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Father PAUL
Of Beneficiary Matters:
Lauderdale OR, History
The DUES *of the* ALTAR.

Being, A

Compleat History
Maitland
ECCLESIASTICAL REVENUES.

SHEWING,

I. Their *Rise, Progress*, and the *Various Means* by which they have accrued to the CHURCH.

II. Why the CHURCH in its Infancy had no *Immovable Estates*.

III. That ECCLESIASTICKS become too greedy in *acquiring Estates*; and that their *Avarice* ought to be restrained.

IV. That *Estates* left to the CHURCH, in prejudice of the *Legal-Heirs*, ought to be rejected.

V. That when BISHOPS became Judges of *Civil Affairs*, they neglected to Teach the Doctrines of CHRIST.

VI. The Original of TYTHES; and of the *Pretensions* and *Claims* of *Curates*.

VII. The Original of CARDINALS, who were at first inferiour to BISHOPS.

VIII. That the Abuse of *Non-Residence*, sprung from *Ordaining* without *Title* or *Office*.

IX. The Distinction between Benefices *compatible* and *incompatible*. The *Commendam* its Original; and what are declared by the *Canonists* to be *Necessaries* for the *Subsistence* of the *Beneficiaries*, &c.

X. That the *Canonists* have alter'd the ancient Policy of the CHURCH, by asserting the POPE sole Proprietor of all Benefices.

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PREFACE
Of the *French* Tranſlator.

SINCE *the Treatiſe of Benefices firſt appear'd in* Italian, *written by* Pad. Paola, *there has been a general Expectation of a Tranſlation of it into* French; *and I was rather led into the Expectation of its appearing ere long, from the Report ſpread among the Men of Letters, That there were five or ſix Tranſlations which were, or would be printed in different Places. This furniſh'd me, for ſome Time, with an Anſwer to the Importunity of ſome Friends, that I would undertake this Work, and indulg'd my own Inclination in not interfering with other Writers.*

But at laſt, through a certain Fatality in writing, as in other Evils of Life to which a Man is fated, it has come to paſs, that the ſame Reaſon which I firſt gave for my Excuſe, has brought me to comply with their Deſires: So I ſhall

have those for Readers, who I hop'd would have been Writers themselves; and am, perhaps, also to undergo the Censures of those, whose Writings I doubt not but I should have had in very just Esteem. For the Excellency and Importanee of the Subject will not suffer me to doubt, that the Translation has been undertaken by Men of very suitable Abilities, whose Approbation is of that Authority, as to have given such a Reputation to this Undertaking, that my own Wishes could not have suggested a better Fortune to attend it.

As to my Author, there is no need of saying any thing here, either as to his Person or his Writings, the World is so well inform'd of them both. I shall only say, That having had three Cardinals, of the greatest Characters for Learning, his Adversaries during his Life, and a fourth after his Death, he had the Honour however to be acknowledg'd for the best Writer of his Age: And if I mistake not, as well as many others, this Treatise will not be thought to contradict this Opinion.

I have divided the whole into 54 *Chapters or Articles, for the Ease of those who are*

are not apt to overcharge themselves with reading much at a time, and the better to trace out the Order and Consequence of the several Heads, which all deserve to be read with the strictest Attention.

As for my own Notes and Observations, I flatter my self with the favourable Reception they will meet with from the Publick; such a Reception, I mean, as is due to Truth; seeing they contain a Verification of all the Facts which Pad. Paolo *relates, and which serve as authentick Proofs of his Integrity, and of his having asserted nothing for which he has not sufficient Vouchers.*

When we look into the Histories of Matth. Paris, Platina, Panvinius, *and* Baronius, *and find what is there recorded of some Popes,* Pad. Paolo, *whom the Cardinal* Pallavicino *wou'd make pass for an impious Imposture, and for one who makes it his Profession to vilify all Popes, will be allow'd to express himself with great Modesty of some of them, and particularly* Innocent IV. *whom all the Writers, both ancient and modern, describe as a roaring Lion, who sought nothing but*

how to devour all the Benefices that came within his Reach.

And when we read that St. Thomas, *the Cardinal* Cajetan *his Commentator, with many other great Divines and Lawyers, determine with so much Clearness, that the Pope is not the Proprietor of the Goods of the Church, but only the principal Dispenser of them,* Pad. Paolo *must also be allow'd not to have embrac'd this Opinion from any Motive of Hatred to the Popes, but from a Sense of its being conformable to the Doctrine of the Fathers and the sacred Canons.*

In fine, *whoever will read what* Mat. Paris, *the Monk, writes of the famous* Robert, *Bishop of* Lincoln, *and of several Archbishops of* York, *who were cruely treated by the Popes* Innocent IV. *and* Alexander IV. *will* (3) *find very near Resemblance betwixt the Persecutions rais'd against these two Bishops, and that by Pope* Paul V. *against* Pad. Paolo, *who defended, very near, the same Cause.*

(3) See the Notes on *Chap.* 35.
Note, That in the *English* Translation the Method of the *French* Translation in the Division of Chapters is observ'd, there being no other Variation from the *Italian.*

An

An ADVERTISEMENT, *concerning a Book, intitled,* The History of the Original and Progress of the Ecclesiastical Revenues, by *Ferom à Costa.*

AS there is a great Relation betwixt this Book and the Treatise of Benefices wrote by Pad. Paola, *an able Lawyer who has compar'd one with the other, has made a Judgment of them, which I have thought well deserv'd a Place here for the Instruction of Readers who have not read them both, or who are not able, by any Lights of their own, to determine to whom the Preference is due.*

The Author of the Republick of Letters *seems to give the Preference to* à Costa, *in concluding in these Terms:* It is believ'd that this Book surpasseth the excellent Treatise of *Pad. Paolo,* concerning Beneficiary Matters. *Artic.* 3. *of the Month of* May, 1684.

Our Lawyer, on the other side, sets no Value on the Book of à Costa: The History, *saith he,* of the Original and Progress

Progreſs of Eccleſiaſtical Revenues by *Feram à Coſta*, is no more than a Repetition of all that hath been ſaid in the Treatiſe of Benefices by *Pad. Paolo*, tho' *Ferom à Coſta* pretends it is a Supplement. It is true indeed, that he ſpeaks of the Original of private Maſſes, and of the Privileges call'd the Monarchy of *Sicily*, of which *Pad. Paola* makes but juſt mention, but theſe Particulars, with ſome others which he handles, make not much to the Purpoſe: Beſides that he draws his Proofs often from a Cartulary only of ſome particular Monaſtery, from which no general Concluſion can be made.

So that thoſe who have read the Treatiſe of Father *Paul* will find nothing new or differing from this of *à Coſta*, except only a great deal of Confuſion: For it is a Work ſo ill digeſted, that the chief Thing which the Author ſeems to have propos'd to himſelf has been, to deſtroy all the admirable Method which the other hath throughout obſerv'd with ſo much Exactneſs.

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1. Mental Reſervations introduced in *Italy*. 2. And then aboliſh'd. 3. Great Abuſe of the Reſignations *in favorem*.

C H A P. XLV. *page* 201.

1. The Regreſs and the Acceſs. The Original and Abuſe of them. 2. The Pope alone grants the Faculty of Regreſs and Acceſs. 3. The Parliament of *Paris* admits neither the one nor the other.

C H A P. XLVI. *page* 204.

