1232, his Constitutions *De Mercatoribus, Artificibus, Medicis, Aleatoribus, Damnis, Militibus, Notariis, &c.* as we read in *Riccardo's* Chronicle, where we must advert, that *Ughellus*, who caus'd this Chronicle to be printed in the third Volume of his *Italia Sacra*, was in the wrong, after the Words; *Post Mundi machinam providentia Divina firmatam, &c.* to add these; *Harum aliquot Richardus Author Historiæ ponit, sed nos remittimus lectorem ad librum Constitutionum Regni Siciliæ*; whence 'tis clear, that these Words have been foisted in by some Student, and are no Part of the Text. We likewise find these Constitutions inserted in the Volume of our Constitutions, as is clear from the Titles *De Mercatoribus: De fide Mercatorum: De Medicis: De Aleatoribus*; or, *De his qui ludunt ad dados*, and others, which we read in the third Book. And in the Month of *October* of this same Year, and in the same Place, he publish'd others concerning the *Annona*, *Weights* and *Measures*, and others which we read in the said Chronicle, and whereof we have still some Vestiges in the Books of our Constitutions: *Mense Octobri in S. Germano bujusmodi sunt Imperiales Affisæ publicatæ*. And *Frederick* about the End of the following Year 1233, having gone to *Sicily*, held a general Parliament in *Syracusa*, and made that famous Constitution; *Ut nulli, according to Riccardo, liceat de filiis, & filiabus Regni matrimonia cum externis, & adventitiis, vel qui non sint de Regno, absque ipsius speciali requisitione, mandato, seu consensu Curie suæ contrahere, videlicet, ut nec aliquæ de Regno nubere alienigenis audeant, nec aliqui alienigenarum filias ducere in uxores, pæna apposta omnium rerum suarum amissione*. Which Constitution we read under the Title *De Uxore non ducenda sine permissione Regis*, then follows that, which begins *Honorem nostri Diadematis*, wherein we find the same Words of *Riccardo*, and because it was publish'd this same Year after that in *Melphis*, it bears this Inscription, *Nova Constitutio*. *Frederick* had good Reason for making this Constitution, for seeing he had establish'd by Law, that Women could succeed to Fiefs, he did not think fit to allow them to marry into strange Families, and perhaps Enemies to him, without the Consent of his Court, of which Constitution we have spoken sufficiently, when we had occasion to treat of King *Roger's* Laws, where we censur'd *Andrea d' Isernia's* Error, who look'd upon it as a Restraint upon the Freedom of Marriage. After this Constitution had been for a long Time in Force, it was reform'd in our Kingdom by *Charles II.* and intirely abolish'd in *Sicily* by King *James*.

**FREDERICK**, in order to settle Peace and Tranquillity in his Dominions of *Sicily* and *Puglia*, made other Laws in the following Years; and after he had, in the Year 1243, appointed Fairs to be held in some Cities, of which in their Place, so far as we can gather from *Riccardo*, who ends his Chronicle that same Year, we find that he publish'd diverse other Constitutions; and in the Month of *September* of the same Year, we see, that in *Grossetto* *quasdam edidit Sanctiones*, according to *Riccardo*, *contra Judices, Advocatos, & Notarios, quas per totum Regnum publicari præcepit, & tenaciter observari, quarum initium tale est, nihil veterum auctoritati detrahitur, &c.* which are his last Constitutions, and are likewise inserted in the first Book of the Volume of our Constitutions, under the Title *De Officio Magistri Justitiarum, & Judicum Magnæ Curie*, which therefore bears the Inscription of

<sup>1</sup> Afflit. in prælud. q. i. num. i.



*Nova Constitutio*; and under the Title *De Advocatis ordinandis*, with the Two following. As all these Constitutions related to the Kingdoms of *Puglia* and *Sicily*, there's no occasion, as we have observ'd elsewhere, to confound them with the *Imperial* ones establish'd in *Rome*, or with those publish'd in *Germany*, to wit, in the Year 1213 in *Egra*, and in 1234 in *Francfort*, and in 1235 in *Mentz*, and elsewhere, whereof *Goldastus* has made a Collection, which may be read in his Volumes; these Constitutions not being design'd for our Kingdoms, had no Force or Authority in them.

<sup>1</sup> Goldast. tom. 1. pag. 77, 289, 290, 293, & tom. 2. pag. 51, & seqq.

## S E C T. I.

*Of the Use and Authority of these Constitutions during the Reign of the Suevi; and of their Expositors.*

WHEN these Constitutions of the Emperor *Frederick* were publish'd, and as long as he liv'd, and during the Reign of the House of *Suevia*, they were universally esteem'd as most prudent, most just, as proceeding from consummate Wisdom, and not exceeding the Power of a Prince. It did not appear strange then to have inserted in these Volumes, the Constitutions of *Roger* and *William I.* of which we have treated in the preceding Books. Nor was it then thought amiss for this Prince to have renew'd many Constitutions concerning Matrimony, and the Goods of the Churches, forbidding the Acquisition of Immoveables to Ecclesiasticks, as by one of his Constitutions, which we read in the third Book, under the Title *De rebus stabilibus Ecclesiis non alienandis*, and such like. But when afterwards, by the Intrigues of the *Roman Pontiffs*, mortal Enemies to the House of *Suevia*, the Kingdom went to that of the Dukes of *Anjou*, and Counts of *Provence*, as we shall relate, though *Charles I.* and *II.* order'd these Constitutions to be observ'd in the Kingdom<sup>1</sup>; nevertheless our Professors, who flourish'd in the Reigns of the Kings of the House of *Anjou*, being Time-servers, and Sticklers for the Popes, to whom these Princes ow'd the Kingdom, began to revile some of *Frederick's* Constitutions, looking upon them, according to the Maxims of these Times, as contrary to the Interest of the Court of *Rome*, and therefore impertinent, wicked, unjust and prejudicial to the Ecclesiastical Immunity, the Freedom of Matrimony, and such like Things, insomuch, that none of them would comment upon the Constitution *De rebus Stabilibus Ecclesiis non alienandis*, as being Sacrilegious, and, as was thought, prejudicial to the Ecclesiastical Immunity; and *Matteo d'Afflitto*, who makes a short Commentary upon it, in the very beginning says, *Hæc Constitutio nihil valet, quia Imperator non potuit contra libertatem Ecclesiæ, & personarum Ecclesiasticarum prohibere, quod non reliquantur res Stabiles Ecclesiæ inter vivos, vel in ultima Voluntate*; as if *Frederick* had been the first that establish'd it; though he declares in the Constitution, that he did no more than renew what his Predecessors had done, and what was, and ought to be allow'd to all Princes in their Kingdoms and Dominions.

*MARINO di Caramanico*, the most learn'd Glossator, who flourish'd under *Charles I.* of the House of *Anjou*, and wrote his Glosses a little after the Constitutions were publish'd, under the Government of the *Suevi*<sup>2</sup>, was the most moderate of all the Glossators. In the Year 1269, in the Reign of *Charles I.* he was Judge under the Governor of *Naples*<sup>3</sup>. His Glosses are modest, and learn'd, insomuch, that with Posterity he acquir'd the Name of an approv'd Glossator, as *Matteo d'Afflitto* calls him<sup>4</sup>: These Constitutions of this Prince did not appear so strange and extravagant to him, as they did to those that succeeded him. He started no Difficulty, whether they, as being promulg'd by *Frederick*, who was dethron'd, ought to be observ'd, and have the Force and Vigour of Laws; he is for the Affirmative;

<sup>1</sup> Cap. quod incipit, Constitutiones, pag. 29.  
Cap. quod incipit, ad perpetuum, pag. 36 Affl.  
in prælud. Const. qu. 1. num. 2.

<sup>2</sup> V. Andreys disp. Feud. cap. 1. sect. 1.  
num. 2.

<sup>3</sup> Fab. Jordan. in addit. ad præem. Constit.

<sup>4</sup> Afflit. in prælud. in princ. num. 2.

and



and though it be by the by, and only speaking of *Frederick's* having made and caus'd them to publish'd, *Antequam imperio privaretur, & de Regno*<sup>1</sup>; yet he speaks of the Power of our Princes, if not as he ought to have done, at least as much as he durst venture upon, at a Time when it was necessary to humour the Popes, by whose Means the reigning Family had got Possession of the Kingdom. *Bartolommeo di Capua*, and *Sebastiano Napodano*, who succeeded *Marino*, confin'd themselves in commenting on these Constitutions, to the same or the like modest Way, and *Andrea da Barletta*, who was the first that commented on them, was yet more reserv'd, as may be gather'd from *Andrea d'Isfernia*<sup>2</sup>, who liv'd under *Frederick*, and *Francisco Telese* Attorney General, in the Year 1282, who likewise wrote upon the Constitutions of the Kingdom, and with whom *Gesnerus* and *Toppi* agree.

BUT in the following Times, when the new Maxims of the Court of Rome had taken deeper Root, *Andrea d'Isfernia*, in his Commentaries upon these Constitutions, as if he had been *Frederick's* mortal Enemy, revil'd the Memory of that Prince, and condemn'd many of his Constitutions, and among the rest, that forbidding Barons to marry without the King's Permission, and does not stick to say, That it had brought *Destructionem animæ istius Federici probibentis per obliquum matrimonia instituta a Deo in Paradiso*.

*ISERNIA* screw'd up the Pretensions of the Popes to the highest Pitch, and look'd upon this Kingdom as a true Fief of the Church<sup>3</sup>, and having imbib'd the Maxims of the Ecclesiasticks, he stuff'd his Commentaries with Errors most prejudicial to the Supreme Regalia of our Kings, the true and independent Monarchs of this Realm.

*LUCA di Penna*, *Pietro di Monteforte*, *Diomede Mariconda*, *Biaggio di Morcone*, *Pietro Arcamone*, *Giacopo*, and *Niccolo Ruffo*, *Sergio Domini Ursonis*, *Argentino*, *Pamsilo Mollo*, *Niccolo Caposcrofa*, *Pietro Piccolo di Monforte*, *Lallo di Toscana*, *Giovanni Grillo*, *Cesare de Perinis*, *Giovanni Crispino* the Bishop, and *Niccolo Superanzio*, and others, were more moderate, and contented themselves with making some short Glosses and Notes on these Constitutions, till under the Government of the Kings of Arragon, *Matteo d'Afflitto*, in his declining Days, though very uprightly, in the Year 1510, undertook to illustrate them with more ample and voluminous Commentaries, which he very surprizingly finish'd in three Years Time.

THOUGH, for the most Part, these Constitutions had been repeal'd, and many of them in defuetude, because of the new *Capitula* made by the Kings of the House of Anjou, yet in the Time of the Kings of the House of Aragon, they were in full Force and Vigour; and *Ferdinand I.* of Aragon, by a particular Constitution dated in *Foggia* the 25th of December 1472, order'd them to be observ'd in his Kingdom<sup>4</sup>; therefore *Matteo d'Afflitto* thought his Pains would be well bestow'd in illustrating them with a larger Commentary. And, as he himself says, in the Course of more than Forty Years, from the Time that *Andrea d'Isfernia* had made his Comments, to his own Time, there had occur'd to him, while he was first Judge of the High Court of the *Vicaria*, and afterwards Counsellor, Nine other Questions not treated of by *Andrea*.

BUT through the deprav'd Taste of the Age, *Matteo* could not depart from the common beaten Path, for he stuff'd his Commentaries with idle and useless Questions; such as, Whether *Frederick*, though he had publish'd these Constitutions before his Deposition, could give them the Force and Vigour of Laws, so as to oblige his Subjects to observe them, seeing he had been before excommunicated by *Gregory IX.* and the Laws of an excommunicated Person are of no Force?

THESE Disputes are altogether frivolous, not only because the Laws were binding on the People by their accepting of them; but likewise because in the Year 1231, when *Frederick* publish'd them, he had been absolv'd by *Gregory*, and was in Peace with the Church of Rome, as we have said. But there is no occasion to lay any Stress upon that Reason, because *Frederick* was a second Time excommunicated by *Gregory* in the Year 1239, and though the Volume of his Constitutions had been publish'd ever since the Year 1231, yet, as we have said above, he publish'd some others after the said Year 1239, to wit in 1243, and the following Years, when he lay under *Gregory's* second Sentence of Excommunication, which Constitutions were

<sup>1</sup> Marin. de Caram. in Proëm. Constit.

<sup>2</sup> Isfern. in Constit. lib. 3. de jur. Balii.

<sup>3</sup> Andr. in Proëm. Constit. num. 10 & 20.

<sup>4</sup> Afflit. in Prælud. qu. 1. num. 2.

inserted in the said Volume. Whence the most judicious Men look upon it as impertinent, and quite foreign to the Purpose, to inquire whether Laws made by a Prince under Sentence of Excommunication, be binding or not ; without inquiring into the Validity of the Censures against *Frederick* : 'Tis certain, Excommunication has nothing to do with a Prince's legislative Power, an essential Part of the *Regale*, and inseparable from the Crown, which cannot be affected by Excommunication, which has no other Force or Effect, supposing it ever so just, than to separate a Person from the Communion of the Church, by rendering him incapable of receiving the Sacraments and Prayers thereof, or whatever else she can bestow on the Faithful ; but not to unman People, and exclude them from civil Society, much less can it deprive Princes of their Dominiions, the Administration of Justice, and Power of making Laws ; of which in another Place.

OUR Doctors, who treat of *Frederick's* Deposition by *Innocent IV.* in the Council of *Lyons*, and say, That if these Constitutions were made by him after his Deposition in the Year 1246, they were of no Force nor Authority, are to be excus'd ; seeing at that Time no body doubted of the Pope's having Power to depose Emperors from the Empire, and Kings from their Kingdoms, and absolve their Vassals from their Oaths, according to the Maxims with which the Minds of Men were then besotted ; but now it has been clearly prov'd by able Divines and Lawyers, that neither the Pope nor the Church herself have Power to depose Princes, and much less Emperors, or to absolve Vassals from their Oaths ; for the Power of the Church is restricted to spiritual Matters only, and she can take nothing away, but what is in her Power to give ; whereas Princes hold their Dominions neither of the Church nor the Pope, but of God, the only and sole Lord ; which, among others, has been at large demonstrated by that famous Divine of *Paris*, *Dupin* <sup>1</sup>, and shall be handled by us, when we come to treat of *Frederick's* Deposition.

AFTER these ample and voluminous Commentaries of *Matteo d'Affitto* upon the Constitutions, our Professors, who succeeded him, contented themselves with reading them, and making some short Notes on them, and a few Additions to the Commentaries of *Andrea d'Isernia*, as the Counsellor *Giacopo Anello de Bottis*, *Giov. Angelo Pisanello*, *Fabio Giordano*, *Bartolommeo Marziale*, *Marc' Antonio Pulverino*, and others did. But when the House of *Austria* succeeded to that of *Aragon*, these Constitutions were in a great Measure alter'd by their new Laws and Pragmaticks ; insomuch that our Professors wrote no more upon them, as shall be told in a proper Place ; neither were they any more studied, but remain'd as *Matteo d'Affitto*, and those few who succeeded him, left them ; and now such of them as are not repeal'd or in desuetude, have with us all Force and Authority of Laws ; but 'tis quite otherwise with the *Longobard* Laws, which have no Authority, and are altogether forgotten.

<sup>1</sup> Dupin. de Antiq. Eccl. Discipl.





THE  
CIVIL HISTORY  
Of the KINGDOM of  
N A P L E S.

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B O O K XVII.

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AS the Peace lately concluded with Pope Gregory, was not expected to be of long Duration, so there happen'd new Grounds of Quarrel, which broke it; and a cruel and obstinate War was again begun, which long afflicted Italy, the pernicious Effects whereof also reach'd our Provinces, though they were not the Seat of it. Notwithstanding the Peace made with Gregory, Frederick was still jealous that he intended to make War anew in our Kingdom; therefore this Year 1232, he caus'd all the Castles on the Borders of *Campagna* to be fortify'd and provided; and in the beginning of the Year 1233, he order'd *Lucera* in *Puglia*, to be fortify'd, and garrison'd with a greater Number of *Saracens*, and on the contrary, he made the Walls of *Troja* to be levelled, because during the late Troubles, that City had been more favourable to the Pope, than faithful to him<sup>1</sup>. He likewise caus'd the Castles of *Trani*, *Bari*, *Naples* and *Brindisi* to be fortified; and the Year following, he order'd *Castello Capuano* in *Naples*, to be enlarg'd, and sent *Niccolo Cicala* to *Capua*, to oversee the building of a new Castle there, the Plan of which he had drawn with his own Hand upon the Hill. And after he had suppress'd the Rebellion of *Bertoldo*, Brother to the Duke of *Spoletto*, who had advis'd *Bertoldo* to fortify and defend *Intradocco*, he banish'd them both to *Germany*. He likewise recover'd the City of *Gaeta*, which took an Oath of Fidelity,

<sup>1</sup> Ric. S. Germ.

both to him and his Son *Conrade*; and afterwards he sent thither *Ettore di Montefusculo*, Justice of *Terra di Lavoro*, who, by his Orders, appointed a Custom-house, and depriv'd that City of the Consulship, which hitherto it had enjoy'd, and after he had taken away the Power of creating Consuls, he sent Officers to command there in his Name, and fortify'd the Place with Thirty Towers.

BUT though, with so much Precaution, he had stor'd and fortify'd the Kingdom, yet he was afraid that the Pope, by some Means or other, might frustrate his Design of subjecting *Milan*, and the other rebellious *Guelf* Cities of *Italy* to his Obedience. He had been taught by long Experience, that all the Designs of the Popes were to keep these Cities divided, and stir up the *Guelfs* against the *Ghibellines*, lest the Emperors, by subjecting all *Italy*, should have an itching Desire also to subject *Rome* and the State of the Church, which had been dismembred from the Empire. And though *Gregory*, on *Frederick's* first Motion against the rebellious Cities of *Lombardy*, by means of his Legate, made up the Differences, and out of seeming Zeal for Peace, was many times at great Pains to reconcile them; nevertheless all these Intrigues came to nothing, for in settling the Articles of Agreement, the Pope was still bias'd in Favour of the Cities that were Enemies to the House of *Suevia*, so that nothing could be concluded. *Frederick*, with good Reason, made heavy Complaints of the Pope, who made a very ungrateful Return for what he had done for him, in making up the Differences betwixt him and the *Romans*, who had often mutiny'd against him in *Rome*, and forc'd him ignominiously to leave that City: he not only manag'd a Peace betwixt the Pope and the *Romans*, and those of *Viterbo*, but likewise reduc'd the *Romans* to the Pope's Obedience, and made them receive him and the Cardinals with all Marks of Respect and Submission.



## CH A P. I.

*Henry King of Germany rebels against the Emperor Frederick his Father: But being overcome, is humbled; and Frederick makes War against the Lombards in Italy; Pope Gregory opposes him, and at last excommunicates him.*



THESE Steps of *Gregory*, who was too much inclin'd to favour the Cities that were Enemies to *Frederick*, made the Emperor suspect that he had encourag'd his Son *Henry* this Year 1234, to rise in Rebellion; and *Bernardino Corio*, follow'd by the modern Writers, asserts it for a Truth, and says, That *Henry* the eldest Son of *Frederick*, by *Constantia* of *Aragon*, who, while a Child, had been created King of the *Romans* by his Father, and afterwards married to *Agnes* of *Austria*, Daughter of Duke *Leopold*, by the Means of *Gregory*, enter'd into a League with the People of the *Milaneze*, and the other confederate Cities of *Lombardy*, against his Father, and that the People of the *Milaneze* had promis'd to crown *Henry* with the Iron Crown, as soon as he should arrive in *Italy*.

*SIGONIUS* and *Riccardo da S. Germano*, relate the Matter otherwise, and say, That *Henry's* Rebellion did not begin in *Italy*, but in *Germany*, where, with

<sup>1</sup> Ric. ad ann. 1234. Hoc anno, quod Henricus Rex contra Imperatorem patrem suum Seditio-  
nem in Almannia fecerit, fama fuit.

some

some Barons, he conspir'd against the Emperor, and partly by Affection, partly by Force, brought over many Cities of that Country to his Interest; whereupon those of the *Milanese*, and the Confederate Cities of *Lombardy*, willing to catch at so favourable an Opportunity, sent to offer him the Iron Crown (which they had deny'd to his Father) and a good Body of Troops, and Store of Arms, if he would come in Person and make War in *Italy*.

CAMP O, in the History of *Cremona*, adds, that the Marshal *Anselm*, and *Valcherius Tanvembrus*, Archdeacon of *Wurtzburg*, came to *Italy* in the Name of *Henry*, as King of the *Romans*, to receive the Oath of Fealty; and that when they came to *Milan* on the 19th of *December*, they call'd an Assembly, wherein the Deputies of the *Milanese*, those of *Brescia*, *Bologna*, *Lodi*, *Novara*, and the Marquis of *Monferate*, met and entered into a League against *Frederick*, *Cremona*, *Padua*, and the other Cities that sided with him; and took an Oath to *Henry* King of the *Romans*, and agreed to be most Faithful to him. But neither *Sigonius*, nor *Campo* assign any Reason for this Quarrel betwixt *Henry* and the Emperor; but these being modern Authors, we must look for the Truth in more antient Writers. *Riccardo da S. Germano*, in relating this Rebellion of *Henry*, gives us as little Account of the Cause of it as the rest; however we have it recorded in the Chronicle of the Monastery of *S. Justina* of *Padua*, written by a Monk of that Monastery, who lived in *Frederick's* Time, and wrote his Exploits, and the Transactions of *Italy* to the Year 1270. with great Judgment; which Chronicle is preserved in the said Monastery, and is printed in the Historical Volume, intitled *Rerum Germanicarum*. 'Tis said in this Chronicle, that the Cause of *Henry's* Rebellion against his Father, was Folly and a pettish Envy, because *Frederick* lov'd his second Son *Conrade*, whom he had by *Jole*, more than him; and indeed, we find in *Riccardo*, and other Authors, that *Frederick* lov'd *Conrade* dearly, and had a greater Regard for him than all his other Children<sup>1</sup>.

IN the Beginning of the Year 1235. *Frederick* hearing of his Son's Rebellion, and that he was resolv'd to make War against him in *Italy*, march'd towards *Germany*, and upon the Borders thereof, was join'd by some *German* Lords, where having assembled a sufficient Army, he began a War with his Son, who was follow'd by many Barons and Cities; but *Henry*, being afterwards deserted by them, and in a manner left alone, went to his Father's Camp, and bursting forth in Tears, threw himself at his Feet, and begg'd Pardon. *Frederick* receiv'd him, but by his by-past Behaviour being sensible of his unruly Temper, he carried him with him Prisoner to *Worms*<sup>2</sup>; and whether he had actually attempted, or that it was only alledg'd, that he had design'd to poison his Father, he was put in close Prison, and committed to the Charge of the Duke of *Bavaria*; and afterwards *Frederick*, resolving to remove him out of *Germany*, deliver'd him to the Marquis *Lancia* of *Lombardy*, with Orders to conduct him to *Puglia*, which he did, and imprison'd him in the Castle of *S. Felice*<sup>3</sup>, whose unhappy Death we shall relate in its Place.

AFTER the Emperor had thus suppress'd this Rebellion, he married *Isabella* Daughter of the King of *England*, and the Marriage was with great Pomp solemniz'd in *Worms* on the 13th of *August*, precisely seven Years after the Death of *Jole*. *Joannes Cuspinianus*, a *German* Author of good Account, in his Book *De Caesaribus, atque Imperatoribus Romanorum*, says, that *Frederick* had six lawful Wives, and places betwixt *Jole* and this *Isabella*, *Agnes* Daughter of *Otho* Duke of *Moravia*, who being divorc'd by him, was married to *Uldarick* Duke of *Carinthia*; the other two were *Rutina* Daughter of *Otho* Count of *Wolbershausen* in *Bavaria*, and *Isabella* Daughter of *Lewis* Duke of *Bavaria*, and that he had no Children by any of the three last.

BUT be that as it will, *Frederick* after his Marriage, laid a general Tax on the Kingdom, and having got *Conrade* his second Son, to be created and crown'd King of the *Romans* in *Cologne*, in Place of the depos'd *Henry*, and left the Empress in *Germany*, he went with *Conrade* to *Italy*, and visited the Pope in *Rieti*, where, in his own Presence, he made his Son swear to be faithful to the Pope, and obedient to the Holy Church; and then was very earnest with the Pope to assist him against his

<sup>1</sup> Chron. Monast. S. Justin. Eodem anno ad petitionem Regis Henrici filii Federici Imperatoris, Mediolanenses, & alii odientes Imperium, Legatos in Alemanniam direxerunt, & cum eo contra Imperatorem Societatem firmissimam statuerunt; concepit enim Rex dolorem, & pe-

perit iniquitatem contra proprium Genitorem, ideo quod videbatur quod Imperator plus eo puerum Conradum deligeret, & faveret.

<sup>2</sup> Sigon. de Reg. Ital. lib. 17. in fine.

<sup>3</sup> Ric. S. Germ.

rebellious *Lombards*, with whom he was going to enter into a War: *Gregory*, who was unwilling to have them subdued, dissuaded him, giving him great Hopes that he would make up all their Differences, and that they should return to their Allegiance; and eight of the ten Years Truce, which *Frederick* had concluded with the *Soldan*, being now pass'd, *Gregory*, in order divert *Frederick* from the War with the *Lombards*, resolv'd to renew that against the *Soldan*; for which end he ordered, that, at the Expiration of the two Years, every Body should be ready to take on the Cross for that holy Expedition, and wrote particular Letters dated the 9th of *September*, to all the Princes and Cities of *Christendom*, to acquaint them with this intended new Expedition. But, according to *Sigonius*, *Frederick*, after a short stay in our Kingdom, intent upon the War of *Lombardy*, return'd to his Army in *Germany*, in order to march with it into *Lombardy*. *Riccardo da S. Germano*, without mentioning the Emperor's Progress to *Rieti*, says, that this Year 1236. *Frederick* left his Son and Wife in *Germany*, with a good Army pass'd the *Alps*, and came to *Verona*, which is likewise true; but *Riccardo's* Purpose being to give a particular Detail of *Frederick's* Transactions in our Kingdom, he touches upon Foreign Affairs by the by only; so that for these we must follow *Sigonius*<sup>1</sup>, who collected them from the most antient Authors, and especially from *Pietro Girardo* of *Padua*, an Eye-witness, in the Life of *Ezelino*.

*SIGONIUS* then says, that *Frederick* being exceedingly vex'd at the obstinate Rebellion of the greatest Part of *Italy*, wrote from *Germany* to the Pope, that he was no longer able to bear the outrageous Behaviour of the *Lombards* towards him; therefore he begg'd him, that he would either fall upon Means to put an End to their Sedition, by an honourable Peace with the Empire, or assist him against them, and especially the People of the *Milaneſe*, the Authors of all the Miſchiefs, and Favourers of the Hereticks, and other licentious People; it being very reasonable, that he should make a suitable Return to what he had so often done for the Church against the *Romans*, those of *Viterbo*, and her other Rebels, who by his Means were reduc'd to her Obedience. But *Gregory*, whose Ends were quite different from those of *Frederick*, upon the Receipt of the Letter, answered him, That he ought not to think of making War in *Italy*, but rather prepare himself for the War of the Holy Land, and inform him with what he had to lay to the Charge of the *Lombards*, that he might get him full Satisfaction; and soon after sent him the same Message by *Giacomo Pecoraro* of *Pavia*, Cardinal of *Preneste*. *Frederick*, highly incens'd at this Answer, and plainly discovering the Pope's Designs, sent him a smart Letter recorded by *Sigonius*<sup>2</sup>, which begins *Italia, hæreditas est mea*, &c. and not minding the Pope's Answer, he sent another such Letter to a Prince his Friend, adding, that the following Summer he would go to *Italy*, and on the Feast of *S. James* hold a General Court in *Parma*, and be reveng'd of all the by-past Injuries. And accordingly he was as good as his Word, for at the Time appointed, with a powerful Army of *Germans*, *Neapolitans*, *Sicilians*, and *Saracens* of *Puglia*, he march'd to *Constance*, where he was met by *Ezelino*, who spurr'd him on to the War; and after the People of the *Milaneſe* had in vain endeavour'd to hinder him, he pass'd the *Alps*, and march'd to *Trent*, and from thence to *Verona*<sup>3</sup>. He afterwards march'd into the Territories of *Mantua*, where he was join'd by the People of the *Cremonese*, *Modeneſe*, and others of his faithful Subjects, and march'd to the Borders of the *Brescians*; and after he had plunder'd and burnt all their Country, in the Month of *August* he march'd to *Cremona*, and from thence to *Parma*, where he called a Meeting of all the Princes and Cities in Friendship with him; and finding that his Enemies were firmly resolv'd to keep up their Confederacy, it was resolv'd in this Assembly to carry on a vigorous War against them. *Vicenza* was taken, sack'd and burnt, and a great many of the Citizens kill'd and ruin'd: Having laid waste the Country round *Padua*, he besieg'd *Trivigi*, but being gallantly defended by *Pietro Triopolo* the Governor, it could not be taken; and *Salinqueria* Lord of *Ferrara*, *Ezelino's* Brother-in-Law, left the *Lombards*, and return'd to his Allegiance.

MEAN while the Emperor had Advice, that in *Germany*, *Frederick*, surnam'd the Warlike, Duke of *Austria*, had risen in Rebellion, whereupon, to prevent the Miſchiefs it might occasion, he left a competent Army in *Italy*, and immediately

<sup>1</sup> Sigon. de Reg. Italizæ, lib. 18.

<sup>2</sup> Idem, loc. cit. lib. 18. anno 1236.  
<sup>3</sup> Ric. S. Germ.

return'd



return'd to *Germany*, where, according to *Joannes Cuspinianus* in his *Austria*, after a short War, with the Assistance of *Otho* Duke of *Bavaria*, the Bishop of *Bamberg*, and many other *German* Prelates and Barons, he took *Vienna*, and all the considerable Places belonging to the Duke of *Austria*; and *Conrade* the Emperor's Son, sailing down the *Danube* with a noble Retinue, join'd his Father, and remain'd with him three Months in *Vienna*; and seeing, that the rebellious Duke had Possession only of a few Places of his Dominions, he made *Vienna* an Imperial City, and gave it a Golden Eagle crown'd in a Field Sable for its Arms, which it keeps to this Day. Afterwards he held a general Dyet in *Ratisbon*; and Duke *Frederick*, after alternate Success, in process of Time having recovered his Dominions, with Two hundred well-armed Knights, came to *Verona*, and threw himself at the Emperor's Feet, and was not only kindly received, and his Rebellion pardon'd, but was adorn'd with new Dignities, as may be seen in the special Grant recorded by *Cuspinianus*.

IN the mean Time *Ezelino* with *Frederick's* other Generals took *Parvia* and *Trivigi*, with some other Places in *Lombardy* and *Marca*, and made most cruel Slaughter in all the Places that were Enemies to the Emperor, and likewise drove *Giordano* Prior of *S. Benedikt*, and *Arnaldo* Abbot of *S. Justina* from their Churches.

THESE Victories of *Frederick* much displeased the Pope, who seeing the Forces of the Confederates daily dwindling away; and, on the contrary, the Emperor, lifted up with the Victory he had obtained over the Duke of *Austria*; he resolved to put a Stop to the Career of so many Victories, by proposing a Treaty of Peace; and for that End he sent *Gregorio da Montelongo* the Protonotary, to tell *Frederick*, that if he had any Regard for the Peace of the Church, and his Favour, he would receive the Submission of the *Lombards*, on the same Condition that his Grandfather *Frederick*, and his Father *Henry* had granted them by the Peace made at *Constance*, and that at his Desire he ought to remit something of his Right. But *Frederick*, full of Indignation, seeing, that when he might rather have expected Assistance from the Pope upon his Return to *Italy* against the People of the *Milanese*, now he was interceding in their Favour, notwithstanding they were not only Enemies to him, but to the very Church, being for the most Part polluted with various Heresies, would not so much as hear the Proposals of his Messenger; whereupon *Gregory*, after he had quieted the Tumults and Commotions rais'd in *Rome* against him by the Means of *Pietro Frangipane*, in order to be the better able to mind the Defence of *Lombardy*, took off the Mask, and declared himself *Frederick's* open Enemy; and though once more a Treaty was brought upon the Carpet, and on the Part of the Emperor was to be managed by the Great Master of the *Teutonic* Order, and *Pietro delle Vigne*, and on the Part of the Pope, by Cardinal *Rinaldo de Conti*, *Gregory's* Nephew, and Cardinal *Tommaso di Capua*; yet it was to no purpose, for both Parties were so elated and haughty, that not only nothing was concluded, but shortly after began that famous and cruel War, wherein happened that remarkable Battle of *Cortenuovo*, to the total Ruin of the People of the *Milanese*, and the confederated Cities, described by many Authors<sup>1</sup>, and therefore we willingly pass it over: *Frederick* having gain'd a compleat Victory, was more proud of having made Prisoner *Pietro Tiepolo* the Son of *Giacomo* Doge of *Venice* his bitter Enemy, Chief Magistrate and Governor of *Milan*, than of any Thing that had happened; and after the Manner of the antient *Romans*, he made a Triumphal Entry into *Cremona*, in a Chariot taken from the *Milanese*, wherein consisted the Glory of Victory in these Times, and he ordered *Tiepolo* to be tied to a Post, with a Rope about his Neck, and shortly after to be hang'd.

AS this Victory gain'd *Frederick* great Reputation, so it struck such Terror into all *Lombardy*, that, except *Milan* and *Bologna*, all the rest of the Cities submitted to him, and the Students of the University of *Bologna*, who, contrary to the Emperor's Orders, had staid there, because the University of *Naples*, to which they had been commanded to go, was in a bad Condition by reason of the frequent Wars, were terribly afraid.

WHILE the Emperor was in *Lodi*, there came to him from *Naples* a noble Embassy, to beg of him in the Name of the Body of the People, and of the Masters and Students, to cause their University to be reform'd, and put upon a better

<sup>1</sup> Ric. S. Germ. *The Chronicle of Fr. of S. Justina*. *Pietro delle Vigne's Letters*, fol. 304 & 307 Sigon. de Reg. Ital. lib. 18.



Footing; with which Request of the Ambassadors he most willingly complied, and gave Orders to his Ministers to put it in Execution, and at the same Time forbid Students from the Countries of the *Milanese*, *Brescia*, *Piacenza*, *Alessandria*, *Bologna*, and *Trivigi*, Enemies to him and the Empire, to be received into the University, and ordered only those of *Tuscany*, *Marca*, the Dukedom of *Spoleto*, and *Campagna di Roma*, who were all Partisans of his Son *Eutius* King of *Sardinia*, whom he had made Vicar of *Italy*, to be admitted, as may be seen in some Writs of *Frederick's* Register, which is the only one of that Emperor preserved in the Royal Archives; for all the Records of the *Suevian* Princes that were in *Naples*, were carried away and destroyed by the Victorious *French* in the Time of *Charles I.* and none left but this intire Register of *Frederick* of the Year 1239. wherein the City of *Naples* is cry'd up, and the Franchises of the Students, and particular Directions how they were to perform their Exercises, are set down.

HE likewise ordered the said Reform of the University by a particular Letter directed to the Governor of the Kingdom of *Sicily*, recorded by *Pietro delle Vigne*<sup>1</sup>; and having also ordered all other publick Schools in *Naples* and *Sicily* to be put down, he wrote afterwards to the Justice of *Terra di Lavoro*, that notwithstanding the said Order he was not to molest those who taught *Grammar*, because it was proper for the first Instruction of Children.

AT this same Time *Frederick*, in order to shew his Gratitude to *Ezelino* for his exceeding Courage and Loyalty at the Battle of *Cortenova*, and the other Wars of *Italy*, gave him in Marriage *Selvaggia* his bastard Daughter.

*FREDERICK* now Victorious, and to whom the greatest Part of *Italy* had submitted, was resolved to subdue it intirely, and to conquer *Milan*, *Piacenza*, *Bologna*, *Faenza*, and some other Cities, which as yet continued in Rebellion; whereupon he left *Italy*, and return'd to *Germany*, in order to assemble a great Army, and return the following Spring.

*POPE Gregory* was grievously vexed at these Designs of *Frederick*, and afraid that with his Power he might overturn the Dominions of the Church; so that there being none in *Italy* to whom he could have recourse, he resolv'd to beg Assistance from foreign Princes; therefore he sent Ambassadors to *James* King of *Arragon*, called the *Conqueror*, a Prince much esteemed in these Times, on account of his noble and gallant Exploits in driving the Moors out of many Kingdoms of *Spain*, to invite him in the Name of himself and the confederated Cities, to come and make War against *Frederick*, promising to make him Lord of *Lombardy*, and pay him all the Revenues and Honours that were wont to be paid to the Emperors. King *James* was then at the Siege of *Valencia*, held out by the Moors, and being offended with *Frederick*, because he had imprison'd his Son *Henry*, who, by his Mother *Constantia*, was his Cousin-German, consented to the Pope's Proposal, and promised to assist him with Two thousand Horse, and made other Conditions recorded by *Hieronymus Zurita*; but whatever might be the Occasion, King *James* never came to *Italy*, but indeed his Son King *Peter* came, though much against the Inclinations of the succeeding Popes; and by Virtue of the Rights of the House of *Suevia*, which his Wife *Constantia* brought him, he bravely subjected *Sicily* to his Dominion, as shall hereafter be related.

IN the mean time *Frederick* having raised a great Army in *Germany*, gave the Command of it to his Son *Conrade*, with Orders to follow him to *Verona*; and he himself advanced, and without Opposition subdu'd *Vercelli*, *Turin*, and all the other neighbouring Cities and Places; and in the Month of *July* following, King *Conrade* pass'd the *Alps*, and with many *German* Prelates and Lords, and a numerous Army came to *Verona*, where his Father was waiting for him, and from thence they march'd to *Cremona*, and then to *Padua*, where the Emperor held a General Meeting. The People of the *Milanese* terrified at so great Preparations, and having but few Troops, begg'd of the Pope to intercede for them with the Emperor, and sent Ambassadors humbly to ask Peace of him, offering to send Ten thousand Soldiers for the Relief of the Holy Land, provided their City might enjoy the same Freedom it then possess'd. *Frederick* scorning their Offer, answer'd them, that if they would deliver up themselves and their City without any Condition, to his Will and Pleasure, he would accept of them; but they, afraid of *Frederick's* Cruelty, resolv'd rather to die

<sup>1</sup> Epist. Pet. de Vineis, fol. 399. which begins, Sollicitudo continua, &c.

under Arms in the Field like brave Soldiers, than be burnt, or starv'd in Prison, or hang'd; whereupon being obstinately bent on defending themselves, they strengthen'd the Walls and Ditches of their City, and provided it with Soldiers and Arms, and took Assistance where-ever they could find it. *Frederick* having put an End to the Assembly, divided his Army into two Bodies, and with one he besieged *Brescia*, and sent the other against *Alessandria*, and with continual Attacks hara's'd these two Cities, and laid waste their Territories; but falling short of Money for carrying on so cruel a War, by the Advice of his Ministers he laid a Tax upon the Goods of the Churches and Ecclesiasticks, at which *Gregory* being offended, sent him Word while he was at this Siege, not to meddle with the Privileges of the Church; whereupon *Frederick*, in order to pacify him, and defend himself against these Accusations, thought fit to send the Archbishop of *Palermo*, the Bishop of *Reggio*, *Taddeo da Sessa*, and *Ruggiero Porcaprello*, his Ambassadors to the Pope, then in *Alagna*, where they found him exceedingly inrag'd; upon which they sent back the Archbishop of *Palermo* to acquaint the Emperor with the Pope's Pleasure, who, notwithstanding the so many Revolts in *Italy*, which oblig'd *Frederick* not to leave it, still insisted upon the Expedition to the Holy Land, and invited many Princes to go thither; on the contrary, *Frederick*, intent on the Affairs of *Italy*, would not be concern'd in that Expedition; but the Time of the Truce being expir'd, he renew'd it for other ten Years, and forbid *Rinaldus* of *Bavaria*, his Vicar in that Kingdom, upon any account to make War against the *Saracens*. Notwithstanding this Truce, *Gregory* persisted in his Resolution, for he sent many Monks to diverse Countries of *Christendom*, to exhort the People to take on the Cross, and go to *Palestine*, whereupon a great Number of the Faithful, both *Germans*, *Italians*, and *French* assembled; but this Expedition was very unfortunate, for, though *Frederick* had given free Passage through his Dominions, yet there not being a Fleet, nor a sufficient Number of Transports for so great a Body of Men, the greatest Part set out to go over Land, and died of Fatigue and want of Necessaries.

A T this very Time there happened a new Ground of Discord betwixt the Pope and *Frederick*: *Eutius* his bastard Son, according to *Riccardo da S. Germano*, married in *Sardinia*, by Virtue of which Marriage he took Possession of the Jurisdiction of *Torre Gallura*: *Gregory*, who pretended that these Places by antient Right belong'd to the Church, was much offended, and sent many Messages to *Frederick*, requiring him to order the Rights of the Church to be restored; but the Emperor answered, That that Island belong'd to the Empire, and that his Grandfather *Barbarossa*, who had a Right to it, invested *Quelfus* his Uncle by the Mother with it, and gave him the Title of Prince; and afterwards invested *Barison* Judge of *Arborea* with it, and gave him the Title of King; and in process of Time gave it to the *Pisans* and *Genoese*: So that he not only would not restore it, but at this very Time created his Son *Eutius* King of it, who was no sooner crown'd, than he got some powerful Barons of the Island to possess themselves of many Territories and Castles, which the Bishops of that Kingdom had appropriated to themselves. These new Incidents, and the Emperor's growing Power, gave the Pope so much Uneasiness, that about the Beginning of this new Year 1239. he sent Letters to *Frederick*, exhorting him to desist from incroaching upon the Rights of the Church; but the Emperor answered him, that ever since his Coronation he made it his Study to have the Rights of the Empire restor'd, and therefore had taken Possession of those Places belonging to it, and that he ought not to take it in ill part, it being lawful for every Man to recover his own. *Gregory* highly offended, order'd him to restore them under Pain of Excommunication, which *Frederick* likewise slighting, he was publicly excommunicated in *Rome* on *Holy Thursday* this Year, in Presence of all the Cardinals, and a Multitude of Spectators conven'd to be Witnesses to the Ceremony. This Excommunication, containing many Accusations against *Frederick*, is recorded by *Sigonius*<sup>1</sup>, and by *Bzovius* in his Annals, and begins: *Excommunicamus, & anathematizamus, ex parte Dei Omnipotentis, &c.* After *Gregory* in most dreadful Terms had declared the Emperor excommunicated, he intimated this Excommunication to *Baldwin* Emperor of *Constantinople*, *James* King of *Arragon*, *Ferdinand* King of *Castile*, *Lewis* King of *France*, and *William* King of *Scotland*, and to all the other Kings and Princes of *Christendom*; and besides, sent Orders to all Prelates, and particularly those of

<sup>1</sup> Sigon. de Reg. Ital. lib. 13.

Germany, to publish in their Churches the Excommunication, and absolv'd his Vassals from their Oaths of Fealty, and interdicted all those that obeyed him. And *Matthew Paris* writes<sup>1</sup>, that after *Gregory* had absolved the Emperor's Subjects from their Allegiance, he wrote to *Robert* Brother of *Lewis* King of France, offering him the Empire, and that the King of France upon this Offer call'd a Council of all the Princes of France, to consult what was fit to be done, and all of them in publick Assembly condemn'd the arrogant Conduct of the Pope, in these Terms: *Quo Spiritu, vel ausu temerario Papa tantum Principem, quo non est major inter Christianos, non convictum, & confessum de objectis sibi criminibus exheredavit, & ab Imperiali apice præcipitavit? Scimus quod Domino Jesu Christo fideliter militavit in oriente, & bellicis se periculis, confidenter opponens, tantum religionis in Papa non invenimus. Imo qui eum debuit promovisse, & Deo militantem protexisse, eum conatus est absentem confundere, & nequiter supplantare. Nolumus nosmetipsos in tanta pericula præcipitare, ut ipsum Federicum tam potentem impugnemus, quem tot Regna contra jurabunt, & causa justa præstabit adminiculum. Quid ad Romanos de prodiga sanguinis nostri effusione, dummodo iræ suæ satisfacerimus, si enim per nos, & alios devicerit omnes Principes Mundi, conculcabit sumens cornua jactantia, & superbiam, quoniam ipsum Federicum Imperatorem Magnum contriverit.*

WHILE *Frederick* with great Solemnity was celebrating *Easter* in *Padua*, on the Monday of that Feast, News was brought him, that on *Holy Thursday* the Pope had publickly excommunicated him; and though he was inwardly vex'd, yet he seem'd no-ways concerned; and looking upon the Censure as unjust, he immediately called an Assembly of the most eminent Citizens of *Padua*, and Italian and German Lords in the Town-House, and, according to *Peter Gerard*, *Pietro delle Vigne* his High Chancellor made a long Oration in his Defence, complaining of *Gregory*, and beginning his Discourse with this Sentence: *Leniter ex merito quid quid patiere ferendum est: Quæ venit indigne pana, dolenda venit*; saying, that *Frederick* who governed his Dominions so uprightly, was heinously injur'd by the Pope, and was not to be reckon'd without the Pale of the Church, seeing he was so unjustly excommunicated, and like a good Christian, was ready to submit himself to the Holy Apostolical See, in all Things which Divine Justice required, but not to the Caprice of a Man<sup>2</sup>. Therefore the Emperor, without minding the Excommunication, left *Padua*, and with a noble Company of Barons went to *Trivigi*, where he was honourably received, and wrote Letters to the Cardinals and Romans, checking them for having consented to the unjust Excommunication. He likewise wrote to all Christian Princes, clearing himself from the Aspersions cast upon him by the Pope, and charging both him and his Cardinals with enormous Crimes; which Letters are to be seen in the Books of *Pietro delle Vigne*, wherein he shews how unjustly he had been abus'd by the Pope. Then he return'd to *Padua*, and labour'd with all his Might to make the most considerable Lords of *Italy* his Friends, in order to make Head against the Pope, and bent all his Thoughts on the War of *Italy*.