1. The Coadjutorſhip, its Original. 2. Its Abuſe. 3. The Concordate betwixt *Nicholas* V. and the Emperor *Fredrick* III. 4. Ill obſerv'd in *Germany*. 5. The Jeſuiſts oblige the Beneficiaries to obſerve it. 6. The Elections or Collations, which derogate from this Concordate, are annull'd at *Rome*.

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C H A P. XLVIII. *page* 211.

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1. A Reformation made by the Council of *Trent* concerning Benefices. 2. The Council decides not the Queſtion about Reſidence for fear of wounding the Authority of the Pope. 3. And is ſilent as to the Reſervations.

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1. The Penſion, its Original. 2. Its Conveniencies, or rather its Abuſes. 3. Whether it is Simony to extinguiſh a Penſion charg'd on a Benefice, by taking a Sum of Money agreed upon. 4. The Decree of the Council of *Trent* that no more Monaſteries ſhould be put in *Commendam*, hath not been obſerv'd. 5. The Pope by means of the Reſervations has become Maſter of almoſt all the Benefices of *Italy*. 6. The Popes have taken care to tye the Hands of the Biſhops. 7. The Bull of Pope *Pius* V. which forbids the Collators to confer any Benefices reſign'd, to Kindred, Allies, or Domeſticks of the Reſigners.

CHAP. LI. page 229.

1. The Doctrine of the Canoniſts, which ſerves to encourage and promote Simony. 2. The Popes have preſerv'd the Biſhops from the Contagion of Simony, but have not been able to defend themſelves from it. 3. Of which the Flatterers are the Cauſe. 4. Every Church is Proprietor or Owner of the Goods which ſhe poſſeſſeth. 5. The Canoniſts have alter'd all the ancient Policy of the Church, in aſſerting the Pope to be the ſole Proprietor of all Benefices. 6. According to *Navarr*, the Pope cannot change Teſtamentary

mentary Diſpoſitions without a lawful Cauſe. 7. How he interpreteth the Propoſition of the Canoniſts, that the Will of the Pope is in place of Reaſon in Beneficiary Matters. 8. The Senſe which he puts upon the Bull of *Clement* V. 9. The Opinion of the Canoniſts gratifies all ſuch as thirſt after many Benefices. 10. Impoſſible to reconcile it with Reaſon, and leſs with Divinity.

CHAP. LII. page 236.

1. If the Pope have ſuch abſolute Power, from whence doth he derive it? 2. Why have his Predeceſſors for more than 1000 Years made no uſe of it? 3. If the Papal Authority be unlimited, why have the Popes limited it by Concordates and other Tranſactions with Princes?

A Queſtion relative to Chap. 21. *containing the Sentiments of the Fathers and Doctors, upon the right uſe, which the Beneficiaries ought to make of the Fruits and Revenues of their Benefices. The Point in Queſtion is to know, Whether the Beneficiaries have really the uſufruct, or only the Diſpenſations?* Navarr, *tho' a Canoniſt, maintains, that they are meerly the Diſpenſers. The Cardinal* Cajetan *holds a middle Opinion.* Fra. Paolo *adds own in Concluſion.*

CHAP. LIII. page 248.

1. The Order of Mendicants have loſt their Credit in deſiring to make uſe of the Permiſſion granted them by the Council of *Trent* to acquire immoveable Eſtates. 2. The Capuchins have preſerved the Affection of the People by remaining in their Poverty. 3. The Jeſuits hold a middle Courſe betwixt Poverty and Riches. 4. *Moſes* when he had

had ſufficient for the Tabernacle, refus'd to receive any more Gifts from the People of *Iſrael*, 5. The *Levites* had no other Eſtates but the Tenths. 6. If the Clergy hold now the Place of the *Levites*, why are they not contented with the Tenths?

CHAP. LIV. page 252.

1. In the Primitive Church whatever the Prieſts left at their Death, return'd to the common Maſs. 2. After the Church Eſtates had been divided into Benefices, the *Spolia* of the Beneficiary, *viz.* the Goods he dy'd poſſeſs'd of, went to the Community of the Clergy or to his Succeſſor. 3. In ſeveral Countries the Beneficiaries could deviſe by Will the Fruits of their Benefices. 4. The Popes apply to the Apoſtolick Chamber all that the Beneficiaries leave at their Death. 5. The Extortions of the Collectors of theſe *Spolia*. 6. *Charles* VI. King of *France* takes the *Spolia* of the Biſhops and Abbots from the Pope. 7. *Paul* III. by a Bull declareth, that the *Spolia* of all the Beneficiaries of the World belong to the Catholick Chamber. 8. Pope *Pius* IV. carries this yet higher. 9. The Clergy of the Kingdoms of *Caſtile* are exempt from the Exaction of the *Spolia*. 10. Upon what this Right is founded.

THE INTRODUCTION.

THAT ancient Fervour of Devotion, which, for ſo many Ages, with mighty Influence both on Princes and private Men, had prevail'd over the Chriſtian World to make thoſe vaſt Donations to the Church, being now not only ſenſibly abated, but, with it, the exemplary Care of its Miniſters, in the pious Diſtributions of thoſe Bounties; and their Succeſſors, the Churchmen, in theſe latter Ages, having turn'd

turn'd that Care into another, no leſs engaging, and in which they are indefatigable, of getting all they can, and defending what they have got, we muſt not be ſurpriz'd, if, in ſo great a Scarcity of faithful Stewards in the Church, it has been thought neceſſary to reſtrain theſe Acquiſitions by Laws; or that all the good Men ſhould be warm'd with a Zeal to ſee the Adminiſtration of the Temporal Riches of the Church reſtor'd to ſome Degree of Reformation at leaſt, if not to its primitive Strictneſs.

Its preſent Corruptions have not crept into the Clerical Order, or grown to that exorbitant Pitch in an Inſtant; but from a State of Perfection (I had almoſt call'd Divine) the Churchmen are by Degrees ſunk, as themſelves confeſs, into a State of Impurity, viſible to all the World, and by ſome held incapable of Remedy.

Not but with the ſame Portion of Divine Favour, which has ſhone ſo bright on our

our Predeceſſors, we need not deſpair of ſeeing the like Wonders of Sanctity produc'd in our Days. But as we have been ſinking for Ages into ſo low a State of Corruption, we muſt be contented to take the ſame Steps in re-aſcending to regain, if poſſible, that Degree of Perfection which the Church once enjoy'd.

And ſeeing this is not to be obtain'd without knowing in what Method the Temporalities of the Church were at firſt manag'd; and how, and by what Degrees this good Government came to fail, it will be neceſſary in the firſt place, to enquire into the Means of the Church's acquiring at firſt her Temporal Riches, and the Method ſhe us'd upon every Mutation that happen'd, in appointing Officers to diſtribute or preſerve them.

This will diſcover to us the Obſtacles, which hitherto have retarded a happy Reformation;

formation; and inſtruct us in the Means to ſurmount them.

Thus much for our Deſign in the preſent Treatiſe of Beneficiary Matters; a Subject ſo copious, that it is not eaſily to be exhauſted.

THE

ERRATA.

IN the Preface of the *French* Tranſlator Page 1. Line 18. for *Evils* read *Events*. p. 28. l. 5. dele *ignorant*. p. 64. l. ult. after *nor* add *were*. p. 65. l. 3. before finding add *theſe*. p. 68. l. 2. dele *by*. p. 101. l. 9. for *Regale* r. *Regalia*. p. 130. l. 10. for *of* r. *in*. p. 133. in the Notes, col. 2. l. 2. for *ſacerdotio* r. *ſacerdotia*. p. 137. in the Notes, col. 1. l. 9. for *negent* r. *neget*. ibid. col. 2. l. 23. for *were* r. *was*. p. 148. in the Notes, col. 1. l. 14. for *mergeretur* r. *mergerentur*. p. 158. l. 4. for *Gregory* VI. r. *Gregory* VII. p. 163. l. 16. at *Taxes* add the Reference (10). ibid l. 22. after *is* add *in this caſe*. p. 175. in the Notes, col. 2. l. 13. for *Officiates* r. *Officiales*. p. 180. in the Notes, col. 1. l. 10. after *State* add *are to be corrected*. p. 201. in the Notes, col. 1. l. 5. after *plebem* add *quacunq; generatione*. p. 207. in the Notes, col. 2. l. penult. for *exemptis* r. *exemis*. p. 214. in the Notes, col. 1. l. 18. dele *he made*. p. 220. l. 19. dele *laudable*. ibid. l. 26. for *ſhe* r. *it*. p. 227. in the Notes, col. 1. l. 31. for *veneantur* r. *vereantur*. ibid. col. 2. l. 12. for *notiam* r. *notitiam*. p. 230. l. 27. for *not* r. *no*. ibid. l 28. for *the* r. *this*. p. 235. in the Notes, col. 1. l. 7. after *of* add *a*. p. 239. l. 9. for *uniti* r. *initi*.

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THE

HISTORY

Of ECCLESIASTICAL

Benefices and *Revenues.*

CHAP. I.

FROM the Time that JESUS CHRIST first convers'd in the World, the Church began to have Revenues; which first arose purely from the Offerings of devout Persons, and were distributed by an appointed Officer, only to two Uses; the one, of our SAVIOUR himself, and his Apostles, who preach'd the Gospel; the other, of the Poor. This appears clearly in St. *John*, who says, that *Judas* kept the (*a*) Purse, and made the Dispursements, providing all Necessaries for the Community, and distributing the rest to the (*b*) Poor,

(*a*) Loculos habens, ea quæ mittebantur portabat. *Cap.* 12.

(*b*) Loculos habebat Judas, quod dixisset ei Jesus: Eme ea quæ opus sunt nobis ad diem festum; aut egenis, ut aliquid daret, *Cap.* 13. Quia de egenis pertinebat ad eum, *Cap.* 12. *Because this was his Business.*

Loculos *is properly what is call'd the Poor's-Box.*

according to the daily Directions he receiv'd from our LORD.

St. *Auguſtine* obſerves, That tho' Jesus Christ, who had Angels for his Servants, had no Occaſion for Money, he nevertheleſs thought fit to make uſe of it, that he might leave to his Church the greateſt Authority upon Earth, (his own Example) of her Duty; and how ſhe ought to enjoy, and how to employ what ſhe poſſeſſeth.

And if this holy Inſtitution be not obſerv'd in our Days, we ought to conſider that the holy Scripture, both for our Inſtruction and Conſolation tells us, That *Judas* was a Thief, that he robb'd the Apoſtolick College, and converted the Money to his own uſe; and that his boundleſs Avarice, and Impiety carried him, at laſt, to betray, even, the Perſon of our LORD himſelf, for Money.

If therefore, either Hiſtory of paſt Times, or Obſervation of the preſent inform us, That a great Part of the Eccleſiaſtical Goods is employ'd in Uſes very different from pious, and that ſome of the Miniſters of the Church ſo far from contenting themſelves with ordinary Sacriledge, and appropriating to themſelves what belongs in Common to the Church and the Poor, are become ſuch Invaders of ſacred Things, that they ſet to Sale even Spiritual Graces for Money: It is not to be aſcrib'd to any particular Fate on this, or the forgoing Ages, but to the Methods of the Divine Wiſdom in exerciſing the Righteous; ſeeing the Church from its Infancy, and through all Ages, hath been ſubject to the ſame Imperfections.

All that remains incumbent on us is, every one in his Station to contribute towards a Remedy of theſe Evils, by Prayers, where other Means are denied him; and by a couragious Oppoſition to theſe Abuſes, where it can be effectual. For tho' *Judas* met

met not his Puniſhment from Men in a common Way, becauſe thoſe who ought to have inflicted it, were his Accomplices, yet the Divine Providence fail'd not to point out what Puniſhment he deſerv'd, by diſpoſing him to be his own Executioner: As a Warning and Admonition to Governors and Guardians of the Church in ſucceeding Ages.

CHAP. II.

AFTER the Aſcenſion of our Saviour into Heaven, the Apoſtles continu'd the ſame Method in the Church of *Jeruſalem*, of gathering Money for the Maintenance of the Miniſters of the Goſpel, and Relief of the Poor: And the Believers, beſides the Offerings that were gather'd, ſold all their Eſtates, and put them alſo into the Common-ſtock: So that no Diſtinction was made betwixt the Goods of the Church, and thoſe of every true (*a*) Believer: Which is yet practis'd in ſome of the Religious Houſes, who preſerve their firſt Inſtitution.

Now the primitive Chriſtians had the leſs Conflicts with human Nature in parting with their worldly Goods, and beſtowing them in Alms, from the Contemplation of the Uncertainty in which Jesus Christ left them, as to the Duration of this

(*a*) Omnes qui credebant erant pariter, & habebant omnia communia. Poſſeſſiones & ſubſtantias vendebant, & dividebant ea omnibus prout cuiq; opus erat, *Act. Apoſt.* 2.

Nec quiſq; eorum quæ poſſidebat aliquid ſuum eſſe dicebat: Sed erant omnia illis communia. —— Nec quiſquam inter illos erat egens, quotquot enim poſſeſſores agrorum aut domorum erant, vendentes afferebant pretia eorum quæ vendebant: Dividebatur autem ſingulis prout cuiq; opus erat, *Act.* 4.

World, and the Expectation they liv'd in of its ſpeedy Diſſolution (*b*): Or at leaſt, they enjoy'd it with leſs Sollicitude, as not knowing how long it was to laſt; and in the full Perſuaſion that the Form and Figure of this World, and this preſent State of Life would, however, ſuddenly be chang'd and paſs away (*c*). Contemplations like theſe, and which were ſo apt to make Men ſerious, contributed ſtill more to the Frequency of their Offerings.

But the Cuſtom of having no Property in Goods, which indeed introduced a levelling State among them, ſo as no Man was either rich or Poor, prevail'd no farther than in *Jeruſalem* itſelf; nor even continu'd long there. For we find, that 26 Years after the Death of our Saviour, Property was again diſtinguiſh'd; and that no Man who had any thing of his own was allow'd a Support out of the Common-ſtock; which in this, and the other Churches, ariſing from the Oblations, was applied to the Uſe of the Miniſters of the Church, and of the Poor. Wherefore St. *Paul* order'd, that the Widows who had Relations, ſhould be maintain'd by them, and not be a Burden upon the Church; that She might the better be able to ſupply the Neceſſities of thoſe who were truly Widows (*d*), and deſtitute; that is to ſay, both Widows and Objects of Charity.