THE Pope, after this Excommunication, by the Means of Monks and Friars, did all he could to imbroil the Kingdom; but *Frederick*, though engag'd in the War of *Lombardy*, prevented him, by turning all the Monks out of the Monastery of *Monte Cassino*, leaving only eight to perform the Divine Offices over the Body of *S. Benedict*, and sending a Guard of Soldiers to keep the Monastery; and having made a strong Garrison of it, he took out the old Treasure, and the sacred Vessels of Gold and Silver, which for many Years, by the provident Care of the Monks, and the Munificence of former Kings, Lords and Barons of the Kingdom, had been amass'd. He likewise took *Pontecorvo*, and the Castle *Imola* from these Fathers. He also commanded all the Natives of the Kingdom, then at the Court of *Rome*, to leave it, except those in the Service of Cardinal *Tommaso*, and *Giovanni di Capua* his Vassals. He banish'd the Bishops of *Aquino*, *Carniola*, *Teano*, and *Venafro* from their Churches and the Kingdom. He levied a Subsidy upon all Cathedral Churches, the Monastery of *Cassino*, and all their Vassals, and ordered *Ruggier di Landolfo*, and *Giacomo Gazzolo* to be Collectors for the District of *Terra di Lavoro*, and to levy the Half of their Incomes, with part of which the Soldiers that guarded *Monte Cassino* and *Pontecorvo* were to be maintain'd.

<sup>1</sup> Matth. Paris, in Henric. III.

<sup>2</sup> Sigon. loc. cit.

AND at the same Time he ordered the underwritten Articles to be publish'd over all the Kingdom, and to be inviolably observed, and they are recorded by *Riccardo* <sup>1</sup>.

FIRST, That all the Friars of *S. Dominick*, and the Friars Minors of *S. Francis*, Natives of the rebellious Cities and Territories of *Lombardy*, shall immediately depart his Dominions; and all the other Religious shall give Security to do nothing contrary to his Interest. II. That all Barons and Knights, that heretofore have sided with the Pope, and especially those whose Baronies are situated on the Confines of *Abruzzo* and *Campagna*, shall go with Horse and Arms to serve in the Army in *Lombardy* at their own Charges, and those who have not wherewithal, shall receive Pay. III. That there shall be levied for his Use upon Cathedral Churches, a Subsidy according to their Riches, and likewise upon the Canons, Priests, and other Clergy of these Dioceses, according to their Ability; and the same shall be levied upon the Abbots, white and black Friars. IV. That all those, who are at the Court of *Rome*, excepting those who are exempted, and all suspected Persons, shall immediately return to the Kingdom, otherwise their Goods shall be confiscated; and after being summoned, if they don't obey, they shall never be suffered to return. V. That the Goods and Benefices of such Clergy, as are not Natives of the Kingdom, shall be all confiscated. VI. That none shall go out of the Kingdom to *Rome*, nor return to it from *Rome*, without a Licence from the Justices of the Provinces of *Abruzzo* and *Terra di Lavoro*. VII. Spies shall be appointed, to search both Men and Women coming into the Kingdom, for Letters from the Pope against him, and if any shall be found, the Bearers, whether of the Clergy or Laity, shall suffer Death.

FREDERICK, though now at odds with the Pope, sent the Bishops of *S. Agata* and *Calvi* to *Rome*, in order to treat with the Cardinals about an Accommodation; but as soon as *Gregory* understood that they were come to *Rome*, he ordered them to be gone, and they return'd without doing any Thing <sup>2</sup>.

<sup>1</sup> Ric. ad anno 1239.

<sup>2</sup> Idem, anno 1239.



## CHAP. II.

*An open War breaks out betwixt Frederick and Pope Gregory, who, after he had been every way worsted by the Emperor, dies of Grief.*



OTH Parties being now sufficiently exasperated, the Pope causes *Ravenna* to revolt from the Emperor to the *Venetians*. *Frederick* recalls into *Italy* his Son *Eutius*, who, with a good Body of *Puglian*, *German*, *Sicilian*, and *Saracen* Troops coming from *Sardinia*, invades *Marca d'Ancona*, and begins the War against the Pope. *Gregory* sent Cardinal *Giovanni Colonna* his Legate to defend that Country, and in the Month of *November* 1239. confirm'd the Censures against *Frederick*, and excommunicated King *Eutius*, with all his Followers, for having entered *Marca* in a hostile Manner, *Quam juris esse dicebat Ecclesiæ*, according to *Riccardo*.

THE Pope solicited the *Venetians*, who had already discover'd themselves to be Enemies to *Frederick*, to make War upon him, and they with their Fleet invaded *Puglia*, whereupon *Frederick* hearing that some of his Barons of *Puglia*, to favour this Invasion, had rebell'd, resolv'd to go thither; therefore having put good Garrisons into

the most considerable Cities of *Lombardy*, he pass'd the *Appennines*, and arriv'd at *Lucca*, and from thence he march'd to *Pisa*, where he stopp'd some Days, and engag'd the *Pisans* to make War upon the *Genoese*, and got many of the People of *Tuscany* to join him. At the same Time *Elias* the Monk, a Disciple of *S. Francis* of *Affisi*, offended with the Pope, because he had shewn himself more favourable to some of his Order, whom he hated, than to him, likewise sided with *Frederick*, and became one of his Abettors; whence we see some of the Emperor's Letters written in his Favour, and particularly one to the King of *Cyprus*, wherein he highly commends him, and shews that he had a great Regard for him.

*BERNARDINO COIRO* relates, that before *Frederick* left *Lombardy*, *Pietro delle Vigne*, *Andrea di Cicala*, *Pandolfo della Fasanella*, and *Jacopo di Morra*, with many more of his chief Barons, influenc'd by the *Milanese*, conspired to murder him in the midst of his own Army; and that the Emperor being appriz'd of their Treason, caus'd *Pietro's* Eyes to be put out, and the rest to be put to different Sorts of cruel Death: But *Coiro* is grossly mistaken in this Story, which, perhaps, he has taken from some Author, who unadvisedly has written it before him, for we read of no such Fact, either in *Riccardo da S. Germano*, or in any Writer of these Times; on the contrary, *Andrea di Cicala*, after the Death of *Errico di Morra*, was made Lord Chief Justice, and for a long Time serv'd *Frederick* very faithfully; and the Rebellion of the *S. Severini*, *Teobaldo Francesco*, *Fasanella*, and the other Barons, with the Ruin of *Pietro delle Vigne*, happen'd in *Puglia* a considerable Time after, and upon another Account than what *Coiro* tells, as we shall shew hereafter.

AFTER *Frederick* had made his Son *Eutius* his Lieutenant in *Italy*, and sent him with a good Body of Troops to take Possession of *Marca d'Ancona*, he himself with the rest of the Army on another Side enter'd the Dukedom of *Spoletto*, and other Parts of the Patrimony of the Church; and in the Beginning of this Year 1240. *Fulgino*, *Viterbo*, *Orta*, *Civita Castellana*, *Corneto*, *Sutri*, *Montefiascone*, and *Toscanella*, with many other Castles surrender'd to him; which so terrified the Pope, that he had recourse to Prayers; and having taken out the Heads of *S. Peter* and *S. Paul*, with the Wood of our Saviour's Cross, accompanied by all the Clergy, and almost all the People of *Rome*, he carried them in Procession from *S. John Lateran* to *S. Peter's Church*, where he made a long Speech upon the Miseries, which the Church of God, as he said, suffered by *Frederick*, and publish'd a Crusade against him, as a cruel Enemy to God and his Ministers, and with his Discourse animated many of his Hearers to put on the Cross. And after he had assembled a considerable Army of them and his other Soldiers, they march'd out to fight the Emperor, and had frequent Skirmishes with him, which so exasperated *Frederick*, that as many of the *Crocesignati* as he took Prisoners, he either caus'd their Heads to be cloven in four Pieces, or with a red hot Iron branded them on the Forehead with the Sign of the Cross; and after he had caus'd the Territories of *Rome* to be pillag'd and burnt, he march'd into *Puglia*, whither a little before he had sent the Empress his Wife, accompanied by the Archbishop of *Palermo*, and did all he could to drive the *Venetians* from that Coast, which they had been scowring with Twenty-five Gallies, and had pillag'd *Termoli*, *Campomarino*, *Vesti*, *Rodi*, and other Castles; and had met near *Brindisi*, a Transport returning from *Palestine* with German Soldiers, which, after an obstinate Fight, because they defended themselves resolutely, the *Venetians* burnt and sunk. *Frederick* not able to remedy these Losses, out of Revenge caus'd *Pietro Tiepolo*, their Doge's Son, to be hang'd in their Sight, on a Tower in *Trani* near the Sea-shore; and after the *Venetians* had harass'd the Coast till the Month of *October*, loaded with Booty, without any Opposition they return'd to *Venice*.

AT the same time Pope *Gregory*, by the Advice of the Cardinals, resolv'd to call a general Council to be held in the *Lateran* the *Easter* following, to remedy the bad State of the Affairs of the Church, and relieve *Palestine*, and for that end sent *Giacomo Pecoraro di Pavia* Cardinal of *Preneste*, and *Ottone Bianco* his Legates, to *Spain*, *France*, *England* and *Scotland*, to invite the Bishops and Prelates of these Kingdoms to come to the Council, in order to defend the Rights of the Church against the Emperor, giving them an account of the Wars and Persecutions she daily suffer'd. As soon as *Frederick* was appriz'd of this, he left no Stone unturn'd to hinder the Ultramountain Prelates from coming to the Council, and for that Purpose he wrote to the King of *England*, by no means to suffer his Bishops to leave the Kingdom,

Kingdom, and threatned the *German* and *French* Prelates, if they should venture to come; and in order to be as good as his Word, he sent his Son *Eutius* with a powerful Army to the Coast of *Genoa*, to prevent their coming, and to make all of them Prisoners that should fall into his Hands, and to harass the Territories of *Genoa* to the utmost of his Power, because that State sided with the Pope. *Frederick* was at this Time in a most flourishing Condition, both as to Men and Money, having Five great Armies in his Pay; for, besides that which was besieging *Faenza*, and the other in the *Genoese*, he had a Third in *Marca d'Ancona*, and the Valley of *Spoletto*, whereof, as may be seen in *Pietro delle Vigne's* Letters, *Marino d'Evoli* was Captain General. The Fourth was in *Palestine*, under *Rodolphus* his Marshal, and the Fifth in *Germany*, commanded by his Son *Conrade*, design'd for the Assistance of *Bela* King of *Hungary*, against the *Tartars*, who, a little before, had come out of the remotest Parts of *Scythia*, and like a Deluge, had over-run, and conquer'd the greatest Part of *Asia*; and being Victorious and Powerful, they had divided themselves into several Armies, one of which having come into *Europe*, had defeated the *Poles*, *Russians* and *Bulgarians*; so that King *Bela's* seeking Assistance from *Frederick*, not only oblig'd him to order his Son *Conrade* to assemble a strong Army of *Germans* for assisting that King to drive the *Tartars* from the Borders of *Germany*; but likewise made him write to the Senators of *Rome*, complaining, that the Differences betwixt him and *Gregory* diverted him from going in Person upon so important an Expedition, begging of them to use their Interest for a Reconciliation, as may be plainly seen in the first Book of *Pietro delle Vigne's* Letters.

IN the mean time, in the beginning of the Year 1241, *Frederick*, in order to deprive the Pope of all possible Means of fomenting Rebellion by the Monks; order'd all the *Cordeliers* and *Dominicans* to be banish'd the Kingdom, leaving only Two of each Order, Natives thereof, in the Monasteries, and immediately laid Siege to *Benevento*, as *Riccardo* writes, which being gallantly defended for Nine Months, at last, reduc'd to Famine, surrender'd, and by Order of the Emperor, the Walls and Towers were levell'd with the Ground, and the Citizens disarm'd.

AT the same Time *Gio. Colonna* Cardinal of *St. Prassede*, *Gregory's* Legate in *Marca*, being disoblig'd by him, went over to *Frederick*, and deliver'd up to him a good Number of Castles in the Neighbourhood of *Rome*. During the Siege of *Faenza*, the Cardinals return'd from beyond the Mountains, and brought with them from *England* and *Scotland*, a great Number of Archbishops, Bishops and other Prelates to *Genoa*, on their Way to the Council, and they found in that City *Gregorio di Romagio*, likewise the Pope's Legate, sent thither about the same Affair of the Council. These Prelates, afraid to go to *Rome* by Land, because of *Frederick's* Menaces, resolv'd to take Shipping in the *Genoese* Gallies, cammanded by *Guglielmo Ubriachi* their Admiral, notwithstanding *Frederick* had invited them to come to him, because he had a mind either to make them sensible that he had Justice on his Side, and lay all the Blame on the Pope, or to prevent their going to the Council; but they imbarck'd in the *Genoese* Fleet, and were met by King *Eutius* with Twenty well-arm'd *Neapolitan*, *Sicilian* and *Pisan* Gallies, commanded by *Ugolino Buzzaccherini da Pisa*, a most experienc'd Sea-Officer: On the second Day of *May* the Two Fleets engag'd betwixt *Porto Pisano* and the Island of *Corfica*, not far from the small Island of *Meloria*, (for the *Genoese* Admiral had kept close by the Shore, both to shorten the Voyage and shun the Enemy) and by the Bravery of the Soldiers and their Commander *Eutius*, obtain'd a notable Victory. On this Occasion the Three Legates, all the Prelates, and a great Number of Ambassadors from diverse Princes and Cities, who were likewise going to the Council, were all made Prisoners, Three of the Enemy's Gallies sunk, and Twenty-two taken, Thirteen of which were taken by the *Neapolitan* and *Sicilian* Vessels, and the rest by the *Pisans*, besides Four thousand *Genoese* Prisoners; among the Prelates that were taken, the Archbishop of *Roan* was one, with a great many *English* and *French* Bishops and lesser Prelates; some of which were cruelly thrown into the Sea near *Meloria*, and others imprison'd in *Naples*, *Salerno*, and other Places on the Coast of *Amalphis*, where many of them died of Famine and Grief, and the rest were set at Liberty, at the Solicitations of the Kings of *France* and *England*, and *Baldwin* Emperor of *Constantinople*. There is still to be seen one of *Frederick's* Letters<sup>1</sup>, written to some

<sup>1</sup> Sigon. de Reg. Ital. lib. 18. anno 1241.

<sup>2</sup> Pet. de Vineis epist. fol. 107.



of his Barons, wherein he mentions particularly the taking of *Faenza*, and this Victory obtain'd by his Gallies, which begins thus : *Adaucta nobis continuæ felicitatis auspicia*, &c.

AFTER this Exploit, *Andrea di Cicala*, Lord Chief Justice and Captain General of the Kingdom, by Order of his Master, conven'd all the Prelates, that were Natives of the Kingdom in *Melpis*, and made them consign into his Hands all the Furniture of their Churches, both of Gold and Silver, and the precious Stones, the Vestments of Silk and Purple, and all other Things set apart for Divine Worship, a great Part of which he convey'd to a Church in *S. Germano*, and committed the Charge thereof to Twelve of the richest and most responsible Men of that Town ; and particularly from the Altar of *St. Benedict* in *Monte Cassino*, there were taken two Tables, the one of most pure Gold, and the other of the finest Silver, with other costly Ornaments, set off with Gold and Jewels, and Vessels of Silver, with a vast Sum of ready Money ; but some of this sacrilegious Booty was ransom'd by those from whom it had been taken, and the rest was carried to *Grottaferrata*, to be coin'd for the Service of the Emperor ; who, after he had taken *Faenza*, and all the other Places of *Romagna*, and made his Son *Eutius* his Lieutenant in *Lombardy*, march'd to *Marca*, and attack'd *Fano*, *Assisi* and *Pesaro*, but could not make himself Master of them ; whereupon he laid waste their Territories, and march'd to *Spoletto*, which with *Narni*, and other Places of *Umbria*, immediately surrender'd, whilst Count *Simone di Chieti* his General, with another Part of the Army, took *Chiusi* and *Viterbo* ; then at the Request of Cardinal *Colonna*, who, as we have said, had revolted from the Pope, he took and destroy'd *Monte Albano*, *Tivoli*, and other Castles near *Rome*, where *Gregory*, afflicted with so many Disasters, soon after he had made *Matto Rosso*, a prudent and brave Man, Senator of *Rome*, in order to withstand the Attempts of the Emperor and Cardinal *Colonna*, was taken ill, and, according to *Riccardo da S. Germano*, died of Grief the 21st of *August*.

UPON the Death of Pope *Gregory*, *Frederick* wrote Letters to the King of *England*, and other Kings and Princes of Christendom, to tell them, that he hop'd by *Gregory's* Death, to put an End to the Differences which he had had with the Church, and to accompany them against the *Tartars*, who, as we have said, were ravaging *Hungary*, *Germany* and other Christian Countries. The Cardinals, on *Gregory's* Death, met to elect a new Pope ; but being only Ten in Number, they sent Ambassadors to *Frederick*, to beg that he would be pleas'd, on whatever Conditions he should think fit, to send them the Two Cardinals that were his Prisoners ; therefore having caus'd them to be conducted to *Tivoli* by *Teobaldo di Dragone*, he made them swear, as *Sigonius* relates, that unless one of them was elected Pope, they should return to their Prison, and then gave them free Liberty to go to *Rome*. And having left a good Garrison in *Tivoli*, by the Way of *Campagna* he enter'd our Kingdom, where he halted at *Isola*, and order'd a new City to be built over against *Cepparano*, and committed the Inspection of it to *Riccardo di Monte Negro*, Justice of *Terra di Lavoro*, and gave Orders, that the Inhabitants of *Arce*, *Isola* and *Pastena* should go thither to live ; and that a certain Number of the Tenants belonging to *Monte Cassino*, *St. Vincenzo of Vulturno*, the Counties of *Fondi*, *Comino* and *Molise*, should go weekly by Turns, to assist in building this new City. But *Riccardo*, who writes this, makes no mention of the Name given to this new City ; but by what may be gather'd from what he says a little after, and by what we read in the Chronicle of King *Manfred*, it was call'd *Flagella*, by which *Frederick* would have it to be understood, that he had built this City, to be a Bridle upon *Cepparano*, and the other neighbouring Places belonging to the Church ; nevertheless there are no Remains, nor the least Vestige of such a City to be seen at present, nor do we find it mention'd in after-times, either because it has never been finish'd, or soon after has been demolish'd.

WHILE *Frederick* was on his March by the Way of *St. Germano*, *Alife* and *Benevento* to *Puglia*, and had order'd all the Goods taken out of the Churches, to be brought to him in *Foggia* ; the Cardinals, who were met in the Conclave at *Rome*, Thirty Days after *Gregory's* Death, elected *Goffredo Castiglione* a *Milanes*e, Cardinal of *St. Sabina*, Pope, who was old and infirm, but a Man of great Worth, and gave him the Name of *Celestine IV.* who, Seventeen Days after his Election, before he was consecrated, departed this Life ; whereupon the Cardinals disagreeing among themselves, for a long Time did not elect another Pope, to the great Detri-

ment



ment of the Church ; but many of them, afraid of *Frederick's* Cruelty, left *Rome* privately, and fled to *Alagna*, and other Places, to shelter themselves.

IN the Month of *December*, while the Empress *Isabella* was with the Emperor her Husband in *Foggia*, she was seiz'd with a sudden Illness, and in a short Time died, and was buried in *Andria*.

THE following Year 1242, *Frederick* impos'd another heavy Tax upon the Kingdom, turn'd out *Riccardo di Monte Negro* from being Justice of *Terra di Lavoro*, and put *Gisulpho da Narni* in his Place : And suspecting the Fidelity of the *Baresians*, he caus'd all the Towers of their City to be demolished, and sent the Great Master of the *Teutonic* Order, the Archbishop of *Bari*, and *Ruggiero Procastello*, his Ambassadors to *Rome*, in order to reconcile the Cardinals that were there, and treat about the Election of a new Pope.