(*b*) Scire enim debetis (*ſaith St.* Cyprian) ac pro certo credere, occaſum ſeculi, atq; ante Chriſti tempus appropinquaſſe, *Ep.* 58. *ad Thibart.* Lactantius adds, *That all thoſe who had made Computations of the Time, grounded on Scriptures, and prophane Hiſtory, declar'd that the World could not laſt longer than* 200 *Years.* Omnis expectatio non amplius quam ducentorum videtur annorum, *Cap.* 25. *lib.* 7. *Inſtit. Divin.*

(*c*) Præterit enim figura hujus mundi, 1 *Cor.* 7.

(*d*) Si quis fidelis habet viduas, ſubminiſtret illis, & non gravetur Eccleſia ut iis, quæ vere viduæ ſunt, ſufficiat, 1 *Tim.* 5. *This Explanation is drawn from the ſame Chapter of St.* Paul, *which ſaith,* Quæ vere vidua eſt, & deſolata.

And

And on the firſt Day of the Week, call'd *The Lord's-Day*, the Faithful met together, and every one made an Offering of what he had ſet apart out of his Week's Gains, for the Publick Neceſſities (*e*).

(*e*) Per unam ſabbati (*ſaith he*) unuſquiſq; veſtrum, apud ſe ſeponat, recondens, quod ei bene placuerit, 1 *Cor. cap. ult.*

CHAP. III.

THE Charge which Jesus Christ had committed to *Judas*, was, after our Saviour's Aſcenſion, exercis'd by the Apoſtles themſelves, *but* for a very ſhort Time only. They ſoon grew ſenſible, they ſhould want Leaſure for this, and the other Duty of preaching the Goſpel (*a*), from the Murmurings and Diſorders among the Faithful about the Manner of Diſtributions (*b*); in which great Partialities were pretended by ſuch as thought themſelves had too little, or that others had too much; an Evil incident to all Times, upon the ſame Occaſions.

Reſerving therefore to themſelves the more important Charge of preaching and teaching (*c*) the Goſpel, they committed the Care of their Temporals to other Miniſters (*d*). Which indeed is the Reverſe of what is practiſed in our Days: Wherein the greateſt

(*a*) Dixerunt, non eſt æquum nos derelinquere verbum Dei, & miniſtrare menſis, *Act.* 6.

(*b*) Factum eſt murmur Græcorum adverſus Hebræos eo quod deſpicerentur in miniſterio quotidiano viduæ eorum. *Ibid.*

(*c*) Nos verò orationi, & miniſterio verbi inſtantes erimus. *Ibid.*

(*d*) Conſiderate ergo, viros ex vobis boni teſtimonii ſeptem, plenos Spiritu Sancto, quos conſtituamus ſuper hoc opus. *Ibid.*

Prelates apply themſelves to the ſole Government and Care of their Temporals, leaving the other Part of their Function of teaching the Word of GOD as a leſſer Care to the Monks, or Prieſts of the loweſt Order in the Church.

Theſe new Miniſters inſtituted by the Apoſtles for the Management of their Temporal Affairs, were * ſix in Number, choſen by the whole Body of the Faithful, and call'd Deacons: And wherever the Apoſtles founded any Churches, they there eſtabliſh'd Miniſters under that Title, and uſed the ſame Form and Solemnity in their Ordination, as in that of Biſhops, Prieſts, and other Miniſters of the Church, with a Preparation of Faſting and Prayer before they proceeded to take the Votes of the Faithful (*e*) upon Elections.

* See in *Italian*, in *French Sept.*

And this Order, of admitting none to any Eccleſiaſtical Function, but by Election of all the Faithful in a General Aſſembly, was inviolably obſerv'd, and ſo continued for about 200 Years: The Miniſters of the Church, and the Poor ſubſiſting all that while out of the Common-Stock, which had no other Fund than the Offerings of the Faithful at their Devotions: But they were ſo abundant, that the Charity of thoſe Times had no other Bounds, than what every one could ſpare from his Neceſſities.

So that when the Abilities of one City were more than ſufficient to ſupply the Neceſſities of its own Church, Collections were there made alſo for other Churches that were Poor: Thus we find St. *James*, St. *Peter*, and St. *John*, when they receiv'd St. *Paul* and St. *Barnabas* as Companions in the Evangelick Miniſtry, recommended to them a Gathering for

(*e*) Hos ſtatuerunt ante conſpectum Apoſtolorum, & orantes impoſuerunt eis manus. *Ibid.*

the poor Church of *Hieruſalem* (*f*): St. *Paul* himſelf telling us, he went through the Churches of *Macedonia*, *Achaia* (*g*), *Galatia*, and *Corinth* (*h*), to ſollicit their Charity: And this was obſerv'd even after the Death of the Apoſtles.

At *Rome*, where the greateſt Wealth abounded, the Offerings indeed were ſo large, that about the Year 150, they ſerv'd not only to maintain the Clergy and the poor Chriſtians of the City, but to contribute largely to the neighbouring, and more remote Churches, as well as to the Relief of great Numbers of Chriſtian Captives in the ſeveral Provinces, and of ſuch as were condemn'd to the Mines.

A Remarkable Inſtance of theſe large Contributions, was that of *Marcion*, about the Year 170, who made an Offering of 500 Drachmas of Gold at one Time, in the Church of *Rome*. But becauſe he held certain unſound Doctrines in Matters of Faith, ſhe expell'd him out of her Congregations, and return'd him all his Money, believing ſhe ſhould have been polluted, in keeping the Money of a Heretick.

Afterwards the vaſt Increaſe of her Wealth, from the Year 220 began to be look'd upon with an envious Eye, even by the Emperors themſelves, and gave occaſion to *Decius* the Emperor, to ſeize the Perſon of St. *Lawrence* a *Roman* Deacon, in hopes to have made him-

(*f*) Diſcipuli prout quiſq; habebat, propoſuerunt ſinguli in miniſterium mittere habitantibus in Judæa fratribus, quod & fecerunt, mittentes ad ſeniores, per manus Barnabæ, & Sauli, *Act.* 11.

(*g*) Probaverunt Macedonia & Achaia collationem aliquam facere in pauperes ſanctorum qui ſunt in Jeruſalem. - - - - - Cum conſummavero, & aſſignavero eis fructum hunc per vos proficiſcar in Hiſpaniam, *Rom.* 15

(*h*) De collectis autem quæ fiunt in ſanctos, ſicut ordinavi Eccleſiis Galatiæ, ita & vos facite, *Cap. ult.* 1 *Cor.*

the

ſelf

ſelf Maſter of the immenſe Treaſure of the Church (1), which he imagin'd to have been vaſtly encreas'd, and laid up *there*; but was diſappointed by the Foreſight of the holy Man, who fearing the Avarice of the Tyrant, and the Perſecution that was then imminent, diſtributed it all at once, as had been uſual when the Church was threatned with the like Calamities.

In Effect moſt of the Perſecutions which It ſuffer'd from the Death of the Emperor *Commodus*, aroſe from the ſame Cauſe; for when the Princes, or their Captains of the Guards wanted Money, they found no ſhorter Expedient for raiſing it, than by ſeizing the Eſtates of the Chriſtian Church.

(1) St. *Prudentius* introduceth an Officer of *Decius*, thus ſpeaking to St. *Lawrence*: *Quod Cæſaris ſcis, Cæſari da, nempe juſtum poſtulo; ni fallor, haud ullam tuus ſignat Deus pecuniam. Viz.* Give to Cæſar what thou knoweſt to be his. I ask what is juſt, for if I miſtake not, thy GOD coins no Money. *In lib. de Coronis.*

CHAP. IV.

AS the Churches became rich, the Clergy became ſo much more at Eaſe, that ſome of them, not contented with a Subſiſtence in Common, began to affect living ſeparate in Houſes of their own, and to have each their Allowance paid in Money daily, or monthly, or for a longer Time; a Method which however it fell beneath the Primitive Perfection, was yet tolerated by their Superiors.

But the Diſorders ended not here, for the Biſhops ceaſing to make the uſual Diſtribution to the Poor, reſerved them to their own Uſe. Thus enrich'd with

with the publick Spoils of the Church, and giving themſelves up to all the Methods of encreaſing them, even to Uſury itſelf, they quite abandon'd the Doctrine of CHRIST.

And St. *Cyprian* having lamented this *to be the* Condition of Affairs in his Time (*a*), concludes, That GOD permitted this great Perſecution under the Reign of *Decius*, to purge his Church from Corruption: It having always been the Divine Method to reform, either by the gentle Remedies of lawful Magiſtrates, or when the Corruptions have ſpread too far, by the Scourge of Perſecution.

But tho' the Church were now poſſeſs'd of ſo much Wealth, She had not yet attain'd to any real Eſtates, or Goods immoveable; both becauſe their firm expectation of the End of all things ſo near approaching, had leſſen'd their Taſte, and made them regardleſs of the things of the World, which they look'd upon both as tranſient, and encumbring in their Flight to Heaven; and that alſo, by the *Roman* Laws, no Perſons were permitted to give or bequeath by Will real Eſtates to any College, Society, or Corporation (*b*); nor theſe to accept them without the Approbation of the Senate, or the Prince.

(*a*) Epiſcopi plurimi, quos & hortamento eſſe oportet ceteris & exemplo, divina procuratione contempta, Procuratores rerum ſecularium fieri, derelicta Cathedra, Plebe deſerta, per alienas Provincias oberrantes, negotiationis quæſtuoſæ nundinas aucupari de Lapſis.

(*b*) Collegium ſi nullo ſpeciali privilegio ſubnixum ſit, hæriditatem capere non poſſe dubium non eſt. Lege 8 *Cod. de hæredit. inſtituendis.*

This Law was made by Dioceſian *and* Maximian. *Anno Domini*, 290.

And

And of this no doubt is to be made, however there are ſome Letters extant which go under the Names of the firſt Popes, which give a Reaſon why the Apoſtles ſold their Poſſeſſions in *Judea*, ſaying, It was from the Foreſight the Apoſtles had, That the Chriſtian Church was not to remain in *Judea*, but to remove among the *Gentiles*: As if the Reaſon were not expreſly ſet down in theſe Words of CHRIST to his Church: *Fear not little flock, ſell all that you have, and give it to the Poor*, Luke 12. as if *Jeruſalem* after it was deſtroy'd, had not great Numbers of Chriſtians in it again, when it was rebuilt; or that no City among the *Gentiles* where the Chriſtians had any Poſſeſſions, had ever been deſtroy'd.

But without loſing time to refute ſo plain a Falſity, It is a Point out of Diſpute, That theſe Letters were forged and contrived about the Year 800, by thoſe who preferr'd Riches and Luxury (an Example too much obſerv'd in thoſe Days) to the Apoſtolick Simplicity, and Moderation, inſtituted and commanded by JESUS CHRIST.

Indeed during the Confuſions, which continued a long time in the Empire after the Impriſonment of *Valerian*, and the looſe Obſervance of the Laws in thoſe times, eſpecially in *Africk*, *France* and *Italy*, ſome People's Zeal took hold of that Opportunity to beſtow alſo real or immoveable Eſtates on the Church, which were all confiſcated in the Year 302 by the Emperors *Diocleſian*, and *Maximian*, except in *France*, where *Conſtantius Chlorus*, who govern'd there, through an Effect of his Goodneſs, hinder'd their Decree from being executed.

But theſe Princes having renounc'd the Empire, *Maxentius* 8 Years after reſtor'd to the *Roman* Church all its Poſſeſſions, a little after that ſhe found the ſame

ſame Favour from *Conſtantine* (*c*) and *Licinus*, having granted the free Exerciſe of Religion to the Chriſtians, and allow'd Congregations of the Clergy, which in *Greek* were call'd *Churches*; made them alſo capable of acquiring fix'd Revenues, or immoveable Eſtates, throughout the whole Empire, either by Will or Donation; with an Exemption from all Services that were perſonal, that they might have more Leaſure to attend the Duties of Religion.

(*c*) *Lib.* 4. *Con. de Epiſcopis & Eccleſiis.* Habeat unuſquiſq; licentiam ſanctiſſimæ Catholicæ [nempe fidei, religionis, aut Eccleſiæ, *a way of ſpeaking uſual in* Euſebius] venerabiliq; Concilio, decedens, bonorum quod optavit, relinquere. Non ſint Caſſa Judicia: Nil eſt quod magis hominibus debetur quam ut ſuprêmæ voluntatis, poſtquam aliud velle jam non poſunt liber ſit ſtilus, & licens quod iterum non redit arbitrium. *Anno* 321.

CHAP. V.

IT was not till long after this, that the Cuſtom prevail'd of giving or bequeathing Eſtates to particular Purpoſes, ſuch as of Buildings of Piety, providing Marriage Portions, maintaining Orphans, *&c.* or yet of giving with a Condition annex'd, of ſaying ſo many Maſſes, or other Divine Services. But before they gave or bequeath'd abſolutely, and the Gift or Legacy was thrown into the Common-ſtock, which was the Fund appointed to defray all pious Works. So true it is, That the ancient Eſtates of the Church were not dedicated to any particular Uſe of Piety; but it is not therefore true, that they may be laid out at the Pleaſure of thoſe with whom they are entruſted; becauſe they are

are really given to a general Design of Piety and charitable Works.

The Exemptions of the Clergy from the publick Contributions (*a*), must be own'd to have been one occasion of the great Encrease of Wealth to the Church: Which was every where inviolably observed, equal to the Satisfaction both of the Princes and People; and which turn'd in no sort to the Publick Prejudice.

For seeing the Goods of the Church belong properly to People of the lowest Condition, those only were exempted, who had nothing of their own, and those only contributed who were able: A Method which carry'd the greatest Equity in it; seeing that to exempt him who hath not a Competency for Life, is not oppressing others.

But we are not thence to infer, That it were as reasonable for Princes to continue the same Bounties to the Church, now that It is become so rich, that It possesseth a fourth Part of all Estates; which is doubtless more than is left for all the rest of the People (1): And these Estates being no longer laid out upon the Poor, To exempt the Clergy would be a direct Contradiction to the Practice of all good Princes, and a means to make the Burdens which the Rich ought to bear, fall upon the Poor (2):

(*a*) *Lib.* 2. *Theod. de Episc. & Eccles.* Qui divino cultui ministeria religionis impendunt, id est, qui Clerici appellantur, ab omnibus omnino muneribus excusentur, ne sacrilego Livore quorundam a divinis obsequiis avocentur. *Constant. mag. l.* 9. *Cod. Theod.* eodem titulo.