AT the same Time, according to *Riccardo da S. Germano*, *Henry*, who had been long Prisoner in the Castle of *St. Felice* in *Puglia*, and afterwards in that of *Nicastro* in *Calabria*, and then in *Martorano*, died a natural Death in this last Place : But *Boccaccio*, an Author that liv'd near to these Times, and famous for his Learning and other Virtues, treating of the Fate of illustrious Men, says, That while *Henry* was Prisoner in *Martorano*, his Father, mov'd with Compassion, order'd him to be brought before him, with a Design to set him at Liberty ; whereupon *Henry*, who knew nothing of his Father's Intention, afraid that he had sent for him to satiate his Cruelty in the most barbarous Manner, while the Keepers were conducting him a Horseback to the Emperor, in passing a Bridge of a River in the Way, threw himself, Horse and all, into it, and was immediately drown'd : Whatever way he came by his Death, 'tis certain, that *Frederick* was very sorry for it, and regretted the Severity wherewith he had us'd him ; which he evidenc'd to all the Prelates of his Kingdom, by Letters, wherein he bemoans his Loss, and orders them to celebrate pompous Obsequies, with Masses, and other sacred Offices, for the Space of a Month, as an Atonement for the Sins of his dead Son, which Letters are recorded by *Riccardo*, and begin, *Fridericus, &c. Abbati Cassinensi, &c. Misericordia, &c.*

*HENRY* left by his Wife *Margaret*, Daughter of *Leopold* Duke of *Austria*, surnam'd the *Glorious*, according to *Cuspinianus*, *Henry* and *Frederick*, Twins ; but it being the Will of God to put an End to that unfortunate House, these two Sons, with the Mother *Margaret*, died as miserable Deaths as the Father *Henry* ; for, *Manfred* caus'd the Sons to be poison'd when they were Twelve Years of Age ; and *Margaret* having outliv'd her Father, Husband and Brothers, who all died without Issue, and being left sole Heiress of the Dukedom of *Austria*, and the last of that Race, was married again to *Othocarius* the Son of the King of *Bohemia*, by whom she had no Children ; and in process of Time, grievous Discords arising betwixt them, she was divorc'd ; and *Othocarius*, under pretence of having a Dispensation from the Pope, whom he had in vain, by Bribes and Offers, solicited for that Purpose, married *Kunigunda*, Niece of *Bela* King of *Hungary*, and confin'd *Margaret* in the City of *Krems* in *Austria*, where, shortly after, he caus'd her to be poison'd, and, after terrible Wars on that Account, at last the Dukedom of *Austria* came to the Counts of *Hapsburg*, who are yet in Possession of it, and many other Dominions and Provinces, with the Surname of the House of *Austria*.





## C H A P. III.

*Sinibaldo Fieschi is elected Pope by the Name of Innocent IV. who prosecutes the War against Frederick, as his Predecessor Gregory had done ; and calls a Council to be held in Lyons in France.*



**I**N the mean Time *Frederick*, who was very earnest to have a new Pope chosen, went in a friendly Manner to *Rome*, in order to persuade the Cardinals to come to an Election, as may be seen in one of his Letters recorded by *Pietro delle Vigne* ; and at the same Time *Errico di Morra* Lord Chief Justice of the Kingdom, died a natural Death.

THE Year of God 1243 being now begun, and the Cardinals not dispos'd to elect a Pope to *Frederick's* Mind, in a great Rage he enter'd the Territories of *Rome*, and, according to *Riccardo*, carry'd Ruin and Destruction with him where-ever he went ; and because the *Romans* laid the Blame of delaying the Election upon the Cardinals, he not only possess'd himself of their Churches, but likewise destroy'd their Country Seats and Estates, and the *Saracens* ruin'd *Albano*, which belong'd to a Cardinal. He caus'd Two Statues of Brass to be taken out of the Abby of *Grotta Ferrata*, and carried to *Lucera* in *Puglia*, and being reconcil'd with the *Romans*, he set the Cardinal of *Prenefte*, who had been long Prisoner in Castle *Fanola*, at Liberty, and sent him honourably back to *Rome*, having some time before done the same to Cardinal *Oddo*, that he might be present at the Election of the Pope ; these two Cardinals, according to their Parole, of their own accord, after the Election of *Celestine*, had return'd to Prison. The Cardinals, being met anew in *Alagna*, on the 24th of *June*, the Feast of St. *John Baptist*, elected *Sinibaldo Fieschi* a *Genoese*, of the Family of the Counts of *Lavagna*, Cardinal of St. *Lorenzo*, who was consecrated on the Feast of the Apostles St. *Peter* and *Paul*, and call'd *Innocent IV.*

HE had been a most intimate and particular Friend of *Frederick's*, therefore, upon the News of his Election, which might have been reckon'd agreeable to the Emperor, *Frederick* order'd Thanks to be return'd to God over all the Kingdom, and sent the Archbishop of *Palermo*, *Pietro delle Vigne*, and *Taddeo da Sessa*, his Ambassadors, with most friendly Letters to congratulate him upon his Accession to the Papacy ; this made the People of *Italy* conclude, that all Differences were now at an end, and that they might expect to live in Peace and Tranquillity ; but *Frederick*, who knew *Innocent's* Temper, answer'd his Friends who wish'd him Joy, that he had good Reason to mourn, because he had lost one who was his best Friend when a Cardinal, and would prove his bitterest Enemy now that he was Pope ; which accordingly happen'd ; for *Innocent* was scarcely fix'd in St. *Peter's* Chair, when he caus'd it to be signified to *Frederick*, that with the Papacy he had likewise taken upon him to defend the Rights of the Church, and sent *Peter* Archbishop of *Roan*, *William* Bishop of *Modena*, and *William* Abbot of St. *Facundus*, to tell him, that he must purge himself of all the Crimes laid to his Charge, and that if he had offended the Church in any thing, he had e'en best make such Repara-

<sup>1</sup> Paolo Pansa has recorded some Passages of these Letters in the Life of *Innocent IV.*

tion as some Delegates that he would appoint for that Purpose should determine'. *Frederick*, hearing this insolent Message, immediately rejected it, and caus'd all the Ports and Roads to be guarded, that *Innocent* might not write of such a Thing to the Princes and People beyond the *Alps*; and being appriz'd, that the Pope had imploy'd some *Cordeliers* to go and solicit the Favour of these Princes and People, he order'd them to be way-laid, and they were all caught, and hang'd.

IN the mean time the Pope, in the Month of *October*, left *Alagna*, where he had continued ever since his Election, and went to *Rome*, and was receiv'd with great Pomp and Honour; and, shortly after, the Count of *Toulouse*, who some time before had come to *Puglia* to wait upon *Frederick*, did what he could to reconcile them.

HERE ends the Chronicle of *Riccardo da S. Germano*, for want of which we shall not be able to give an Account of *Frederick's* Actions, and other Events of these Times, with the same Perspicuity as we have hitherto done.

IN the Beginning of the Year 1244, *Frederick*, at the Head of his Army, return'd, and enter'd the State of the Church; yet mov'd by the Intreaties of his Friends, and the repeated Sollicitations of other Christian Princes, he was persuaded to come to an Agreement with the Pope; whereupon he sent the Count of *Toulouse*, *Pietro delle Vigne*, and *Taddeo di Sessa*, his Plenipotentiaries and Ambassadors to *Rome*, who, in his Name, on the Feast of *Easter*, in Presence of *Baldwin* Emperor of *Constantinople*, who was then living there, promis'd, that he would submit to *Innocent*, and let the Church enjoy her Rights and Territories peaceably; upon which the Treaty was begun, and the Pope, with many Cardinals, went to *Civita Castellana*, and from thence to *Sutri*, to be nearer the Emperor. *Frederick* first of all requir'd to be absolv'd from the unjust Sentence of Excommunication pronounc'd against him by *Gregory* his Predecessor; but *Innocent* by no means would absolve him, till he had first restor'd all that he had taken from the Church; whereupon the Treaty was broken off, and *Frederick* began openly to threaten him, and even to fall upon Ways and Means how to seize him; whereof the Pope being appriz'd, immediately fled, and sent a *Cordelier* to acquaint *Filippo Vicedomini* Governor of *Genoa*, to come with arm'd Gallies, and his Nephews the *Fieschi*, to take him aboard at the nearest Shore; when the Governor made Report of this to the Senate, they resolv'd to assist *Innocent* with Twenty-two Gallies. The Fleet being ready, *Alberto*, *Jacopo* and *Ugone Fieschi*, the Sons of *Innocent's* Brother, imbarc'd, and to conceal their Design from *Frederick's* Faction in *Genoa*, they pretended to be going upon another Voyage: They left *Genoa* the 11th of *June*, and after a prosperous Voyage, arriv'd at *Civita Vecchia*, where they found *Innocent*, who took shipping in their Fleet, and arriv'd at *Porto Venere*, and from thence at *Genoa*, where he was honourably receiv'd, and the Cardinals, whom he had left at *Sutri*, shortly after, in Disguise, and by different Roads, by the Favour of the *Milanese*, likewise arriv'd at *Genoa*. *Frederick* having certain Account of the Pope's Departure, furnish'd and fortify'd all the Places of *St. Peter's* Patrimony that were in his Possession, and then went to *Pisa*, from whence he sent his Ambassadors to *Parma* (where he knew that *Innocent* had many Relations, by some of his Sisters being married there) to prevent Revolts and Commotions there, and to confirm the *Parmesans* in their Fidelity, and then left *Tuscany*, and return'd to our Kingdom.

INNOCENT being now in *Genoa*, and fully persuaded, that *Frederick* would yield to no Terms, till he was first absolv'd from the Censures, which he was determin'd not to consent to; with a Design quite to undo *Frederick*, resolv'd to leave *Italy*, and being accompanied by the Cardinals, and other Roman Prelates and Barons, with the Marquises of *Montferrat* and *Carretto*, he went to *Asti*, and from thence to *Lyons* in *France*, where he was receiv'd with the utmost Honour and Respect by King *Lewis IX.* and presently summon'd the Council, which *Gregory* so earnestly desir'd to have call'd, without ever being able to do it; to which he summon'd all the Prelates of *Christendom* against the Feast of *St. John Baptist*; and to give a specious Pretence for calling this Council, he pretended that it was to find out Means how to relieve the Christians that were making War in the Holy Land, where, by reason of the Differences with *Frederick*, they were reduc'd to very miserable Circumstances; and likewise added, That in this Council Ways and Means

<sup>1</sup> Panfa, in vita Innocen. IV.

ought to be fallen upon how to repair the distracted State of the Church in *Italy*; but his real Intent was to have *Frederick's* Deposition brought upon the Carpet. The Emperor having smelt out *Innocent's* Design, did not fail at the same Time to write a long Letter to all the Princes of the World, to whom he laid open the Pope's Designs, representing to them, that what he pretended was only Grimace, and that it was well known that he could not send Relief to the Holy Land, when *Innocent* was doing all he could to sow Sedition in, and turn him out of his Dominions in *Italy*, and that all the Mischief, and the Ruin of *Jerusalem*, was owing to the Pope; for all the Differences there betwixt the Knights *Templars* and *Hospitalers* were fomented by him, because these last were Creatures of his, and his Ministers.

THUS ended the Year 1244, in which *Italy* had not only been afflicted with War, but likewise with a cruel Famine and Pestilence. In the Beginning of the following Year 1245, *Frederick* finding that the Council of *Lyons* was levell'd against him, resolv'd to return to *Lombardy*, and, the best way he could, frustrate the Pope's Designs, and being arriv'd at *Verona*, he call'd a general Parliament, wherein were present many *Italian* and *German* Barons, together with *Conrade* the Son of *Baldwin*, Emperor of *Constantinople*, the Dukes of *Austria* and *Moravia*, with *Ezellino*; and after sundry Affairs of *Italy* were settled, he made heavy Complaints of *Innocent*, clear'd himself of all the Faults laid to his Charge, and sent *Pietro delle Vigne*, and *Taddeo di Sessa*, to the Council of *Lyons* (whither he resolv'd to go himself) to oppose the Attempts of the Pope; for this end he left *Verona*, and set forward in order to cross the *Alps*; but on his Arrival at *Turin*, he heard, that on the 27th of *July*, the Pope had pronounc'd Sentence against him, and deprived him of the Kingdoms of *Puglia* and *Sicily*, and of the Imperial Crown, as a Rebel, an Enemy, and a Persecutor of the Holy Church.

## S E C T. I.

*The History of the Council of Lyons, in which the Emperor Frederick was depos'd.*

MATHEW PARIS, and other grave Authors relate, that the Council being conven'd in the Cathedral Church of *Lyons*, *Innocent* sitting on the Throne, with *Baldwin* Emperor of *Constantinople* on his Right Hand; before they enter'd upon Business, adorn'd the Cardinals with red Hats, meaning by that Colour to shew, that they ought to be ready to shed their Blood in the Service of the Church against *Frederick*; and for the greater Ornament of their Dignity, he added the Portmantle and the Silver Mace when they travelled a Horseback, whereby he meant, that their Dignity should be look'd upon as equal to that of Kings. This he did likewise out of Spite and Malice to *Frederick*, who had said, that Prelates ought to imitate Christ, and the Apostles, by walking bare-footed, and that they ought to be reduc'd to the Primitive Poverty of the Church. Then other Affairs of the Church, such as the Relief to be sent to the Holy Land, and how to defend *Hungary* and *Germany* against the *Tartars*, who had invaded, and were destroying these Countries, were discuss'd: In the next Place the Pope began to exaggerate *Frederick's* Wickedness, and his continual Persecution of the *Roman* Pontiffs, and other Ministers of the Church of God, by banishing the Bishops, and depriving them of their Livings, imprisoning the Clergy, and often putting them to cruel Deaths, &c. But *Taddeo di Sessa*, one of *Frederick's* Ambassadors, stood up, and, in the Face of the Pope and the whole Council, boldly answered, that his Master was innocent of all these Crimes that they laid to his Charge; and that the Blame of the by-past Wars ought to be imputed to the Popes; and that trusting to the Justice of his Prince's Cause, he would clear him from all these Aspersions; and that the Emperor, if the Pope had been his Friend, would have got the *Greek* Church to have united with the *Latin*, and would have recovered the Holy Land, and restored all that had been taken from the Church of *Rome*; and that he had offered the Kings of *France* and *England* as Guarantees

<sup>1</sup> Panfa, in vita Innocen. IV.

for his Performance ; but the Pope made a Mock of these Offers, as vain and illusory, and rejected them ; with this Discourse ended the first Session of the Council.

THE Council met the Week following, and in this second Session the same Affair was the first that was brought upon the Carpet, and after the Pope had made a new Speech on *Frederick's* Wickedness, the Bishop of *Carinola*, who had been a *Cistercian* Monk, and was one of the Prelates whom *Frederick* had caus'd to be banish'd the Kingdom, rose up, and after he had told, with a doleful Voice, how severely he had been treated by *Frederick*, he began to give an Account of his wicked Life from his Childhood, and loaded him with many Crimes, saying, That *Frederick* believ'd neither in God, nor the Saints ; that he had several Wives at one and the same Time ; that he was always a Favourer of the *Saracens* ; that he had a private Correspondence with the Soldan of *Babylon* ; that he often polluted himself with the unlawful Embraces of *Saracen* Women ; and that by leading an Epicurean and Worldly Life, in Opposition to all Laws, he was wont to repeat these Words of *Averroes*, that three Persons had deceiv'd the whole World, our Saviour *Jesus Christ* the *Christians*, *Moses* the *Jews*, and *Mahomet* the *Arabs* ; and after the Bishop had enumerated some other such like Crimes, he concluded his Discourse with saying, That *Frederick* intended to reduce the Prelates to that pitiful poor Condition of the Primitive Church, as his Actions and Letters clearly demonstrate. Then rose a *Spanish* Archbishop, who confirm'd what the Bishop of *Carinola* had said, and charg'd *Frederick* with other Crimes, such as Heresy, Sacrilege, and Perjury, and advised the Pope to proceed against him, and depose him from the Empire, and offered to assist him both with his Purse and Person, and to get all the Prelates of his Nation (who were more numerous in this Council, and made a greater Figure than those of any other Nation) to do the same.

BUT *Taddeo di Sessa*, not able to bear the opprobrious Speech of the Bishop of *Carinola*, answer'd him boldly, that he ly'd in every Thing he had said, and told him, That it was not the Love of Justice, but the Hatred he bore the Emperor, made him speak in that Manner, and upbraided him with many Crimes, for which he and his Brothers had been justly punished ; that whoever charg'd *Frederick* with Heresy ly'd, and that if he were present himself, he would from his own Mouth declare himself as pure and sincere a Christian as any of them all ; that his not suffering Usurers in his Dominions, was an undeniable Argument of his Love for the true Christian Religion ; in *hoc Curiam Romanam reprehendens* (as *Mathew Paris* says) *quam constat hoc vitio maxime laborantem* ; and having answered all the Accusations alledged by these Prelates, he earnestly begg'd of the Pope to delay the Meeting of the Third Session of the Council, because *Frederick* was arriv'd at *Turin*, and would be present to clear himself of all these Crimes that were laid to his Charge ; but the Pope at first refus'd to delay the Meeting, and said, that if *Frederick* should come, he would be gone ; but the next Day, at the Request of the Proxies of the Kings of *France* and *England*, he was forc'd to grant the desir'd Delay ; but he did it only for two Weeks.

*FREDERICK*, finding that his Condemnation was unavoidable, thought best not to appear before a partial Judge, and refused to come ; and notwithstanding that *Taddeo di Sessa* protested against what should be done in prejudice of the Emperor, and appeal'd to a future Council, yet the two Weeks were no longer expir'd, than *Innocent* conven'd the Prelates, and after publishing some Constitutions made for the Relief of the Holy Land, *non sine omnium audientium, & circumstantium stupore, & horrore*, according to *Mathew Paris*, he pronounc'd Sentence against *Frederick*, depriv'd him of the Empire, and all his other Dominions, Honours and Dignities, absolv'd his Subjects from their Oaths, and ordered them under the Pain of Excommunication, not to obey him any more ; and at the same Time he ordered the Electors of the Empire to chuse a Successor, and that none of them should any longer acknowledge him Emperor or King. This Sentence is recorded by *Bzovius* in his Ecclesiastical Annals, and is to be read at full Length in the Life of *Frederick*, which *Simon Scardius*, by way of Introduction, has prefix'd to the Letters of *Pietro delle Vigne*. In relating *Frederick's* Deposition, we have chosen to follow what is recorded in the fourth Volume of the General Councils, and the Annals of *Mathew Paris*, where the Truth is more likely to be found, than in *Sigonius* and some other Authors.

THE Pope by particular Letters gave an Account of this Sentence to all Christian Princes, and sent *Filippo Fontana* Bishop of *Ferrara*, to the Princes of *Germany*, and the Electors, to get them to chuse a new Emperor, exhorting them to make choice of *Henry Landgrave of Thuringia*.

*FREDERICK*, while he was at *Turin*, hearing that he was depos'd, in a terrible Wrath turn'd to his Barons, and spoke thus: *The Pope has depriv'd me of the Imperial Crown, let us see if it be so*; and ordering the Crown to be brought him, he put it upon his Head and said, *That neither the Pope nor the Council had Power to take it from him*; but though he look'd upon the Sentence as void and unjust, yet considering of what Detriment it might be to him, he left no Stone unturn'd in order to be reconcil'd with the Pope; and by the Mediation of the King of *France*, he offer'd to the Pope *Satisfactionem facere competentem* (according to *Mathew Paris*) *obtulit etiam quod in terram Sanctam irredireturus abiret, quoad viveret Christo ibidem militaturus*; but the Pope, scorning these Things, answered the King, that *Frederick* had many times made such fair Promises, but never perform'd them; to which the King replied: *Septuagies septies pendendus est siuus, peto, Et petens consulo, tam pro me, quam pro multis aliis millium millibus peregrinaturis prosperum exitum expectantibus, imo potius pro statu Universalis Ecclesiæ, Et Christianitatis accipite, Et acceptate tanti Principis talem humilitatem, Christi sequentes vestigia, qui se usque ad crucis patibulum humiliasse legitur*; when the King of *France* saw that the Pope gave him a flat Denial, he left the Place in a great Passion, admiring so much Humility in an Emperor, and so little in a *Servant of Servants*.

THOUGH the Pope by his Letters had publish'd this Sentence to all the World, yet, as the Abbot of *Stade* writes, *Quidam Principum cum multis aliis reclamabant, dicentes ad Papam non pertinere Imperatorem instituere, vel destituere, sed electum a Principibus coronare*. And this Deposition was so chimerical and ineffectual, according to *Tribemius*, that as long as *Frederick* liv'd, *per annos ferme sex contra eum, nec Papa, nec aliquis Principum prævalere potuit; sed non advertens sententiam Papæ, quam frivolam, Et injustam esse dicebat, se Imperatorem gessit, magnamque Principum nobiliorum, Et Civitatum usque ad mortem aderentiam habuit*. *Frederick* finding that his Humility had been of no stead to him, was resolv'd to inform the World of *Innocent's* Behaviour towards him, whereupon he wrote anew to all Christian Princes, clearing himself of the Crimes laid to his Charge, and declaring the Nullity of his Deposition, as proceeding from one who had no Power to do it, whence in the first Book of *Pietro delle Vigne's* Collection of Letters, the first begins thus: *Collegerunt Pontifices, Et Pharisei concilium in unum*, &c. and the Second: *In exordio nascentis Mundi*, and many more to the same Purpose. And it has been demonstrated by able Divines<sup>a</sup>, that 'tis neither in the Power of the Pope nor Council to depose Princes; and much less could the Council of *Lyons* claim such a Power, for, besides its not being General, as (according to the Opinions of *Mathew Paris*, *Albertus Stadenlis*, *Tribemius*, *Palmerius*, *Platina*, and others) wanting all the Conditions requisite in a General Council, having but a small Number of Prelates present in it, and none at all from several Provinces of the West; the Sentence was not pronounc'd by the Council, but by the Pope alone, not *sacro approbante Concilio*, but only *sacro presente Concilio*, as may be read in the Acts of that Council, recorded by *Du Pin* and other famous Ecclesiastical Writers.

FOR these Reasons almost all the Princes and People of *Europe*, notwithstanding this pretended Deposition, acknowledged him both as Emperor and King. Neither did *Frederick* allow the Subjects of his Dominions and Kingdoms of *Sicily*, to obey *Innocent* in any Thing whatsoever; but ordered his Lord Chief Justice of *Sicily*, severely to punish, deprive of all their Goods, and banish the Kingdom, all Monks and Priests, who by the Pope's Order and Interdiction, should refuse to celebrate the Divine Offices, and administer the Sacraments to the People, and suffer none of the Religious to go from one Place to another without express Licence, and a Certificate from whence they came.

HE likewise sent the like Orders to the Justice of *Terra di Lavoro*, and strictly commanded him to exact from the Clergy the Third of their Incomes which they had by their Churches, and make them pay all other Taxes impos'd upon the Laicks, and besides, to imprison all those who should refuse to comply.

<sup>a</sup> V. Du Pin, De Antiq. Eccl. disc. Dissert. ult.