(1) Seeing the Clergy make up but a very small Part.

(2) *Phil. de Comines*, whose Piety was as great as his Experience in Affairs, expresly blames the Bounty of *Lewis* XI. to the Church. Saying, He gave much to the Church, but he had better have given less; for he took from the Poor, to give to those who had no need. And in another Place, He gave goodly Lands to the Church, but this Gift was made void; for the Clergy had too much. *Cap. ult. Lib.* 5, & 7. *Lib.* 6. of his Memoirs.

So

So that the Princes of our Times want not the Piety of their Predecessors, yet Circumstances make the Case very different; for the Church would now also be exempted if she were poor, and she never would have been exempted, had she been rich.

CHAP. VI.

THE same exceeding Devotion in Princes and People, which produced the vast Encrease of Wealth to the Church, grew at last to excite an extream Thirst in her Ministers to improve it; from which even those of the cleerest Intentions among them were not wholly exempt.

For since the Distribution of these Goods turn'd to the Glory of GOD, and the publick Good, they concluded that the more the Church had to bestow, the more those Ends would be answer'd: Thus in the View to so great a Merit, they set themselves with all their Skill and Industry about so pleasing a Task, without confining themselves to the Lawfulness or Justice of the Methods; but if the Church were enrich'd, by whatsoever means, they thought they made a pleasing Sacrifice to GOD.

And certainly from these indiscreet Zealots, and the want of a due mixture of Discretion, have flow'd innumerable and incurable Mischiefs: For they imagining every thing justifiable (1), that is done with a View to Religion, by acting both against that, and even of Humanity itself, have often set the World in dreadful Combustions.

(1) Devitantes hoc, nequis nos vituperet providemus bona, non solum coram Deo, sed etiam coram hominibus, 2 *Corinth* 8.

Thus

Thus it happen'd when firſt the Church was allow'd to acquire real Eſtates; ſome religious Perſons entertaining an Opinion, That it was a Service to GOD, to diſinherit the Children and Heirs of Families, in order to give their Eſtates to the Church, omitted no Artifice to perſuade Widows, Maids, and other eaſy People, ready to receive any Impreſſions to deprive their own Families, and make the Church their Heirs (2).

And this Diſtemper grew to ſuch a height, that the Prince was oblig'd to provide againſt it, by an Ordinance made in the Year 370. which in truth did not put the Churches abſolutely into an Incapacity of encreaſing their Eſtates, but forbad Churchmen only to frequent the Houſes of Widows and Orphans, or to receive any Gifts by Will or Donation from Women immediately, or by any 3d Hand (3).

Which Ordinance St. *Jerom* acknowledges to have been a good Step towards the Remedy of a Corruption, which had taken too deep Root among the Clergy (4), namely an immoderate craving after temporal Riches.

(2) *Charlemaign* made a Law to forbid the Churches to receive any Gifts, which diſinherit Children and Kindred.

(3) Eccleſiaſtici aut ex Eccleſiaſticis Viduarum ac Pupillorum domus non adeant, ſed publicis exterminentur judiciis, ſi eos Affines earum vel propinqui putaverint deferendos. Cenſemus etiam ut memorati nihil de ejus mulieris, cui ſe privatim ſub prætextu religonis adjunxerint, liberalitate quacunq; vel extremo judicio poſſint adipiſci, & omne in tantum inefficax ſit, quod alicui horum ab his fuerit derelictum, ut nec per ſubjectam perſonam valeant aliquid vel donatione vel teſtamento recipere. *Lege* 20. *Cod. Theod. de Epiſc. & Eccleſ.*

(4) Audio in ſenes, & anus abſq; liberis quorundam turpe ſervitium. Ipſi apponunt matulam, obſident lectum, purulentiam ſtomachi & phlegmata pulmonis manu propria ſuſcipiunt. *In Epiſt. ad Euſtoch.*

Illæ quæ ſacerdotes ſuo viderint indigere præſidio eriguntur ad ſuperbiam, & quia maritorum expertæ viduitatis præferunt libertatem. *In one of his Ep.*

Yet

Yet this was not found ſufficient, without another Ordinance, made a few Years after, That Widows who devoted themſelves to the Church, ſhould neither give nor leave by Will any immoveable or real Eſtates, or Moveables of great Value (*a*). Of which it is diſcours'd more at large elſewhere.

Nor were theſe exceſſive acquiſitions pleaſing to St. *Auguſtine*, who liv'd in thoſe times, and declar'd himſelf freely upon this Head, that he thought it more reaſonable that Inheritances ſhould be left to the next of Kin than to the Church (5).

Which Opinion he confirm'd by refuſing Gifts that were left to his own Church. He likewiſe declar'd, That a due Miniſtry in the Church did not conſiſt in diſtributing much, but in being well applied. He blam'd a Method of encreaſing the Eſtates of the Church by making Purchaſes of real Eſtates with the overplus of its annual Rents. He never would ſuffer this Abuſe in his own Church, declaring againſt it in his Sermons, and that he had rather live on the Offerings and Collections that were made in the primitive times of the Church, than to be charg'd with the care of an Eſtate, which would interrupt the Leiſure that was neceſſary to the right diſcharging the principal Duty of a Biſhop: Adding, that he was ready to renounce all

(a) Ipſa tantum prædiorum ſuorum reditus conſequatur, de quibus ſervandi, abalienandi, donandi, diſtrahendi, relinquendi, vel quod ſupereſt, vel cum in fata concedit, & libera ei voluntas eſt, integra ſit poteſtas. Nihil de monilibus, & ſupellectile, nihil de auro, argento, cæteriſq; claræ domus inſignibus ſub religionis defenſione conſumat: Sed univerſa integra in liberos, proximos vel in quoſcunque alios arbitrii ſui exiſtimatione tranſcribat. Ac ſi quando diem obierit, nullam Eccleſiam, nullum Clericum, nullum Pauperem, ſcribat hæredes. *L.* 27. *Cod. Theod. Anno* 390.

(5) *Poſſid. in vita Auguſt. cap.* 24.

Poſſeſſions

Poſſeſſions in the World whatſoever, provided a Maintenance were alloted to the Servants and Miniſters of GOD, according to the old Teſtament, (*b*) either in Tythes or in other Alms: ſo as they might not be diverted from their Duty, by the Cares inſeperable from temporal Concerns.

Yet neither the excellent Exhortations of the Fathers, nor the Laws of Princes were of Force to ſet any Bounds to the growing Wealth of the Church, but that it exceeded all Meaſure.

The ancient manner indeed of adminiſtring and diſpenſing theſe Eſtates, was ſtill kept up, and ſo continued until the Year 420. without any remarkable Alteration. All the Alms, and Revenues ariſing from real Eſtates, were yet in common, and under the Care of Deacons, who had for their Aſſiſtance Sub-deacons, and other Stewards employ'd in providing for the Maintenance of the Clergy and the Poor. The College of Prieſts, and the Biſhops chiefly were the Superviſors; and an Account of all Receipts and Diſburſements was kept. So that the Biſhop order'd all the Diſtributions, the Deacons executed his Orders, and all the Clergy were maintain'd out of the Revenues of the Church, tho' they were not all in Functions.