## S E C T. II.

*The unhappy End of Pietro delle Vigne.*

**PIETRO DELLE VIGNE**, by neglecting to speak in Behalf of his Master in the Council of *Lyons*, when the other Ambassador *Taddeo da Sessa* had so boldly defended him, gave Occasion to his Adversaries to contrive that Mischief which shortly after befell him; for they represented to the Emperor, that being brib'd by the Pope, he had fail'd in the Performance of his Duty; and, indeed, we find no mention made, either in the Acts of the Council, or in the Ecclesiastick Annals of *Bzovius*, nor in any other Author who gives us the History of that Council, but of *Taddeo da Sessa*; whence we may gather, that *Pietro*, though present, did not concern himself in the Affair. This Conduct of his did in a great measure cool the Emperor's Affection towards him, and made him jealous that he was concern'd in some Plot against him; and, when some Time after that, the Emperor was taken ill in *Puglia*, and was advis'd by *Pietro* to purge and bathe, he ordered a Physician, an intimate Friend of *Pietro's*, to prepare him a Potion, and when he was just going to take it, he was inform'd that *Pietro*, brib'd by the Pope, had a Design to poison him; therefore turning to the Physician and to *Pietro*, who was there present, he said, *Friends, I have Confidence in you, and know you will not give me Poison instead of Physick*; *Pietro* answer'd, Sir, This Physician hath oftentimes cured you before, what have you now to be afraid of? The Emperor with a stern Countenance said to the Physician, *Give me that Potion*; the Physician being terrified, stumbled of Design, and spilt the greatest Part of it, which increas'd the Jealousy of the Emperor, who ordered them both to be seiz'd, and some Persons under Sentence of Death to be brought from the Prisons, who, at the Emperor's Command, drank what remain'd of the Potion, and died on the Spot; hence it was evident, that both the Potion and Bath had been mix'd with the strongest Poison; whereupon the Physician was hang'd, and *Pietro* (for he was unwilling to put him to Death) had his Eyes put out, and was depriv'd of all his Wealth, Authority and Offices, and condemn'd to lead a miserable Life. But *Pietro*, unable to bear this Reverse of Fortune, being told by his Guide, that he was near a Wall, or a Marble Pillar, according to *Sigonius*<sup>1</sup>, he knock'd his Head against it with such Force, that he beat out his Brains, and died immediately. Others say, that he threw himself out of a Window of his own House in *Capua*, while the Emperor was passing under it, and by the Fall died on the Spot in the Year 1249. And *Mathew Paris*, who was alive in the Year 1250. in his Annals of *England*, *Sigonius*, and other antient Authors, place *Pietro's* Death in that Year. There are some who write that he died innocent, and that it was only some Courtiers, who envying his Greatness, in order to put him in Disgrace at Court, made *Frederick* believe, that by the Instigation of the Pope he was hatching a Plot against him, which brought him to such an unlucky End; among which *Dante*, an excellent Poet of that Age, is one, who, in his 13th Canto of Hell, brings in *Pietro* speaking in his own Defence thus:

*Of Frederick's Heart the Keys were in my Hand,  
'Twas shut or open'd still at my Command, &c.*

BY which Verses, whatever was the Occasion of his Death, 'tis clear, that because he had incurr'd his Master's Displeasure, he in a Fury dispatch'd himself. *Mathew Paris* likewise writes, that the Emperor was much afflicted both for his Treason and Death, saying (according to this Author) *Vae mihi contra quem servire coactus*.

BUT as 'tis well known, that *Innocent*, by the Means of some Persons of Note, contriv'd Conspiracies against *Frederick*, and brought over many Princes to his Party, that had before been in *Frederick's* Interest, it was an easy Matter for him to

<sup>1</sup> Sigon. de Reg. Ital. lib. 18. anno 1249.



shake the Fidelity and Constancy of *Pietro delle Vigne*, since by the Bishop of *Ferrara* he had brib'd some Princes of *Germany*, who, without regard to *Conrade*, *Frederick's* Son, in Complaisance to the Pope, elected *Henry* of *Thuringia*, King of the Romans, who, after his Election, commenc'd a cruel War in that Country against *Conrade*.

HE likewise corrupted many of his Barons, not only those in his Army, who had conspir'd to murder him, but even those that had remain'd in the Kingdom, and had been faithful to him before, who attempted, by Sedition, to overturn the Kingdom of *Puglia*; so that he was forc'd to put a Stop to the War against the *Milanese*, and to leave King *Eutius* his Lieutenant in *Lombardy*, and march in all haste to the Defence of the Kingdom against the Barons, who had openly taken Arms against him, and possess'd themselves of *Capaccio*, and other Castles of that Province.

THE Barons, who by the Pope's Means had conspir'd against *Frederick*, had formerly been his most fast Friends; these were *Teobaldo Francesco*, *Pandolfo Riccardo*, and *Fasanella*, with all their Followers, and all the Family of the *S. Severini*, headed by Count *Guglielmo*, *Jacopo*, and *Goffredo di Morra*; *Andrea Cicala* Captain General of the Kingdom, *Gisolfo di Maina*, with many others, whose Names we know not.

THOSE that had conspir'd to murder *Frederick*, while they were watching an Opportunity to put their Design in Execution, were discover'd to him by the Count of *Caserta*, who, as some Authors write, gave him Account of them by one of his trusty Domesticks, nam'd *Giovanni da Presensano*, when he was in *Lombardy*; whereupon *Frederick* caus'd some of them to be immediately imprison'd, and others fled, amongst the last were *Pandolfo della Fasanella*, and *Jacopo di Morra*; and the rest, viz. *Teobaldo Francesco*, *Guglielmo S. Severina*, and *Andrea Cicala* hearing that the Conspiracy was discovered, surpriz'd *Capaccio* and *Scala*, which Places they fortified and provided as well they could, in order to defend themselves; but *Scala* was attacked, and after a sharp Engagement, taken by the Emperor's faithful Friends, and *Tommaso S. Severina*, with one of his Sons, made Prisoner.

IN the Beginning of the Year 1246. the Emperor came to *Puglia*, and ordered *Capaccio* to be besieg'd; and though the Besieg'd were in extreme Want of Water, there not having been Rain to fill the Cisterns, yet they made a vigorous Defence to the 28th of *July*, when they were forc'd to yield, and *Teobaldo Francesco*, and the greatest Part of the Conspirators were made Prisoners, whom the incens'd Emperor caus'd to be put to most cruel Deaths, and a great many of their Relations had the same Fate, and others were banish'd the Kingdom. From this Time we ought to date, what *Matteo Spinello* writes concerning *Ruggieri S. Severina*, who being saved by *Donatello Stazio* his Friend, was afterwards, by *Polisena S. Severina* his Aunt, sent to the Pope, who with a paternal Care caus'd him to be brought up, and he afterwards proved a gallant and comely Youth; and with the Assistance of this Pope, and the Encouragement given him by *Charles I.* of the Family of *Anjou*, became the Head of the banish'd *Neapolitans* for recovering his Estate; but the Defeat at *Canosa*, which *Matteo Spinello* relates, was not true; for if *Frederick*, who in two of his Letters gives a particular Account of this Fact, had fought and defeated the *S. Severini* in the Plain of *Canosa*, he would certainly have mention'd it; but the first Transcriber of *Spinello*, instead of the taking of *Capaccio*, has put the Defeat at *Canosa*, or out of his own Head has added it, as he has, in many other Places, made this Author write what never happened, and what he never intended to say.





## C H A P. IV.

*Frederick carries on the War against the Lombards, at the same Time that Conrade his Son was harass'd by Henry of Thuringia, and William Count of Holland. Frederick dies in Fiorentino, and is succeeded by Conrade.*



WHILE King *Eutius* was carrying on a bloody War in *Lombardy*, the Battles were no less cruel in *Germany* betwixt *Conrade* and *Henry of Thuringia*, who, though he had gain'd a great Victory over *Conrade*, was afterwards kill'd by the Shot of an Arrow at the Siege of *Ulm*; as soon as *Innocent* heard of *Henry's* Death, he immediately sent other four Legates to stir up the *German* Princes against *Frederick*; and because King *Eutius*, by Order of his Father, had caus'd a Relation of the Pope's to be hang'd, the Pope excommunicated them both anew, and wrought so upon the *Germans*, that *William* Count of *Holland* was elected King of the *Romans*, and set out to be crown'd in *Aix la Chapelle*; but *Conrade*, having possess'd himself of that City, and furnish'd it with Provisions, made a long and gallant Defence against *William* and his Army. The Pope had left no Stone unturn'd in order to get *Conrade* himself to rebel against his Father, and caus'd Cardinal *Ubaldo* his Legate, the Archbishop of *Cologne*, and many *German* Barons to insinuate to him, that he ought not to follow the damnable Foot-steps of his Father: But *Conrade*, a pious and steady Prince, answer'd them, that he would stand by his Father to his last Breath.

AFTER *Frederick* had quieted the Commotions of the Kingdom, he left *Puglia*, and went to *Pisa*, and from thence by the Borders of the Territories of *Parma* to *Cremona*, where it was suggested to him, that he ought to fall upon some Method for reconciling himself with the Church; therefore he resolv'd to go to *Lyons* in Person, and submit himself to the Pope, and being attended by a good Number of his Friends, he went from *Cremona* to *Turin*, where he held another Assembly, and set out for *Lyons*; but he had scarcely reach'd the Foot of the *Alps*, when by a particular Messenger he was told, that *Innocent* by his Friends there, had made *Parma* to revolt; whereupon he immediately return'd in order to recover it, and joining with his Son King *Eutius* in that War, treated of at large by *Sigonius*, he spent all this Year there; and the following Year 1248. the War being carried on with alternate Success, he lost *Vittoria*, a City he had lately caus'd to be built over-against *Parma*, in which Action the greatest Part of the Besieged were either kill'd or made Prisoners, among the Number of the first was *Taddeo di Sessa*, our famous Lawyer, and who had the Honour to be Captain-General of that Army. While *Italy* was thus afflicted with this War, *William* Count of *Holland*, created King of the *Romans*, after a long Siege, took *Aix la Chapelle*, and the first Day of November this Year was crown'd there by the Archbishop of *Cologne*; and shortly after coming to an Engagement with *Conrade*, who had return'd with his Army near to that City, he defeated and put him to flight.

THE following Year 1249. *Frederick* left King *Eutius* his Lieutenant in *Lombardy*, and went to *Tuscany*; but, if we may give Credit to *Giovanni Villani*, he would not enter *Florence*, because, by a vain Prophecy of *Michael Scot* a great Astrologer and Magician of these Times, it had been told him, that he was to die

in that City, but stopp'd at a Place near to it, and soon after went to *Puglia*, where he spent the short Remainder of his Life.

THIS same Year the *Bolognese* gave a terrible Overthrow to King *Eutius*, and took him Prisoner, which Victory, over so renown'd a Personage, both for the Nobleness of his Aspect, in the Flower of his Age, not above 25 Years old; and for the Grandeur of his Father, exceedingly increased both the Fame and Power of that People; they carried him Prisoner to *Bologna*, which shews us the Inconstancy and Misery of worldly Things; and having made a publick Decree, that he should never be set at Liberty, they entertain'd him like a King so long as he liv'd, at the Publick Expence; for neither the Menaces of his Father, who wrote to them a Letter about his Liberty, nor the Offer of a great Sum of Money for his Ransom, could ever move them to part with him. *Cuspinianus* writes, that after he had been Prisoner Twenty-two Years, and nine Months, he died, and was buried by the *Bolognese* with great Pomp in the Church of *S. Domenico*, under a rich Tomb of Marble; and his Statue gilded, where, according to *Straderus*, the Inscription remains to this Day on a Pillar of Brass.

THE News of this Defeat was sent to the Emperor in a Letter by the *Modenese*, wherein they condol'd his Loss, and the Imprisonment of his Son; the Emperor return'd them a generous Answer, thanking them for their good Will, and threatening the *Bolognese*, and all the Partisans of the Church. But these taking Advantage of the late Victory, subjected many Cities and Castles of *Lombardy* and *Romagna*, and among the rest *Modena*; whereupon *Frederick*, that he might not lose the Dominion of that Country altogether, the Year 1250. being now begun, resolv'd to raise both Money and Men for renewing the War, and endeavouring to set his Son at Liberty; but while he was about this, he was taken ill in the Castle of *Florentino*, now demolish'd, in *Capitanata* in *Puglia*, six Miles distant from *Lucera*; and, according to *Cuspinianus*, not without Suspicion that he had been poison'd by *Manfred* Prince of *Taranto*, his Bastard Son, who aspir'd to the Kingdom, and therefore wanted to dispatch his Father, as was found out afterwards.

THE Emperor's Disease increasing, he repented of his Faults, begg'd Pardon of God, and confess'd to *Bernardo* Archbishop of *Palermo*, who absolv'd him, and gave him the Sacrament of the *Eucharist*, if we may credit *Albertus* Abbot of *Stade*; and at the Persuasion of the same Archbishop he made his Will, which contains many remarkable Things, therefore we shall subjoin it at full Length.

CUSPINIANUS adds, that while *Frederick*, by the Strength of his Constitution, or the Care of his Physicians, was like to recover, and get the better of the Poison, or Distemper, *Manfred*, to compleat his Iniquity, smother'd him with a Bolster in the Night-time; *Giovenazo* seems to be of Opinion, that he died a violent Death, when he says, that it was reported, that the Emperor being pretty well recovered, was to quit his Bed the next Day, but by eating some sugar'd Pears over Night, he was found dead in Bed the next Morning, which made good the Prophecy (if such foolish Conceits are to be regarded) that he was to die in *Florence*; but according to the wonted Amphibologies of Astrologers, not in *Florence* in *Tuscany*, but in *Florentino* in *Puglia*: Altho' the anonymous Author<sup>1</sup> of *Manfred's* Exploits, passes over in Silence the Circumstances of this violent Death, that he might not fully the Memory of his Hero.

SUCH then was the End of the Emperor *Frederick* II. who died in the Fifty-seventh Year of his Age, and in the Thirty-seventh of his Empire, the same Day of the Year he was elected to that Dignity in *Germany*, after he had govern'd the Kingdoms of *Naples* and *Sicily* Fifty Years, and that of *Jerusalem* Twenty-eight. A Prince, for his many and singular Endowments both of Body and Mind, worthy of glorious and immortal Memory; therefore, laying aside what some *Italian* Writers, with too much Malice, and some *German*, with too much Flattery, have written, 'tis certain, that he was a wise, prudent and courageous Prince, and of a noble and majestic Presence; he was liberal in rewarding those that had serv'd him either in the Affairs of Peace or War, and conferred on the Princes of the Empire great Prerogatives and Privileges; for he first rais'd *Leopold*, surnam'd the *Warlike*, from being Duke to be Archduke of *Austria*; and, according to *Cuspinianus*, gave him

<sup>1</sup> Anonym. de Reb. Federici, &c. Mortuus est autem ipse Imperator apud Florentinum in Capitanata Apuliæ, die Mensis Decembris 9 Indiæ.

the Royal Ensigns; and from the sixth Book of *Pietro delle Vigne's* Letters it appears, that he made him King of *Austria*, though according to *Zurita*, none of the succeeding Princes made use of the Titles of King and Archduke, till the Emperor *Frederick III.* conferr'd them anew on *Philip Leopold's* Grandchild, when he was courting a Daughter of *Ferdinand* King of *Castile* and *Arragon*, afterwards surnam'd the *Catholick*, in the Year 1488.

HE was most expert in military Discipline, whereby he obtain'd notable Victories over his Enemies; and he shew'd no less Fortitude in Adversity, than Temperance in Prosperity. He was provident in Council, and prudent in settling his Kingdoms by many useful and just Laws.

HIS having had three Popes, *Honorius*, *Gregory*, and *Innocent*, and the *Guelf* Cities, which were in their Interest, his Enemies, got him the Name of Perjur'd, and a Persecutor of the Prelates and Ministers of the Church; and his having driven many of them from their Sees, imprison'd and banish'd others, and having caused a great many Monks and Priests to be hang'd, and having tax'd the Churches, Monasteries, and Ecclesiasticks, and divested them of their Goods and Possessions, made all of them afraid that he had a Mind to reduce them to the mean Condition and Poverty of the Primitive Church, because they had heard, that the Emperor was often wont to use such Expressions; whence *Mathew Paris*, who, before *Frederick* was deposed, had always vindicated him in his Chronicle, when he understood that *Frederick* us'd these Expressions, he being an *English* Abbot, and possessed of many rich Benefices and Commendams, took Offence, and began to write in a Style quite different from what he had us'd before.

IF *Mathew Paris* did so, we may easily judge what the *Italian* Writers, who were in the Interest of the Popes, and all *Guelfs*, would do, and especially the Friars. *Paolo Pansa*, in the Life of *Innocent IV.* says, that *Fra Salimbene da Parma* a Friar Minor, who liv'd in these Times, and knew *Frederick*, in his Manuscript Chronicle, writes, that *Frederick* on his Death-bed was afflicted with Vermin that burst out of his Flesh, and when he was dead, his Carcass stunk to that Degree, that no Body could approach it, and that it could not be then buried; that he was not a *Catholick*, but an *Epicurean*, and did not believe in a future State; adding, that when he was in the East, and saw the Land of *Promise*, he fell a laughing, and scoffingly said, That if the God of the *Israelites* had seen the Kingdom of *Naples*, and especially *Terra di Lavoro*, he would not have put such a Value upon his Land of *Promise*. Therefore they represented him as an Atheist, and that denying the Immortality of the Soul, he placed all his Happiness in the Pleasures of the Flesh, solacing himself with what was most agreeable to him, and therefore he wallowed in all Sort of Luxury; and that besides his Wife, he kept a Seraglio of Contubines, some of which were even *Saracens*; and *Dante*, though a *Ghibelline*, seems to have entertain'd the same Opinion of him, for he puts him in a Place of Hell with Father *Guido Cavalcanti*, *Farinata degli Uberti*, a *Florentine* Gentleman, and Cardinal *Ottaviano degli Ubaldini*, where the Sin of Heresy is punish'd, and brings in *Farinata* speaking thus:

*The Second Frederick, with the Cardinal  
Are here, and others whom I shall conceal.*

BUT it may be observed in the foregoing Books of this History, that when *Frederick* was in Friendship with the Popes, he was so wedded to the Interest of the Church of *Rome*, and her Ministers, that *Otho* was wont to call him *King of Priests*. And we likewise find, that he published many Constitutions in Favour of the Jurisdiction of the Church, and which are observed to this Day. We have also seen how he persecuted the Hereticks, as the severe Constitutions which he made for extirpating them not only out of *Italy*, but likewise out of *Germany*, testify<sup>2</sup>. And if we may credit *Capecelatro*<sup>3</sup>, *Irveges*<sup>4</sup>, and some other Writers, in order to perform his Promise to Pope *Innocent III.* in the Year 1213. he instituted the Tribunal of the *Inquisition* in *Sicily*.

<sup>1</sup> Dante, Inferno, Canto 10.

<sup>2</sup> We read the Constitutions of *Frederick* establish'd in *Francfort* in the Year 1224. against the Hereticks of *Germany*, in *Goldastus* tom 1. p. 77. 2, 293. tom. 2. pag. 51, &c. And in *Schil-*

*terus*, tom. 2. *Inst. juris publici*, tit. 15. pag. 110. & tit. 16. pag. 117.

<sup>3</sup> *Capecelatro* histor. MS.

<sup>4</sup> *Irveges* histor. *Palerm.* tom. 3.

HIS Zeal in extirpating Hereticks was no less remarkable in our Kingdom; for, besides his having published that famous Constitution *Inconsutilem*, when he understood that the Heresy of the *Patareni* had crept into these our Provinces, and particularly into *Naples*, he sent the Archbishop of *Reggio*, and *Riccardo di Principato* his Marshal, to imprison them. But (whatever he did in *Sicily*, and that is even question'd by some, because no cotemporary Writer mentions it) he did not appoint a particular Tribunal of Inquisition against Hereticks in our Provinces. He only ordered his Officers to proceed against them *ex Inquisitione*, though they were not accused, as was usual in other enormous and heinous Crimes, and with more Severity than was practised in the Crimes of High-Treason against an Earthly King. Therefore he ordained, that the Persons any-wise suspected, should be carried before the Prelates, and Ecclesiastical Persons, to be examined by them, as best able to judge whether their Opinions differ'd from any Article of the Catholick Faith; and if these Prelates, by manifest and clear Proof, found them Guilty of Heresy, their Business was only to admonish them *Pastorali more*, to forsake the Errors and Snares of the Devil; and if, after being admonished, they persisted obstinately in their Errors, the Prelates had no more to do; but the guilty Persons, being thus convicted, came under the Cognizance of the Secular Magistrates, who, according to the Tenor of that Constitution, condemn'd them to be publickly burnt alive. He likewise ordained, that the Prelates should impeach Hereticks before his Delegates, and the Officers of the General Assizes, which were to be held in the Kingdom twice a Year, in order to be by them severely punished. And though he did not appoint a particular Tribunal in our Provinces, but that the same Officers, to whom the Punishment of all other Crimes was committed, should likewise proceed against Hereticks; yet the Methods of proceeding which he prescribed, the Punishment, and the Means whereby to discover them, were too severe and rigorous. He was the first that condemn'd them, in general, to Death; he punish'd with great Severity those that harbour'd or assisted them; he mark'd out clear and distinct Bounds betwixt the Power of the Ecclesiasticks, and that of the Secular Magistrates in taking Cognizance of this Crime. The *Cognitio juris*, or of Right, to wit, whether such or such an Opinion was Heretical or not, was left to the Church; for he would have those accus'd of Heresy to be examined by Ecclesiastical Persons, because it could not be otherwise known whether the Error was damnable or not; whether it was contrary to the Faith or not. *Cognitio facti*, or of the Fact, and the Punishment thereof was left to the Secular Magistrate; for the Church, as we have observed elsewhere, had Power to do nothing, but to separate the Hereticks from the Society of the Faithful; but she could neither condemn to Death, nor Mutilation of Members, nor inflict any other Temporal Punishment.

THEREFORE *Frederick* has been unjustly aspersed by our *Italian* Writers, for the most part *Guelfs*: And though he us'd some Prelates severely, and the Monks and Friars cruelly, yet, by what we have said in this Book, the Reasons for such Severity may be seen; and a Prince ought not to be thought to exceed the Bounds of his Power, when, upon just Grounds, and especially if they concern the State, he banishes Prelates, and drives them from their Sees, imprisons Friars, and hangs them, when they are Disturbers of the State, and the Publick Peace: And much less ought it to seem strange to tax the Goods of Ecclesiasticks, when the Necessity of the Prince, and the Publick Welfare require it.