St *John Chriſoſtome* maketh mention, That in thoſe times the Church of *Antioch* fed more than 3000 Mouths. It is alſo certain, That the Church of *Jeruſalem* defray'd the Expences of an infinite Number of People, who reſorted thither from all Parts.

(*b*) Omnes decimæ terræ ſive de frugibus, ſive de pomis arborum Domini ſunt. *Levit. ult.*

Primitias ciborum noſtrorum, & poma omnis ligni, vindemiæ quoq; & olei, afferemus ſacerdotibus. Ipſi Levitæ decimas, accipient operum noſtrorum. 2 *Eſdr.* 10.

Theſe Tenths and Firſt-fruits as being of the *Jewiſh* Inſtitution, were aboliſh'd by the new Law.

And

And we find in Hiſtory, that *Attieus* Biſhop of *Conſtantinople*, aſſiſted the Church of *Nice* in *Bithynia*, on occaſion of a Concourſe of poor People to that City, wherein were numbred ten thouſand in one Day.

CHAP. VII.

BUT after *France*, *Spain* and *Africk* were erected into two diſtinct Kingdoms from the Empire, the Poſterity of *Theodoſius* extinct, and *Italy*, by the ſucceſſive Inundations of divers barbarous Nations, made ſubject, at laſt, to the Power of the *Goths*, and the Eaſtern and Weſtern Empires torn aſunder from each other; the Government of the Churches alſo took another Form. The Eaſtern Church kept ſtill the eſtabliſh'd Uſage of living in Common: But in the Weſtern, the Biſhops, from being Superviſors and Adminiſtrators of the Revenues, began to uſe them as if they were their own; and to aſſume a ſort of abſolute Power in their Diſpoſition. Hence follow'd great Confuſions in the Application of theſe Eſtates, to the great Detriment of the Fabricks, which fell to Ruin; and of the Poor, who were left deſtitute and unprovided for.

It was therefore order'd (*a*) in the Weſtern Church about the Year 470, That a Diviſion ſhould be

(*a*) Pope *Gelaſius* in Canon *quatuor*, 27, 12. q. 2. which is in the Year 494, ſheweth ſufficiently that this Uſage was eſtabliſh'd ſome time before.

Quatuor autem tam de reditu, quam de oblatione fidelium, prout cujuſlibet Eccleſiæ facultas admittit, ſicut dudum rationabiliter eſt decretum, convenit fieri portiones, quarum ſit una Pontificis, altera Clericorum, tertia pauperum, quarta fabricis applicanda. *Vide Can. vobis* 23. *eadem quæſt.*

made into Four Parts: The first was to go to the Bishop, the second to the rest of the Clergy, the third to the Fabrick of the Church, in which, besides that properly so called, was also comprehended the Habitation of the Bishop, of the other Clergy, of the Sick, and of the Widows: And the Fourth Part went to the Poor *: Which in most Churches, according to St. *Gregory*, included only the Poor of the Place: For Hospitality was incumbent only on the Bishop, who was oblig'd, out of his own Share, to lodge all the stranger Clergy, and to defray the Expences of the Poor which came from abroad.

Yet it is not to be suppos'd, that this Division was made into four Arithmetical and equal Parts, but only Proportional: For the Number of Clergy in some Churches requir'd a larger Share than the Poor; whereas the Contrary fell out in other Churches, where the Poor were more numerous than the Clergy. And as in great Cities the Expence of the Fabrick was greater than in the lesser, every Church, which agreed to this Division into Four Parts, settled it in a different Proportion, as Circumstances requir'd.

I know that some have attributed this Division to Pope *Silvester*, who liv'd 150 Years before, grounding their Opinion on some Writings which have been forg'd since, with little Honour to those Times, which lay not then under so corrupt a Character.

In the *Theodosian* Code we find a Law of *Constantius* and *Julian*, bearing Date in the Year 359, which

* Whereas before, the first Part was for the Poor, *viz.* when all was in common among them.

exempts

exempts the trading Clergy from paying Duties (*b*), because all they gain'd went to the Poor. So far they were from dividing the Revenues of the Church among themselves, that even their Gains they threw into the Common-stock. But about the Year of our LORD 500, however the Revenues had been divided into Four Parts, yet the Funds out of which they arose, whether Immoveables, Oblations or Alms, were brought under no Division themselves, but only the growing Rents continu'd under the Direction of the Deacons and Sub-deacons, jointly.

A Recapitulation of this Matter seem'd the more requisite here, because the following Ages will present us with a Form of Government so intirely different from what has been describ'd.

We have already set forth the Method instituted by the Apostles, for electing Ministers in the Church, *viz.* That the Bishops, Priests, and other Ministers of the Word of GOD, as also the Deacons, who had the Administration of the Temporals, should be elected by the whole Body of the Faithful, and then ordain'd by the Bishop, by Imposition of Hands; which continued without Alteration. The Bishop was elected by the People, and ordain'd by the Metropolitan *, in the Presence of all the Bishops of the same Province, or at least, with the Consent in

(*b*) *L.* 8. *Cod. Theod. de Episc. & Eccles. Anno* 345. Juxta sanctionem quam dudum meruisse perhibemini, & vos & mancipia vestra nullus novis collationibus obligavit, sed vacatione gaudebitis.

Præterea neq; hospites suscipietis, & siqui de vobis alimoniæ causa negotiationem exercere volunt, immunitate potientur.

St. *Jerom* exclaims against these Privileges, *Negotiatorem Clericum*, saith he, *& ex Inope divitem, ex ignobili gloriosum, quasi quandam pestem fuge ---- Cui nundinæ, fora placent, & plateæ, ac mediocrum tabernæ.* Ep. 2. ad Nepotianum.

* Vide Appendicem ad Capitul. *pag.* 1372. *cap.* 4.

Writing of thoſe who could not be preſent. Or if any Accident hinder'd the Metropolitan from attending, the Ordination was perform'd by three of the neighbouring Biſhops, with the Conſent of him and of the other abſent Biſhops. And afterwards, when to improve this Form of Government, ſeveral Provinces were made ſubject to one Primate, his Conſent alſo was requir'd to the Ordination.

The Prieſts, Deacons and other Clergy were alſo preſented by the People, and ordain'd by the Biſhop; or elſe nominated by the Biſhop, and with the Conſent of the People ordain'd by him. No Perſon that was unknown was admitted, nor did the Biſhop ever ordain any, but ſuch as were approv'd, or indeed propos'd by the People.

Whoſe Concurrence was thought ſo neceſſary, that the Pope, St. *Leo*, proves at large the Invalidity of a Biſhop's Ordination without it (*c*). In This all the Fathers of the Church in thoſe times agree. And *Conſtance* being choſen Biſhop of *Milan* by the Clergy, St. *Gregory* thought he could not be conſecrated without the Conſent of the Inhabitants, who being at that time retir'd to *Genoa*, to avoid the Ravages of the barbarous Nations, a Meſſage was firſt ſent to them at his Inſtance, to know their Pleaſure. A Thing which may juſtly be recommended to the Obſervation of this Age, where we are taught that Elections, wherein the People ſhould pretend to have any Share, would be unlawful and

(*c*) Cum ergo de ſummi ſacerdotis electione tractabitur, ille omnibus præponatur quem Cleri plebiſq; conſenſus concorditer poſtulent, ita ut ſi in aliam forte Perſonam partium ſe vota diviſirint, metropolitani Judicio is alteri præferatur qui majoribus & ſtudiis juvatur & meritis: Tantum ut nullus invitis, & non petentibus ordinetur, ne Civitas Epiſcopum non optatum aut contemnat, aut oderit, & fiat minus religioſa quam convenit cui non licuerit habere quem voluit.