IT has been the common Custom of Princes, upon any urgent Occasion, to lay Taxes, as well upon the Churches and Monasteries, as upon the Cities, and those that hold Lands; and as we have observ'd elsewhere, the Patrimonies of our Churches paid Tribute to the Emperors of the East.

AFTER *Charles the Great* had expell'd *Desiderius*, and made himself Master of *Italy*, according to *Sigonius*; he impos'd Taxes upon the Churches and Monasteries of that Kingdom. And those, who, under the Title of Princes of *Benevento*, govern'd the greatest Part of these Provinces, which now make up our Kingdom, always exacted Tribute from the Churches and Monasteries, which were tax'd

<sup>1</sup> Const. de Hæretic. & Patarenis.

<sup>2</sup> Ric. S. Germ.

<sup>3</sup> Sigon. de Reg. Ital. lib. 4. anno 774.

Feudatoriis autorem, Civitatibus, Ecclesiis, ac

Monasteriis certa tributorum genera imposuit, foderum, paratam, & mansionaticum appellata, quæ adveniendi potissimum in Italiam Regi persolverent.

according

according to the Value of the Goods they possess'd. Thus in the Year 851. under the Emperor *Lothaire*, and *Lewis* King of *Italy*, his Son, when the Principality of *Salerno* was erected, by a Division of the Province of *Benevento*, *Radelchisus* Prince of *Benevento*, and *Siconolphus* Prince of *Salerno* agreed, among other Things then stipulated, that an Account should be taken of all the Goods of the Churches, Bishopricks, Monasteries, and *Xenodochia*; and that they should be taxed according to their Value, and the ordinary Tribute paid to the Prince; the Monasteries of *Monte Cassino*, and *S. Vincenzo* in *Vulturno*, only were exempted, because they were under the immediate Protection of the Emperor *Lothaire*, and King *Lewis*. The Goods of the Abbots, and other Ecclesiasticks who served in the Palace of the Prince, were likewise exempted<sup>1</sup>. But Things being afterwards altered, when the Popes rais'd the Ecclesiastick State to the highest Pitch, and exempted both their Persons and Goods from the Power and Jurisdiction of Princes; *Frederick* was look'd upon as an impious Tyrant, for endeavouring to recover the antient Rights and Prerogatives over their Persons and Estates.

AS for the rest, laying aside these false Accusations, *Frederick* was a Prince, in whom Justice, Munificence, and Learning shin'd in an eminent Degree. He left us many prudent and useful Laws; this Kingdom, and especially the City of *Naples*, is much beholden to him. He, out of Love to Learning, founded a famous University there, whither he invited Scholars from all Parts of his Dominions. He, as most skill'd in Philosophy, and all other Sciences, greatly honoured the publick School of Physick in *Salerno*, and founded another in *Padua*, and suppress'd that of the rebellious City of *Bologna*, and ordered, that none of the Citizens of the *Guelf* Cities of *Lombardy*, *Tuscany*, or *Romagna* his Enemies, should be allow'd to study in these Schools.

AND 'tis to be admir'd, that, in an Age, wherein, as the anonymous Writer says<sup>2</sup>, *Erant literati pauci, vel nulli*, he was not only a Lover of Learning, but, like a deep Philosopher, and well versed in all other Sciences, he wrote a Book *De Natura, & cura Animalium*<sup>3</sup>. He prompted *Giordano Ruffo* his Master Farrier, to write a Treatise concerning the Dressing and Curing of Horses; and *Giordano*, in the End of his Book, which is preserv'd in *S. Giovanni a Carbonara*, among the Books of Cardinal *Seripando*, says, that what he had written was owing to the Instruction of his Master *Frederick*.

HE caus'd many Books to be translated from the *Greek* and *Arabick* into *Latin*, such as *Ptolomei Almagest*, *Aristotle's* Works, and many Books of Physick and other Sciences; and, according to *Pontanus*, he made a Present of some of *Aristotle's* Works to the Masters and Scholars of *Bologna*, before they became his Enemies, and wrote them a particular Letter.

HE likewise caus'd *Michael Scot*, a famous Physician and Astrologer in these Times, and his beloved Friend, to write many Books of Philosophy, Physick, and Astrology, as *Michael* himself, in some of them, which he dedicated to him, and *Gesnerus* in his Compend testify; whence Philosophy and Mathematical Learning began to be in vogue: And thus, by having the Works of *Aristotle*, *Galen*, and of several *Arabian* Physicians read in the Schools, and encourag'd by *Frederick*, *Aristotle's* Philosophy, and *Galen's* Physick, acquir'd that Reputation in the Schools which every Body knows.

HE also caus'd his Constitutions to be put in order, from which many *Authenticæ* were taken and insert'd in the Code, as we have shewn in another Place; we are likewise beholden to him for the Books of our Constitutions, which he caus'd to be collected by *Pietro delle Vigne*. *Frederick* likewise wrote a Book of Falconry, which Art was not in the least known at that Time; and *Manfred* his Son added many other Things to it afterwards.

AMONG the rest of the Endowments of this good Prince, he was most skill'd in many Languages, such as the *Latin*, *Greek*, *Italian*, *French*, and even the *Saracen*, besides the *German* his Mother Tongue; and he took great Delight in *Italian* Poetry, and compos'd many Sonnets and Songs, which are still extant, and bound up with those of *Pietro delle Vigne*, *Eutius* his Son, and some other Poets of that Time, when the *Italian* Language, sprung from a Mixture of so many other, especially

<sup>1</sup> Capitul. Princ. Radelch. apud Pellegr. hist. Princ. Longob.

<sup>2</sup> Anonym. de Reb. Friderici Imperatoris.

<sup>3</sup> Idem, librum composuit de Natura, & cura Animalium.

from the *Latin*, began to diffuse itself, and being afterwards refin'd by able Writers, may not only be compar'd to the *Latin* and the *Greek* itself, but even contend for the Superiority. And the great Number of Poets in that Age, of whom *Lione Alacci* <sup>1</sup> has given us a long Catalogue, is owing to his Genius for Poetry; as among us are *l' Abate di Napoli*, *Giacomo dell' Uva di Capua*, *Folco di Calabria*, *Guglielmo d'Otranto*, *Gucuzolo da Taranto*, *Ruggiero*, and *Giacomo Pugliesi*, *Cola d' Alessandro*, and many other Rhimers in the Infancy of the *Italian* Language.

A MOST magnificent Prince, who adorn'd *Italy* and our Kingdom with many noble Edifices, and especially *Capua* and *Naples*, where he enlarged, and put *Castello Capuano* into a better Form; and in *Capua* he rebuilt the antient Bridge of *Casilino* upon the River *Vulturno*, in a magnificent Manner, with two strong Towers, whereon he plac'd his Statue in Marble, which remains there to this Day.

HE founded many Cities in these his Kingdoms, such as *Alitea*, and *Monte Leone* in *Calabria*; *Flagella* in *Terra di Lavoro*, over-against *Cepparano*, and *Dondona* in *Puglia*, of which there is no Vestige now remaining, they being demolish'd soon after they were built; *Augusta* and *Eraclea* in *Sicily*, and *Aquila* in *Apruzzi*, as a Bulwark on the Borders of the Kingdom against the State of the Church.

BUT our Kingdom is in a special Manner much indebted to this Prince, for his having caus'd these our Provinces to be divided after a better Method, and more distinctly than formerly; which must be minutely taken Notice of, because of the Conformity which that Division has with the present.

<sup>1</sup> Alacci de Poeti antichi, tom. 1. fol. 1, 43, 50, 52, 57, 288, 372, 373.



## C H A P. V.

### *The Disposition, and Number of Provinces, of which the Kingdom of Naples is now composed.*



THE present Division of our Provinces into Twelve, which now compose the Kingdom of *Naples*, by *Surgente* <sup>1</sup>, *Mazzella* <sup>2</sup>, and generally by all Writers, is attributed to the Emperor *Frederick II.* they were not call'd Provinces, but *Giustizierati*, or Jurisdictions. But their Opinion is not altogether just, for *Frederick* was not the first that made such a Division, neither in his Time was their Number risen to Twelve; whence this Division ought not to be attributed to *Frederick* alone, but likewise to *Charles I.* of the Family of *Anjou*, *Alphonfus I.* of *Arragon*, and to *Ferdinand the Catholick*, as *Tasso* <sup>3</sup>, very much to the Purpose, observes.

NEITHER was the Number always the same, for some Times by the new *Pragmatics* <sup>4</sup> some Provinces (with respect to their Government and Administration) were united, and afterwards divided, and the Number of Twelve made up again; neither were the same Cities constantly the Metropolises and Seats of the Presidents of the Provinces.

THIS Division was made quite different from that in the Times of *Adrian*, or *Constantine the Great*, and the other Emperors his Successors; for *Longinus* having first altered the antient Description, the succeeding *Longobards*, both under the

<sup>1</sup> Surg. de Neap. illust. cap. 24. num. 2.

<sup>2</sup> Mazzella in descrizione del. Reg. di Nap. in princ.

<sup>3</sup> Tassone de Antef. vers. 2. obser. 1. n. 14.

<sup>4</sup> Pragm. 1. de Offic. ad Reg. Majest. ejusque vic. coll. spec.



Dukes and Princes of *Benevento*, by taking in sometimes in whole, and sometimes in part, *Campagna*, *Puglia*, *Calabria*, *Lucania*, *Abruzzo*, and *Sannio*, made a thorough Change in the antient Division of the Provinces of *Italy*. *Italy* on this Side of the *Tyber* underwent another Alteration, when it was divided into many Principalities and Dukedoms; to wit, into the Principality of *Benevento* (which was afterwards divided into Two, that of *Salerno*, and that of *Capua*) the Principalities of *Bari* and *Taranto*; the Dukedoms of *Naples*, *Sorrento*, *Amalphis*, *Gaeta*, and lastly *Puglia* and *Calabria*, as may be observed in the preceding Books of this History.

BUT the more immediate Cause and Origin of the present Division of these Provinces, are intirely owing to the *Castaldati*, and *Contadi*, which the *Longobards* introduced; for they divided the Dukedom of *Benevento* into many *Castaldati*, as is clear from the *Capitularia* of Prince *Radelchis*, recorded by *Pellegrinus*; and many of these in the Time of the *Normans* were converted into *Giustizierati*, and afterwards into Provinces.

*CAMILLUS PELLEGRINUS* with all his Care and Diligence, has in vain endeavoured to find out the Number of these *Castaldati* in the Time of the *Longobards*; for it cannot be certainly known, if there were so many of them as are mentioned in that Division of the Principality of *Benevento*, which was made by *Radelchis* and *Siconolphus* Princes of *Salerno*. The most accurate *Pellegrinus* reckons some of them, the Chief of which were, the *Castaldato* of *Capua*, which towards the West reach'd as far as *Sora*; that of *Cosenza*, which extended to *S. Eufemia*, and *Porto del Fico*, which are still the Confines of the Province of the *Hither Calabria*, whereof *Cosenza* continues to be the Head, and is the Seat of the Presidents; the *Castaldato* of *Cbieta*, which comprehended many Cities and Towns, and was afterwards call'd *Marca Teatina*; the *Castaldato* of *Bojano*, which, with the neighbouring Places, was at first possess'd by *Alczecus Bulgarus*, with the Title of *Castaldo*, and 200 Years after went to *Guandelpertus*, whom *Erchempertus* mentions; but this Jurisdiction was annex'd to *Molise*, an adjoining Castle, with the Title of *Contado*; whence it was first call'd *Contado di Molise*, and afterwards the Province of *Contado di Molise*, which Name it retains to this Day.

THERE were likewise the *Castaldati* of *Tolose*, *S. Agata*, *Avellino*, and *Acerenza*; and that of *Bari*, very famous in the Time of the *Longobards*; whence in that of the *Normans* it became the Head and Metropolis of all *Puglia*. The *Castaldati* of *Lucera* and *Siponti*, famous Cities in *Capitanata*, which comprehended all the Cities and Towns betwixt the *Castaldato* of *Bari*, and that of *Cbieta*. There were also the *Castaldati* of *Taranto*, *Lucania*, or *Pesto*, and the famous one of *Salerno*. In this manner, or with a very small Difference, did the *Longobards* divide the Dukedom of *Benevento*, which in these Times comprehended Nine intire Provinces of those, whereof the Kingdom of *Naples* is now composed, and which got these Names, to wit, *Terra di Lavoro*, excepting some few maritime Cities, such as *Naples* and *Gaeta*, *Contado di Molise*, *Abruzzo Citra*, *Capitanata*, *Terra di Bari*, *Basilicata*, *Calabria Citra*, and the two *Principatos*; and likewise Part of the Provinces of *Terra d' Otranto*, *Calabria*, and *Abruzzo Ulteriore*. And though in the Writers of these Times, and even in common Discourse, the antient Names of *Campagna*; *Calabria*, *Puglia*, *Lucania*, *Bruzi*, and *Sannio* have been retain'd, yet they have not preserv'd their antient Limits according to these Names, but some to shew their Learning, others to point out where the *Castaldati* were situated, have made use of them, just as the antient Name of *Puglia* still continues among us, tho' none of the twelve Provinces of the Kingdom be call'd *Puglia*, but either *Bari*, or *Capitanata*.

WHEN the *Normans* succeeded the *Longobards*, the Provinces got new Names; and as in the Time of the *Longobards* they were call'd *Castaldati*, from *Castaldo*, the Title of the Magistrate who had the Government of them; so in like manner the *Normans* committing the Government of the Provinces to their Officers, whom they call'd *Giustizieri*, the Provinces were call'd *Giustizierati*, whence came the Names of *Giustiziero*, and *Giustizierato* of *Terra di Lavoro*, *Abruzzo*, *Puglia*, *Terra di Bari*, and the like. As these Provinces were alter'd, and from *Castaldati* were call'd *Giustizierati*; so likewise the Names of them, excepting a few, were chang'd, as shall be seen by a particular Enumeration of them, in the Order modern Authors have rank'd them.

† *Pellegr. in Differt. ult. de fin. Duc. Benev.*

## S E C T. I.

## Terra di LAVORO.

**T**HE *Castaldato* of *Capua* is not call'd *Giustizierato di Capua*, but of *Terra di Lavoro*: But when, and whence this Province took this new Name of *Terra di Lavoro*, and lost that of *Campagna*, or *Capua*, Authors are not agreed. Some believe that this Province had this Name long before the *Normans*; but they have been led into that Mistake by a Passage in a Letter written by Pope *Martin* to *Elitberius*, wherein he gives him an Account of what he had suffer'd in a Voyage from *Rome* to the East, which he had undertaken by the Order of *Constans* the Greek Emperor, and says; *Pervenimus Kalendis Julii Misenam, in qua erat Navis, id est carcer; non autem Misene tantum, sed in Terra Laboris, Et non tantum in Terra Laboris, quae subdita est magnae Urbi Romanorum (to wit Constantinople) sed Et in pluribus Insularum, &c.* But as the most accurate *Pellegrinus*<sup>1</sup> well observes, who is it but sees, that the Transcriber of this Letter, by mistake, instead of *Terra Liparis*, has put *Terra Laboris*? For the Pope in his Voyage from *Rome* to the East, was oblig'd to pass by *Lipari*, *Nasso*, and other Islands. Besides, if he had meant *Terra di Lavoro*, he ought not to have mention'd *Miseno*, as in a different Province from *Terra di Lavoro*, of which it is a Part, nor plac'd it among other Islands; seeing *Terra di Lavoro* is not an Island, but on the Continent, which was not then altogether subject to the Greek Emperor.

*NARCISSUS* the Physician<sup>2</sup>, according to *Sebastianus Munsterus*, fell into the like Mistake, for he imagin'd that *Terra di Lavoro* was once call'd *Terra Leporis*; whereas the antient Monuments, which he cites, speak not of *Compagna*, now call'd *Terra di Lavoro*, but of *Terra di Lipari*; for all the Islands of *Lipari* were formerly so call'd: In the same manner we read in *Erchempertus*<sup>3</sup> *Barium Tellus*; and in another Place *Regium Tellus*; and we likewise say, *Terra di Bari*, *Terra d'Otranto*, *Terra di Lavoro*, &c.

*BLONDUS*, who is follow'd by *Leander Albertus*, and our modern Writers, committed a grosser Error. For in his Description of *Campania*, he fancied, that *Capua*, by Reason of the old Hatred of the *Romans*, and the Desolation it had suffer'd, was become infamous; and that the People of the adjoining Cities and Towns looking upon the Name of *Campani* as both ignominious and dangerous, would no longer be call'd *Campani*, but *Leborini*; and that from their Obstinacy, all the Country of *Campagna*, was call'd *Terra di Lavoro*.

**BUT** the never-enough to be commended *Pellegrinus* in his *Campania*<sup>4</sup>, has clearly demonstrated all these to be meer Dreams, and has given us the true Origine of that Name, its Author, and the Time when this Province got it. He says, that it was first call'd so about the Year 1091, by *Richard II.* Prince of *Capua* and his *Normans*, who, in the beginning of the Year 1091, being driven out of *Capua* by the *Capuan Longobards*, forbore to call it the Principality of *Capua*, and gave it the Name of *Terra di Lavoro*, from the Pleasantsness of its Soil, fit for any Labour; and when the *Normans*, in the Year 1098, for the second Time, made themselves Masters of *Capua*, they continued to call it by the same Name, and the former was but seldom us'd, except in publick Writs; in the same Manner as our Kingdom continues to have two Names.

**THUS** did this Province, which is bounded on the East by the River *Silari*, and on the West by that of *Garigliano*, of old call'd *Liris*, on the North by the *Appenine* Mountains, and on the South by the *Tyrrhenian* Sea, get both this Name and these large Bounds, and by reason of the many Cities wherewith it is adorn'd and the Fertility of its Soil, is reckon'd the first Province of the Kingdom, and *Naples* the Head and Metropolis thereof. In the Time we are now treating of, to wit, of *Frederick II.* this Province was call'd *Terra Laboris*, as may be seen in

<sup>1</sup> Pellegr. diff. 5. Duc. Benev.

<sup>2</sup> Narcif. apud Munsterum in *Cosmographia* lib. 2. ubi de *Campania*, &c.

<sup>3</sup> Erchemp. apud Pellegr. num. 29 & 81.

<sup>4</sup> Camil. Pellegr. de *Campania* in Appendice

*Riccardo da S. Germano*; and in the Time both of the *Norman* and *Suevian* Kings was govern'd by its own Justice, who resided sometimes in *Capua*, and sometimes in *Naples* and other Cities, and was attended by the Judges and other Officers of Justice, and the Attorney General. He govern'd the whole Province, tho' every City had its particular Governor, who had the immediate Direction thereof, from whose Decisions the People, by way of Appeal, had recourse to the Justice of the Province. And seeing *Naples* began to increase in *Frederick's* Time, that it might be on the same Level with *Capua* and *Messina*, he order'd that its Governor should have Three Judges under him, and many Notaries; which was not allow'd in other lesser Cities. And 'tis said, that *Marino Caramanico*, an able Doctor in these Times, was one of the Judges in *Naples* in the Year 1269<sup>1</sup>.

<sup>1</sup> Fab. Jordan in addit. ad procem. Constit. num. 43. verf. secundo respondetur. Andreys Urfin. de Succes. Feud. par. 2. qu. 2. art. 1. | qu. Feud. cap. 1. §. 1. num. 2.

## S E C T. II, III.

*The Hither* PRINCIPATO. *The Further* PRINCIPATO.

**T**HE next Province was, and is still call'd *Principato*. Whence it got this Name is very clear, and all Writers agree in it. When *Archiebis*, as we have told in the sixth Book of this History, who was only Duke of *Benevento*, made himself to be crown'd Prince thereof; from a Dukedom it became a Principality; and seeing the Dukedom of *Benevento*, before the Division made betwixt *Radelchis* and *Siconolphus* comprehended likewise *Salerno*, upon this Division there started up Two Principalities, whence both of them got the Name of *Principato*, and this Province comprehended so large a Country, that there was a Necessity of dividing it into Two, whence came the Name of *Principato citra*, or on this Side the *Appenines*, which, with part of *Lucania*, is also call'd *Picentina*, and *Principato ultra*, or on the other Side of the *Appenines*, or *Sannio degi' Irpini*.

**T**HE hither *Principato*, which comprehends the Country of old inhabited partly by the *Picentini*, and partly by the *Lucani*, is divided from *Terra di Lavoro* on the West by the River *Sarno*, and on the North the *Appenines* divide it from the further *Principato*; on the East the River *Silaro* runs betwixt it and the *Basilicata*, and on the South it is wash'd by the *Tyrrhenian* Sea, and has *Salerno* for its Metropolis.

**T**HE further *Principato* is the only Province of the Kingdom distant from the Sea, being situated amongst the *Appenine* Hills, at the Head of *Sannio*, where of old the *Hirpini* liv'd. It is divided from the hither *Principato* by the *Appenines* on the South; from *Terra di Lavoro*, and the County of *Molise* it is separated by the same *Appenines* above *Nola*, and by the *Forche Caudine* above *Arpaja* towards the West, and by the beginning of *Monte Matese* towards the North, which likewise divides it from *Capitanata* on the North, but more towards the East by the *Appenines*, which also separate it from the *Basilicata*. It contains a Country call'd *Valle Beneventana*, which was formerly the principal Part of *Sannio*, and had *Benevento* for its Metropolis; but since that City came under the Dominion of the Church of *Rome*, it has other Cities for the Seat of its Presidents.

**W**HENCE the *Normans*, when they succeeded the *Longobards*, gave this Province the Name of *Principato*; and the Abbot of *Noce*<sup>1</sup>, transcribing in his Notes on the Chronicle of *Cassino*, the Words of the Diploma given by Pope *Nicholas II.* to the Abbot *Desiderius*, appointing him his Vicar over the Monasteries and Monks of these Provinces, enumerates this Province among the rest, under the Name of *Principato*; these are the Words; *Per totam Campaniam, Principatus quoque, & Apuliam, atque Calabriam, &c.* And *Leo Ostiensis*<sup>2</sup>, who wrote that Chronicle a little after the Death of the Abbot *Desiderius*, afterwards Pope, by the Name of *Victor III.* likewise says, *Per totam Campaniam & Principatum, Apuliam quoque, atque Calabriam, &c.*

<sup>1</sup> Ab. de Noce ad Chron. Cass. lib. 3. cap. 13. num. 1277.

<sup>2</sup> Ostiens. lib. 3. cap. 13.

IN the Time of *Frederick II.* according to what *Riccardo da S. Germano*, speaking of the General Courts instituted in the Kingdom by that Prince, tells us, it appears that this Province was not then divided into Two, as it was afterwards, for making *Salerno* to be a City, where the general Court was held, and to which the other Provinces were to repair, he says, *In Principatu, Terra Laboris, & Comitatu Molisii usque Soram, apud Salernum.*

## S E C T. IV.

## B A S I L I C A T A.

ACCORDING to this Order, the *Basilicata*, which comprehends a great Part of the antient *Lucania*, and part of *Magna Græcia*, is next. It is likewise furrounded in part by the *Appenines*, which divide it both from the further and hither *Principato*. The *Appenines* are divided in this Province into Two principal Ridges near to *Venosa*: That which runs to *Brindisi* parts the *Basilicata* from *Terra di Bari*, as far as *Altamura*; and the other separates it from the hither *Calabria* to the Confluence of the Rivers *Corianello* and *Crati*, and running a little towards the Sea, it touches upon *Terra d'Otranto* on the Gulf of *Taranto*. This Province is also bounded for a little Space, by the *Capitanata*, from which it is divided by the River *Ofanto*, betwixt *Ascoli* in *Puglia*, and *Lavello*. *Pesto*, *Venosa*, *Acerenza*, *Melpbis*, and other famous Cities once belong'd to this Province; it has now *Matera*, *Potenza*, *Lavello* and other lesser Cities; but there's scarcely a Vestige of the antient remaining.

WHENCE this Province took the Name of *Basilicata*, and when, has been ill search'd into by our Writers; but it will be easily found out, if we call to mind what happen'd to these our Provinces about the End of the Tenth Century, when the *Greeks* made so many Expeditions and Conquests in them, and introduc'd a new Magistrate into *Puglia*, by them call'd *Catapanus*, from whom a great Part thereof took its Name, and therefore is now call'd *Capitanata*: In the Time of *Basilus* the Emperor of *Greece*, or of some of his Generals of that Name, this Part of *Lucania* got the Name of *Basilicata*; for we have seen in the Eighth Book of this History, that in the Year 989, while *Basilus* with his Brother *Constantine* reign'd in the East, the *Greeks*, by the famous Victory which they obtain'd over *Otho III.* Emperor of the West, were not only for a long Time Masters of all *Puglia* and *Calabria*, till they were driven out by the *Normans*; but likewise of this Part of *Lucania*, which was possess'd by *Basilus*, and govern'd by *Greek* Officers sent hither by him, some of which, as is clear from the Chronicle of *Lupus Protospata*, were also nam'd *Basilii*, whence this Province got the Name of *Basilicata*. *Joannes Pontanus* is likewise of Opinion, that this Province was so call'd in these Times of the *Greeks*; but whence it was so nam'd, he adds, *Jure anceps est, ac dubium*<sup>1</sup>.

IN the Time of *Frederick II.* the *Basilicata* was reckon'd one of the Provinces of the Kingdom by *Riccardo da S. Germano*, who says, that *Frederick* had appointed the City of *Gravina* to be the Place where the general Court was to be held, and to which these Three Provinces were to repair, to wit, *Apulia*, *Capitanata* & *Basilicata apud Gravinam*.

<sup>1</sup> Pont. lib. 2. de bello Neap.

## S E C T. V, VI.

*The Hither CALABRIA. The Further CALABRIA.*

CALABRIA, according to the Denomination which it took from the last *Greek* Emperors, in *Frederick's* Time was divided into Two; not as now into the hither and further *Calabria*, but into *Terra Jordana*, and *Val di Crati*, and according

according to *Riccardo da S. Germano*, In *Calabria, Terra Jordana, & Vallis Gratae apud Cusentiam*; and these Names are likewise to be found in Writs, not only in the Reign of the Family of *Anjou*, but also in that of the Family of *Aragon*, and in the Time of *Alphonfus I.* as *Tutini* witnesseth<sup>1</sup>; and according to *Pellegrinus*<sup>2</sup>, this Appellation is taken from the River *Crati*, which washes that Valley, and we now call the Province of the further *Calabria, Terra Jordana*, which has *Catanzaro* for its chief City; and the hither *Calabria* is call'd *Val di Crati*, and has *Cosenza* for the Seat of its President. These Two Provinces reach from both Parts of the *Appenines* to the *Ionian* and the *Tyrrhenian* Seas. They begin to be separated above *Cosenza*, and run in a direct Line to both the Seas, to the *Ionian* near *Strangoli*, and to the *Tyrrhenian* at the Gulf of *Hipponiates*. The hither *Calabria* includes a Part of *Magna Græcia*, and has for inland Bounds, the *Basilicata*, and the hither *Principato*, towards the West the *Appenines*, and reaches to both the Seas, till it joins the further *Calabria* towards the East. The further *Calabria* (which was inhabited by the *Brutii*) has the same Confines towards the North; but on all other Sides it is surrounded by the Seas; on the East, by the *Ionian*; on the South, by the *Sicilian*; and on the West, by the *Tyrrhenian*.

<sup>1</sup> *Tutin. de M. Giustiz. fol. 97.*

<sup>2</sup> *Camil. Pellegri. in Castig. in Anonym. Caffin. pag. 141. Sic. n. dicta olim, atque etiam nunc dicitur vallis, Regioque percelebris in Calabria Citeriori supra Cusentiam ad Septentrionem,*

*Tarentinum ad usque Sinum porrecta, quam preterfluit flumen Crathis, vulgo Grati, unde illi nomen, Regiisque frequentissime Tabulariis, nec non Riccardo a S. Germano ad ann. 1234 memorata.*

## S E C T. VII, VIII.

### Terra di BARI. Terra D'OTRANTO.

**PUGLIA**, (as it was call'd by the *Greeks*) which also comprehended a Part of ancient *Calabria*, now call'd *Terra d'Otranto*, in *Frederick's* Time was not divided into Two Provinces, as now, to wit *Terra di Bari*, and *Terra d'Otranto*; and as it was reckon'd but one Province, so it had only the Name of *Apulia*, and is so call'd by *Riccardo*. However 'tis certain, and *Pontanus*<sup>1</sup> likewise witnesseth, that these Names of *Terra di Bari*, and *Terra d'Otranto* had their Rise, at the same Time that *Basilicata*, and *Capitanata* were so call'd: And we read in *Erchempertus*<sup>2</sup>, *Barium Tellus*, and in the publick Writs in the Time of the *Normans*, we find the Province of *Terra d'Otranto*. The one of these Provinces was so call'd from *Bari*, its antient and famous Metropolis. The other from *Otranto*, likewise a renown'd City of the *Salentini*.

**TERRA di Bari**, of old call'd *Apulia Peucetia*, towards the West is bounded by the River *Ofanto*, and extending itself in Length, is confin'd betwixt the Banks of the *Adriatick* Sea, on the North Side of it, and the *Appenines* which divide it from *Basilicata* on the South, where it runs out, and terminates towards the East. It is divided from *Terra d'Otranto* on the Land Side, in the Territory of *Ostuni*, and towards the Sea, between *Monopoli* and *Brindisi* at *Villa Nova*, formerly call'd *Porto d'Ostuni*.

**TERRA d'Otranto** begins here, and by the Antients was reckon'd a Part of *Puglia*, and also call'd *Calabria, Iapigia* and *Salentina*. This Province forms that utmost Point of Land, which makes one of the Three Angles of *Italy*, where it is bounded by one of the two principal Ridges into which the *Appenines* are divided. Here terminates also the *Adriatick* Sea, and mixes itself with the *Ionian*; and is bounded on the West by *Terra di Bari*, and *Basilicata*: Then it's wash'd on the North by the *Adriatick*, and on the East by the Confluence of the *Adriatick* and *Ionian* Seas, and on the South by the Gulf of *Taranto* in the *Ionian* Sea. Its Maritime Cities are *Brindisi*, *Otranto*, *Gallipoli* and *Taranto*, formerly a very strong City, and had a very commodious Harbour.

<sup>1</sup> *Pont. lib. 2. de bello Neap.*

## S E C T. IX.

## C A P I T A N A T A.

THAT Province, which we now call *Capitanata*, and which was antiently call'd *Apulia Daunia*, and comprehended *Japigia* in *Monte Gargano*, got this Name from the *Greeks* in the Height of their Prosperity, when *Bari* was the principal Seat of their Residence. They, in order to maintain their new Conquests, to keep the People in awe, and to curb *Puglia*, sent thither a new Governor, whom they no more call'd *Straticus*, as formerly, but by another Greek Name *Catapanus*, that is to say, one that could do every thing. Among the *Catapani*, of whom *Lupus Protospatha* has given us a long List, in the Year 1018, *Basilus Bugianus* is one, whom *Gulielmus Apuliæ* <sup>1</sup> calls *Bagianus*. This was he, who, to preserve his Memory in *Italy*, made a new Province of that part of *Puglia* bordering on the Principality of *Benevento*, and in the Possession of the *Greeks*, and built new Towns and Cities, one of which he nam'd *Troja*, to revive the Memory of the antient City of that Name; the others were *Dragonaria*, *Fiorenzuola*, &c. whence this Province got the Name of *Capitanata*, which it retains to this Day.

THIS Province is divided from *Contado di Molise*, by *Monte Matese*, and the River *Fortore*, at the Mouth of which it joins the hither *Abruzzo* near to *Termoli*; and surrounding *Monte Gargano*, from *Siponto* it reaches to the River *Ofanto*, which parts it from *Terra di Bari*, and passing the Villages of the Territory of *Barletta*, it runs to the Lake of *Versentino*; and by the Head of the said River of *Ofanto*, it is separated from *Basilicata*, and by the *Appenines* in *Crepacuore*, and *Sferracavalli* it is divided from the further *Principato*.

IN the Time of *Frederick* it was also reckon'd a Province, so that *Riccardo* numbers it among the other Provinces of the Kingdom, by the Name of *Capitanata*. However 'tis true, that though in *Frederick's* Time the Provinces of *Capitanata*, *Terra di Bari*, and *Terra d'Otranto* were divided and comprehended in *Puglia*, taken in its largest Sense, yet they were govern'd by one Justice, call'd the Justice of *Puglia*.

<sup>1</sup> Gul. Ap. lib. 1.

## S E C T. X.

## Contado di MOLISE.

THE *Contado di Molise*, formerly call'd the *Castaldato di Bojano*, gave Name to another small Province, which it still retains<sup>1</sup>; and it was so call'd from *Molise*, an ancient City of *Samnium*, and in the Time of the *Longobards*, *Isernia*, *Bojano* and other Places, were comprehended in this *Contado*, from which the Family of *Molise*, now extinct, likewise took its Name. In the Time of *Frederick* this *Contado* was a distinct Province, and *Riccardo* numbers it among the rest, under the Name of *Comitatus Molisii*; whence it always has been, and is still reckon'd the smallest of all the Provinces, and has no President, but is govern'd by the President of *Capitanata*, to which it is join'd.

<sup>1</sup> Camil. Pellegr. pag. 89.

## S E C T. XI, XII.

*The Further ABRUZZO. The Hither ABRUZZO.*

**I**N the Time of *Frederick II.* the *Giustizierato* of *Abruzzo*, was reckon'd but one Province, and according to *Riccardo*, that Emperor appointed *Sulmona* to be the Place for holding the general Court; *In Justitiaratu Abrutii, apud Sulmonam.* *Alphonfus I.* of *Aragon*, in order to remove the Disputes which frequently arose among the Collectors of the Taxes, divided it into Two Parts.

**T**HIS Country was once very famous for the warlike People that inhabited it, to wit, the *Prægutii*, the *Marrucini*, the *Amiserni*, the *Marfi*, the *Vestini*, the *Hirpini*, &c. The *Longobards* erected it into a *Castaldato*, which they indifferently call'd the *Castaldato* of *Abruzzo*, or of *Teramo*, as we read in *Petrus Diaconus*: *Castaldatus Teramensis*; for *Teramo*, by the Ancients call'd *Interamnina*, was the Metropolis City of the *Prægutii*. Although the Word *Abruzzo* be variously deriv'd; by some from the Ruggedness of the Mountains, by others from the Abundance of wild Boars, yet its true Derivation is from *Teramo*, which was likewise call'd *Abruzzo*, because it was the Metropolis of the *Prægutii*, who, by a corrupt Word, were afterwards call'd *Abrutii*.

**T**HIS Province, which we now call the further *Abruzzo* (that is to say, on the other Side of the River *Pescara*) besides *Teramo*, *Amiserno*, (from the Ruins of which *Aquila*, now the Seat of the Presidents, had its Rise) contain'd *Forcani*, *Valeria*, and other renown'd Cities of the *Marfi*. In the Country of the *Marrucini*, and *Ferentani*, now call'd the hither *Abruzzo* (that is to say, on this Side of the River *Pescara*) it comprehended *Cibini*, by *Strabo* call'd *Ibeaman*, which was the Metropolis of the *Marrucini*, and is now the Seat of the Presidents, *Teramo*, *Ortone*, *Lanciano*, *Sulmona*, *Averno*, and other famous Cities, some of which are yet in being. By these Provinces of *Abruzzo*, with a small Part of *Terra di Lavoro*, the Kingdom is separated from the Dominions of the Church of *Rome*.

**S**UCH was the Disposition of these Provinces, of which our Kingdom is now compos'd, in the Time of *Frederick*, and they were call'd *Giustizierati*, from the *Giustizieri*, or *Justices*, who govern'd them. According to the Computation of *Riccardo da S. Germano*, a Contemporary Writer, they were only Ten in Number, to wit, *Calabria* divided into Two, viz. *Terra Jordana*, and *Val di Crati*; *Puglia* into *Terra d'Otranto*, and *Terra di Bari*; *Capitanata*, *Basilicata* and *Principato*, divided into Two; *Terra di Lavoro*, *Contado di Molise*, and the *Giustizierato* of *Abruzzo*, likewise divided in the same Manner.

**T**H E R E was not a Justice appointed for each of these, but one frequently govern'd many Provinces, as we read of *Giuseppe Guarna* Count of *Marfio*, who was Justice of *Puglia*, and *Terra di Lavoro*, and of *Tommaso d'Aquino*, who was Justice of *Puglia*, and had the sole Administration thereof, which is now divided into Three Provinces; and even in our Time we see, that the President of *Capitanata*, who resides in *Lucera*, likewise governs the Province of the *Contado di Molise*. Sometimes Two Justices govern'd one Province, as in the Year 1197, *Roberto di Venosa*, and *Giovanni di Prassinetto*, were both Justices of *Terra di Bari*; and in the Year 1225 *Pietro d'Eboli*, and *Niccolo Cicala*, were Justices of *Terra di Lavoro*. In the Times of the Kings of the Family of *Anjou*, one Justice was sent to more than one Province; and the same was also practis'd in the Reigns of the Kings of the House of *Aragon*; and till the Time of *Philip II.* according to *Alessandro d'Andrea*, who wrote of, and serv'd in the War which that King had with Pope *Paul IV.* there were only Six Governors, first call'd Justices, and afterwards *Viceroy*s, who administr'd Justice to more Provinces than one; for the Two *Abruzzi* had then but one President; the *Contado di Molise*, and *Capitanata* another, as they have at present; the farther *Principato* had one, the hither *Principato*, and *Basilicata*

<sup>1</sup> Pet. Diac. in Auth. ad Ostien. lib. 4. c. 22.<sup>2</sup> Camil. Peleg. in diss. ult. de Duc. Benev.<sup>3</sup> Tutin. de M. Giustizieri, in princip.<sup>4</sup> Idem de Contestab. pag. 6.<sup>5</sup> Andr. Ragionam. 2.



had but one; *Terra d'Otranto*, and *Terra di Bari* one; and the Two *Calabria's* another. But the Division was made afterwards, according to the Number of the Officers, call'd Treasurers, who collected the Royal Revenues, for the greater Conveniency of collecting them, and the Number of Governors was the same, whence, excepting the *Contado di Molise*, each Province had its own particular President.



## C H A P. VI.

*General Courts and Fairs instituted by Frederick in these our Provinces. The Children he left; and his last Will.*



**A**L L these Justices were subordinate to the Lord Chief Justice of the Kingdom, who resided at *Palermo*, the Place of the King's Residence, and where he kept his High Court; but *Frederick*, who could not fix himself in any one Place, but as his Affairs call'd him, made Progresses over all the Provinces of his Dominions, held his High Court in every City where he made any Stay, and was attended by the Lord Chief Justice, and the Judges of that Court. And this prudent Prince, who was a Lover of Justice, for the better Government of these Provinces, in the Year 1233, having conven'd a General Parliament in *Messina*, ordain'd a General Court to be held Twice a Year in certain Provinces of the Kingdom', where any Person, that found himself injur'd by, or had Cause to complain of the Justices, or any other of his Officers, should lay their Complaints before his Delegate, sent thither by him for that Effect, who was to set down all the Grievances in Writing, and, together with Four Clergymen of known Probity and Reputation, was to seal the said Writing, and present it to his Imperial Court. But Complaints against Persons who were not Officers, were to be decided by the Justices of the Provinces.

**I**N these General Courts, Four Persons of the best Account and known Probity of each City, and Two of each Village or Hamlet of the Province were to be present. And it was likewise ordain'd, that the Prelates of these Cities, if they had not a lawful Excuse, were to be present to inform the Court if there were any *Patareni*, or other Hereticks in their Province, and if they could not be there themselves, they were to do it by others, that these Hereticks might be severely punish'd. These Courts were to continue for Eight Days, and when Matters of Moment were to be discuss'd, they could prolong the Time to a Fortnight.

**T**H E Places appointed for holding of these Courts were, in *Sicily*, *Plazza*; in *Calabria*, *Cosenza*, where Two Provinces were to meet, to wit, *Terra Jordana*, and *Valle di Crati*, now call'd the hither and further *Calabria's*; the Provinces of *Puglia*, *Capitanata* and *Basilicata*, were to meet in the City of *Gravina*; the Two Provinces of *Principato*, *Terra di Lavoro*, and *Contado di Molise*, as far as *Sora*, were to meet in *Salerno*; and the Two Provinces of *Abruzzo* in *Sulmona*.

**T**H E Times fix'd for holding of these Courts, were the first Day of *May*, and the first of *November*. They were to be compos'd of the Emperor's Delegate, the Chief Justice, the Justices of the Provinces, the High Chamberlain, the Chamberlains and Bailiffs of the Provinces, and other Officers of the Court, the Prelates, Counts, Barons, and the Citizens of these Places, as above appointed.

<sup>1</sup> Ric. S. Germ. ad Ann. 1233.

IN order to keep up Plenty of all Things, this same general Parliament held at *Messina*, appointed publick Fairs in Seven Places of our Kingdom<sup>1</sup>, whither all Merchants were to carry their Wares, and while the Fair lasted, they were not allow'd to carry them to any other Place. The first was appointed to be in *Sulmona*, and to last from the Feast of *St. George*, to that of the Apparition of *St. Michael the Archangel*: The second was to be in *Capua*, and to continue from the 22d of *May*, to the 8th of *June*: The third in *Lucera*, and was to begin on the Feast of the beatified Pope *John*, and to hold Eight Days: The fourth in *Bari*, and to last from the Feast of *Mary Magdalen*, to that of *St. Laurence*: The fifth in *Taranto*, from the Feast of *St. Bartholomew*, to that of the Nativity of the Blessed Virgin: The sixth in *Cosenza*, from the Feast of *St. Matthew*, to that of *St. Dionysius*: The seventh in *Reggio*, from the Feast of *St. Luke*, to that of *All Saints*.

THUS did this most prudent Prince, by his provident Care, put these our Provinces in a better Form of Government; and if they had not been depriv'd of him by Death in the midst of his Progress, he would have provided them with many other wholesome Laws, and improv'd them to greater Advantage; but his untimely Death put a Stop to the Career of their Happiness, and they fell afterwards into a most deplorable State; for they were torn to Pieces, disturb'd and miserably afflicted by many Invaders, (each contending for the Crown) till the Royal Race of the *Suevi* being extinct, they came under another Family; which shall be the Subject of the first Book of the next Volume.

FREDERICK, by sundry Wives, and some Concubines, left many Children. According to *Cuspinianus*, he had Six Wives. The first was *Constantia*, Daughter of *Alphonfus II.* King of *Aragon*, and *Sancia* Queen of *Castile*, by whom he had *Henry* King of *Germany*, who died in Prison, and *Jordanus*, who died an Infant: The second was *Jole*, Daughter of *John* of *Brenna*, King of *Jerusalem*, who brought him as her Portion, the Rights to that Kingdom, which she had by Right of her Mother *Mary*, by her he had *Conrade* King of the *Romans*: The third was *Agnes*, Daughter of *Otho* Duke of *Moravia*, whom he divorced, and she was afterwards married to *Ulderick*, Duke of *Carinthia*: The fourth was *Rutina*, Daughter of *Otho* Count of *Wolffexhausen* in *Bavaria*: The fifth was *Isabella*, Daughter of *Lewis* Duke of *Bavaria*; none of these Three brought him any Children: The sixth was likewise nam'd *Isabella*, or *Elizabeth*, Daughter of *John* King of *England*, and Sister to the Prince of *Wales*, afterwards King of *England*, nam'd *Henry III.* and it may be seen in the Annals of that Kingdom, re-printed in the Reign of Queen *Anne*, that *Frederick* sent *Pietro delle Vigne* to *England* to treat about this Marriage; by this *Isabella*, *Frederick* had *Henry*, whom it was believed, *Conrade* caus'd to be poison'd, which occasion'd those Broils between the King of *England*, *Henry's* Uncle, and *Conrade*, of which we shall take Notice hereafter; *Isabella* likewise bore some Daughters. *Cuspinianus* was in the Wrong to write, that there was no Male Child of this Marriage; for the most approv'd Authors, amongst which *Zurita*, with more Truth, say, That she was the Mother of *Henry*, who got the Kingdom of *Jerusalem*, and a Hundred thousand Ounces of Gold from his Father, and was afterwards poison'd by the Means of *Conrade*, as shall be told in the following Book of this History. The Eldest of the Daughters, nam'd *Agnes*, was married to *Conrade*, Landgrave of *Thuringia*, and *Constantia* the Youngest, to *Lewis*, Landgrave of *Hesse*.

FREDERICK had likewise by *Beatrice* Princess of *Antioch* (whom, according to *Zurita*, he unlawfully took to Wife) *Frederick* Prince of *Antioch*, and Count of *Albi*, *Celano*, and *Loretto*, who, according to some Authors, by his Father was intitled King of *Tuscany*. This *Frederick* had a Son, nam'd *Conrade* of *Antioch*, who married *Beatrice*, Daughter of Count *Galvano* *Lancia*, by whom he had *Frederick*, *Henry* and *Galvano* of *Antioch*; whose Offspring flourish'd for some Time in *Sicily*.

THE Emperor *Frederick* had also by a Sister of *Goffredo* *Maletta*, Count of *Minio*, and *Trivento*, Lord of *Monte S. Angelo*, and High Chamberlain of the Kingdom, *Mansfred* Prince of *Taranto*, afterwards King of *Naples* and *Sicily*, and *Constantia*, who, in her Father's Life-time, was married to *Carolus Joannes Battasius* Emperor of *Constantinople*, a Schismatick, and Enemy to the Church of *Rome*, as

<sup>1</sup> Ric. S. Germ.

may be seen in the Royal Archives; with which Pope *Innocent IV.* upbraided him when he depriv'd him of the Empire; and it may be gather'd from *Frederick's* last Will, that he look'd upon *Manfred* as born in lawful Wedlock, seeing he is there nam'd to succeed to his Father's Dominions, in case *Conrade* and *Henry* should die without Issue; and some Writers have maintain'd, that he was lawfully begotten, and not a Bastard; which has led *Matthew Paris* into a Mistake, when in his History he says, That *Manfred* was born of *Bianca Lanza*, and that the Emperor married her while he was sick, a little before he died. And by the said *Bianca Lanza*, by some call'd Marchioness of *Monferrat*, and other Women, he had *Henry* King of *Sardinia*, commonly call'd *Eutius*, who died Prisoner in *Bologna*, and some Daughters, one of which was nam'd *Selvaggia*, and was married to *Ezzelino Tiranno di Padova*; another to *Tommaso d'Aquino* Count of *Cerra*; and a Third to the Count of *Caserta*.

*FREDERICK*, before he died, made his last Will, by which he left his Son *Conrade* King of the Romans, Heir of the Empire, and of all his other Dominions, and particularly of the Kingdoms of *Puglia* and *Sicily*; and upon his Death without Issue, *Henry* his other Son was to succeed, and if he should die without Children, *Manfred* Prince of *Taranto*, also his Son, was to succeed; and as long as *Conrade* should remain in Germany, or any other Place, he appointed *Manfred* with full Authority to be his Lieutenant in *Italy*, and especially in *Puglia* and *Sicily*. To *Manfred* he left the Principality of *Taranto*, with the Counties of *Montescaglioso*, *Tricarico*, and *Gravina*, with the County of *Monte S. Angelo*, and the same Title and Honour which he had given him in his Life-time, with all the Cities, Towns, and Castles belonging to the said County, but reserv'd the Sovereignty to *Conrade*, &c.

BUT seeing the Will itself deserves to be read, we have here subjoin'd it, and it is the very same which heretofore was to be seen in the Royal Archives, according to *Matteo d'Afflito*, and is mention'd by *Bzovius* in his Ecclesiastick Annals, and by several Writers of this Kingdom: *Capocelatro* copied it from a very antient Chronicle of the Deeds of *Frederick*, and of some Kings his Successors; and it is the very same that is mention'd by *Costanzo*, *Summonte*, *Tutini*, and other Authors.

\* Tutini de Contestabili del. Reg. fol. 44.

### Testamentum FRIDERICI II.

IN nomine Dei æterni, & Salvatoris nostri Jesu Christi. Anno ab Incarnatione ejus millesimo ducentesimo quinquagesimo primo, & primo Anno Domini nostri *Conradi* Gloriosissimi Romanorum, Hierusalem, Sicilia, & Italia Regis, mense Januarii, 9 Indictione. Dum in Archiepiscopali Salernitano Palatio, in præsentia Domini *Casaris*, Dei Gratia venerabilis Salernitani Archiepiscopi essemus nos *Philippus*, *Matthæus*, *Romoldus*, & *Philippus* Judices, præsentibus *Matthæo de Vallone* Straticoro *Salerni* *Philippo* Græco, & *Guthelmo* Curiali Notariis ab hoc specialiter rogatis: Illustris vir Dominus *Bertoldus* Marchio de *Hohenburch* Dei, & Domini nostri Regis *Conradi* gratia, Dominus *Montis fortis*, & *Argentii*, *Casri S. Severini*, & honoris ejus, splendit, & præsentavit prædicto Domino Archiepiscopo Testamentum, sive ultimam voluntatem quondam Domini nostri serenissimi Imperatoris *Friderici II.* cerea, & pendente Bulla ejusdem Domini Imperatoris insignitum, quod vidimus, & legimus, & omni vitio, & suspitione carebat, & erat continentia talis.

IN nomine Dei æterni, & Salvatoris nostri Jesu Christi. Anno ab Incarnatione ejus Millesimo ducentesimo quinquagesimo, die Sabati, Decimo septimo Decembris, nonæ Indictionis. Primi Parentis incauta transgressio sic posteris legem Conditionis indixit, ut eam ne diluvii proclivis ad penam effugio effrenis adducere, nec Baptismatis tam celebris, tam salubris unda linitet, quin fatalitatis cu..... mortalibus senescentis ævi..... lascivia transgressionis in penam culpæ transfuga tanquam cicatrix ex vulnere remaneret. Nos igitur *Fridericus II.* Divina favente clementia Romanorum Imperator semper Augustus, Hierusalem, & Sicilia Rex, memor conditionis Humanæ, quam semper comitatur humana fragilitas, dum vitæ nobis instaret terminus, loquelæ, & memoriæ in nobis integritate vigentibus, egri corpore, sani mente sic animæ nostræ consulendum providimus,

providimus, sic de Imperio, & Regnis nostris duximus disponendum, ut rebus humanis assumpti videamur, & filiis nostris, quibus nos Divina clementia fecundavit, quos presenti dispositione sub pena benedictionis nostræ volumus esse contentos, ambitione sublata, omnis materia scandali sopiatur. Statuimus itaque Conradum Romanorum in Regem electum, & Regni Hierosolymitani heredem dilectum filium nostrum, nobis heredem in Imperio, & in omnibus aliis . . . & quoquo modo acquisitis, & specialiter in Regno nostro Sicilia; quem si decedere contingerit sine liberis, succedat ei Henricus filius noster, quo defuncto sine liberis succedat ei Manfredus filius noster: Conrado vero morante in Alemannia, vel alibi extra Regnam: Statuimus prædictum Manfredum Ratum dicti Conradi in Italia, & specialiter in Regno Sicilia, dantes ei plenariam potestatem omnia faciendi, quæ Persona nostra facere posset, si viveremus, videlicet, in concedendis terris, castris, & villis, parentelis, & dignitatibus, beneficiis, & omnibus aliis juxta dispositionem suam, præter antiqua demania Regni Sicilia, & quod Conradus, & Henricus prædicti filii nostri, & eorum hæredes omnia, quæ ipse fecerit firma, & ratâ teneant, & observent. Item concedimus, & confirmamus dicto Manfredo filio principatum Tarenti, videlicet, a Porta Rositi, usque ad ortum fluminis Brandani, cum Comitatibus Montis Caveosi, Tricarici, & Gravina, prout Comitatus ipse protenditur, a maritima Terræ Bari usque Palinurum, cum Terris omnibus a Palinuro per totam Maritimam usque ad dictum Portum Rositi, cum Comitatibus Castris, & villis infra contentis cum omnibus Justitiis, pertinentiis, & rationibus omnibus tam ipsius Principatus, quam Comitatum prædictorum. Concedimus etiam eidem Comitatum Montis S. Angelî, cum titulo, & honore suo, & omnibus Civitatibus, Castris, Villis, Terris, Pertinentiis, Justitiis, & Rationibus eidem Comitatu pertinentibus, videlicet, usque de Demanio in Demaniam, & quæ de Servitio in Servitium. Concedimus, & confirmamus eidem quidquid sibi in Imperio etiam a nostra Majestâte concessum, ita tamen quod prædicta omnia a præfato Conrado teneat, & recognoscat. Item statuimus, quod Fridericus nepos noster habeat Ducatus Austriæ, & Stiria, quos a præfato Conrado teneat & recognoscat, cui Friderico judicamus dari pro expensis suis decem millia unciarum auri. Item statuimus, ut Henricus filius noster habeat Regnum Alcarense, vel Regnum Hierosolymitanum, quorum alterum dictus Conradus præfatum Henricum habere voluerit, cui Henrico judicamus dari centum millia unciarum auri pro expensis. Item statuimus, ut centum millia unciarum auri expendantur, pro solute animæ nostræ in subsidium Terræ Sanctæ secundum ordinationem dicti Conradi, & aliorum nobilium Crucesignatorum. Item statuimus, quod omnia bona Militiæ Domus Templi, quæ Curia nostra tenet restituantur eidem, ea videlicet, quæ de jure debent habere. Item statuimus, ut Ecclesiæ, & Domibus Religiosis restituantur jura earum, & gaudeant solitata libertate. Item statuimus, quod homines Regni nostri sint liberi, & exempti ab omnibus generalibus collectis, sicut consueverunt esse tempore Regis Gulielmi II. Consobrini nostri. Item statuimus, quod Comites, Barones, & Milites, & alii Feudatarii Regni gaudeant juribus, & rationibus, quæ consueverunt habere tempore prædicti Regis Gulielmi in collectis, & aliis. Item statuimus, ut Ecclesiæ Luceria, Soræ, & si quæ aliæ Ecclesiæ læsæ sunt per Officiales nostros resciantur, & restituantur. Item statuimus, ut tota Massaria nostra, quam habemus apud S. Nicolaum de Ausido, & omnes proventus ipsius deputentur ad reparationem, & conservationem Pontis ibi constructi, vel construendi. Item statuimus, ut omnes Captivi in carcere nostro detempti liberentur, præter illos de Imperio, & præter illos de Regno, qui capti sunt ex prodicionis nota. Item statuimus, quod præfatus Manfredus filius noster omnibus bene meritis de Familia nostra provideat vice nostra in Terris, Castris & Villis, salvo Demanio Regni nostri Sicilia, & quod Conradus, & Henricus prædicti filii nostri, & hæredes eorum ratum, & firmum habeant quicquid idem Manfredus super hoc duxerit faciendum. Item volumus, & mandamus, quod nullus de Proditoribus Regni aliquo tempore reverti debeat in Regnum, nec alicui de eorum genere Succurrere possint, imo hæredes nostri teneantur de eis vindictam sumere. Item statuimus, quod mercatoribus creditoribus nostris debita solvantur. Item statuimus, ut Sanctæ Romanæ Ecclesiæ Matri Nostræ, & aliorum nostrorum fidelium jura restituantur, si ipse Ecclesia restituat jura Imperii. Item statuimus, ut si de præsentis infirmitate nostra mori contingerit, in majori Ecclesia Panormitana, in qua Divi Imperatoris Henrici, & Divæ Imperatricis Constantiæ parentum nostrorum memoriæ recolendæ tumulata sunt corpora, corpus nostrum debeat sepeliri; cui Ecclesiæ dimittimus uncias auri quingentas pro salute animarum dictorum parentum nostrorum, & nostræ, per manus Berardi venerabilis Panormitani Archiepiscopi, familiaris, & fidelis nostri, in reparatione ipsius Ecclesiæ erogandas. Prædicta autem omnia, quæ acta sunt in præsentia prædicti Archiepiscopi,

Bertoldi Marchionis de Hobenburch dilecti consanguinei, & familiaris nostri, Riccardi Comititis Casertani dilecti generi nostri, Petri Ruffi de Calabria Marefcallæ nostræ Magistri, Riccardi de Monte Nigro magnæ Curia nostræ Magistri Justitiarum, Magistri Joannis de Idronto Notarii nostri, Fulconis Ruffi, Magistri Joannis de Procida, Magistri Roberti de Panormo Imperii, & Regni Siciliae, & magnæ Curia nostræ Notarii, meorum fidelium, quos præfenti dispositione nostræ mandavimus interesse, per prædictum Conradum filium, & hæredem nostrum, & alios successivè sub pœna benedictionis nostræ tenaciter disponimus observari, alioquin hæreditate nostra non gaudeant. Ita autem universis fidelibus nostris præsentibus, & futuris sub Sacramento fidelitatis, qua nobis, & hæredibus nostris tenentur, injungimus, ut prædicta omnia illibata teneant, & observent. Præfens autem Testamentum nostrum, & ultimam voluntatem nostram, quam robor firmitatis volumus obtinere, per prædictum Magnificum Nicolaum de Brundusio Scribi, & Signo Sanctæ Crucis propriæ manus nostræ Sigillo nostro, & prædictorum Subscriptionibus jussimus communiri. Actum apud Florentinum in Capitanata, Anno, Mense, Die, & Indictione prædicta. Anno Imperii nostri XXXII. Regni Hierusalem XXVIII. & Regni Siciliae LI. Signum Sanctæ Crucis propriæ manus prædicti Domini Imperatoris Frederici. Qui supra Berardus Panormitanus Archiepiscopus Domini Imperatoris familiaris. Ego Bertoldus Marchio de Hobenburch iis interfui, & Subscripsi. Ego Riccardus Comes Casertæ iis interfui, & me subscribi feci. Ego Petrus Ruffus de Calabria Imperialis Marefcallus Magister interfui bis, & subscribi feci. Ego Riccardus de Monte Nigro Magnæ Imperialis Curia Magister Justitarius. Ego Magister Robertus de Panormo, qui supra Judex. Ego Joannes de Idronto, qui supra interfui. Ego Fulcus Ruffus de Calabria bis interfui, & subscripsi. Ego Joannes de Procida Domini Imperatoris Medicus testis sum. Ego qui supra Notarius Nicolaus de Brundusio, quia omnibus prædictis interfui, præfens Testamentum propria manu subscripsi, & meo signo signavi.

CUM autem Testamentum prædictum a nobis lectum fuisset, idem Dominus Archiepiscopus tunc nos rogavit, ut quia quædam in dicto Testamento contineantur, quæ ad utilitatem Salernitanæ Ecclesiæ Matris nostræ pertinere noscuntur, ipsum insinuare, seu publicare deberemus, ut ex insinuatione, seu publicatione ipsius possit inde fidelis assumi. Nos autem preces juri consentaneas admittentes ipsum Testamentum totum per ordinem de verbo ad verbum nihil in eo addito, vel subtrahito in hanc Scripturam publicam per manum Thomasi publici Salerni Notarii transumi fecimus, & transcribi, quod scripsi ego prædictus Thomasi publicus Salerni Notarius, qui rogatus interfui, vidi, & legi, & illud in hanc Scripturam redigens publicam, meo signo signavi, quod autem superius nititur virgulas scriptum, & legitur nostra, & quod disturbatum est, legitur, recognoscat . . . . Adest signum †. Ego qui supra Philippus Judex †. Ego qui supra Matthæus Judex †. Ego qui supra Romoaldus Judex †. Ego qui supra Philippus Judex.

F I N I S.





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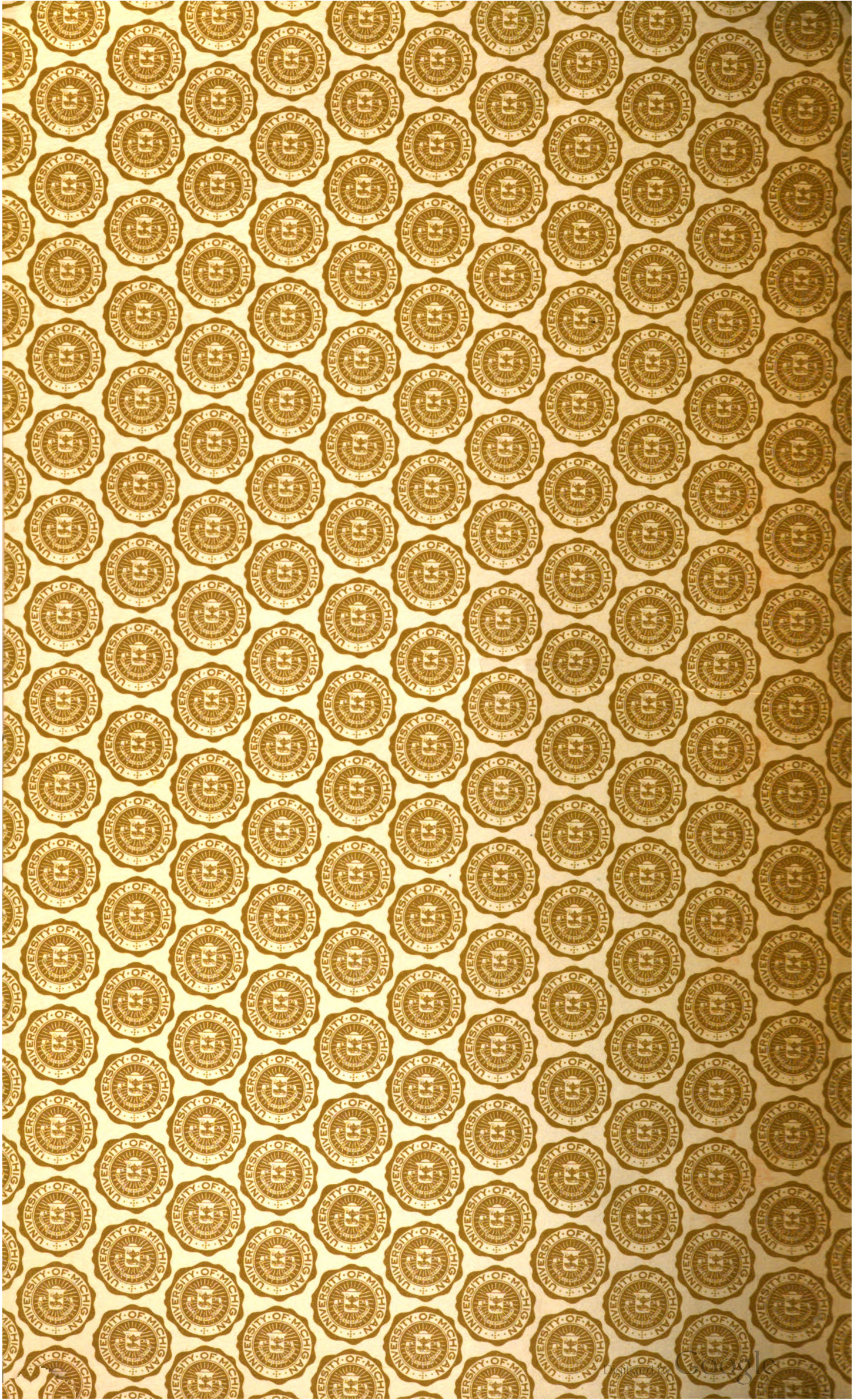












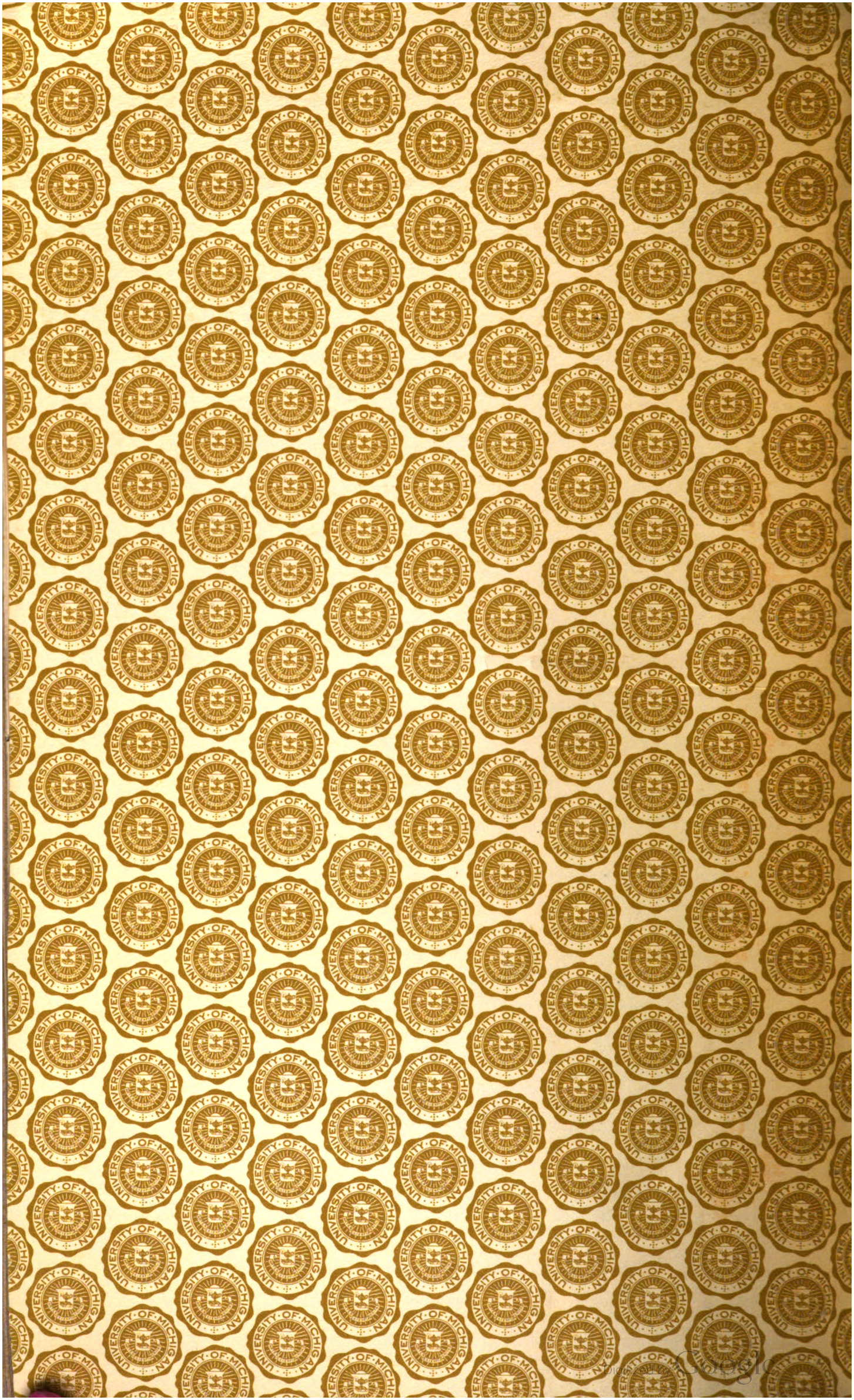




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