Epiſt. 12. *ad Anaſtaſium Theſſalonicenſem, cap.* 5.

invalid:

invalid: So chang'd, and ſo inverted are Cuſtoms, as to make Good and Evil change their Names, calling that lawful which was formerly reputed deteſtable and impious; and that unjuſt, which had then the Reputation of Sanctity.

Sometimes a Biſhop who was ſuperannuated, nam'd his Succeſſor; as St. *Auguſtine* nam'd *Eradius*. But neither was this Nomination of any Force without the Approbation of the People. All Theſe are Particulars as neceſſary to be well underſtood, as they are to be remember'd, in Order to confront the Practices of ſucceeding Ages with theſe Primitive Examples.

CHAP. VIII.

A Little Digreſſion will here be neceſſary, to take in one of the moſt memorable Cauſes, and Springs of Wealth to the Church, which happen'd about the Year 500. This was an Inſtitution of Religious Colleges call'd *Monaſteries*.

Monachiſm began in *Ægypt* about the Year 300 (1) occaſion'd by the Perſecutions of thoſe who fled thither for Refuge. From whence it paſs'd into *Greece*,

(1) *There were Monks in Ægypt long before, according to* Caſſian. Cum in primordiis fidei pauci quidem, ſed probatiſſimi, Monachorum nomine cenſerentur, qui ſicut a beatæ memoriæ Evangeliſta Marco, qui primus Alexandrinæ urbi Pontifex præfuit, norman ſuſcepêre vivendi, &c. *Lib.* 2. *de Inſtit. Cœnob. cap.* 5.

Ne illa Eccleſia, quæ inter ipſa Evangelii Principia B. Marcum, B. Petri Apoſtoli diſcipulum, in omnibus utiq; doctoris ſui magiſterio conſonantem habuit fundatorem, &c. *Leo mag. Epiſt.* 77. *cap.* 4.

Greece, where St. *Basil* about the Year 370. gave it the Form it has preserv'd ever since in that Country. And about the Year 350, *Athanasius* brought it into *Italy*: But at *Rome*, and in the Parts adjacent, it found few Followers, and little Encouragement, until the Year 500, when St. *Equitius*, and St. *Benedict* gave it a more lasting Form, and made it spread. Yet the Institution of St. *Equitius* fail'd soon, but that of St. *Benedict* extended itself all over *Italy*, and even beyond the Mountains.

In those Days, and for a long Time after, the Monks were no Ecclesiasticks (2), but Laymen, and in Convents, which stood without the Cities; subsisting on their own Labour in Husbandry and other Trades, and on the Oblations of the Faithful; of all which the Abbot had the Management.

But in the Cities they liv'd on their own Handlabour, and the Share which was allotted them by the Church of that Place. These retain'd their ancient Discipline much longer: And as the Clergy, after they began to share the Goods of the Church among themselves, had lost much of the Reverence

V. Epist. 10. *ad Episcopos viann. cap.* 6. St. *Antony* was the first, who brought the Monks to live in Common. A Proof, That that Life is not inconsistent with Solitude: Which Point Mr. *D'Ossat* presseth with great strength of Reason, to an Abbot of the Order of *Feüillans*. A Monk, saith he, who attends Mattins, and other Services, enjoin'd, and employs the rest of the Day in Study, or in some other honest way, is solitary enough, and needs no other Desert but his Convent. And the Ancients, in calling a Convent *Cœnobium*, and those in Religious discipline Monks, shew, that Solitude may easily be found in Community and Society.

(2) Alia Monachorum est causa, alia Clericorum, *saith St.* Jerom. *And again*, Clerici pascunt oves, ego pascor. *Epist. ad Helicd.*

But tho' the Monastick Life were very different from the Ecclesiastick, it was however a Step to Orders. *Sic vive*, saith he to a Monk, *ut Clericus esse merearis*. Epist. ad Rusticum.

they

they had among the People, whose Devotion by that Means was extinguish'd; few continu'd their Bounties to the Church, and there had been an End to all its Acquisitions, if the Monks, by continuing to live in Common, and exercising Works of Charity, had not reviv'd and turn'd all the Stream of the People's Devotion on themselves. Thus they became, in time, very powerful in Inheritances, and Possessions of all Kinds: Every one finding a stronger Invitation to his Charity, as he saw It was then employ'd in maintaining great Numbers of Monks, in educating Youth, and other Works of Piety and Hospitality (3). The Abbot *Trithemius* reckons the Number of Monasteries of *Benedictines* were 15000, besides the lesser Convents. The Monks chose their own Abbot, who govern'd in Spirituals, and had the Disposal of all the Oblations, as well as of all they gain'd by Labour: Afterwards, also He had the Management of the Revenues arising from their immoveable Estates.

(3) *Mezeray* saith in the Life of *Phil. Augustus*, That the Monasteries of the *Benedictines* were as Inns for Receipt of Gentlemen and other Travellers *gratis*, and Schools to teach their Children.

Another thing contributed much to the Encrease of Monachism, which was, the Means they had found to succeed to their Fathers Estates, which at their Death they left to their Convent. *Jam eo tempore fervor Monasticæ Religionis tepuerat. Jam unusquisq; in bonis Parentum suorum hæres fieri quærebat: Unde quidam eorum, quid sibi acquisiverant, in servitium fratrum, & communem utilitatem Loci publicè contradebant.* Chronicon. S. Benigni Divion. Anno 789. Tom. 1. Spicelegii Acher. pag. 402, & 403.

CHAP. IX.

BUT after the Year 500, the Biſhops being become the abſolute Diſpencers of the Fourth Part of the Goods of the Church, they began to employ more of their Care on their Temporal Affairs, and to make Parties in the Cities: So that Elections were no longer carry'd on with a View to the Service of GOD, but manag'd by Faction and Intrigues, which often proceeded to open Violence. This gave the firſt Alarm to Princes, who had hitherto little concern'd themſelves, in the Choice of the Miniſtry; but when the Holy-men of thoſe times began to declare, That GOD had plac'd the Church under their Protection, and that they were anſwerable by that Divine Commiſſion, to ſee that the Affairs of the Church ſhould be adminiſter'd under regular and legal Forms of its own. This open'd the Eyes of Princes, and made them capable of diſcerning how much the Intereſts of ambitious Clergymen, and the ſeditious Cabals form'd on theſe Occaſions to obtain the Dignities of the Church, endanger'd the publick Peace, and the Intereſt of the Civil Government.

Mov'd therefore, partly by Religious Conſiderations, and partly by Reaſons of State, they now began not to ſuffer the Clergy and the People to determine Elections by themſelves, and according to their own Paſſions. For ſeeing Men now no longer avoided and fled from Biſhopricks, but even made Intereſt for them with all the Courtſhip and skilful Solicitations they could uſe; ſo great a Change open'd a Way to Factions, and conſequently to Seditions, and ſometimes Bloodſhed at the Inſtigation of the contending Parties.

Some-

Sometimes the Inconveniencies were no leſs by Elections falling on People diſaffected to the Government, and ſuch as entertain'd ſecret Correſpondence with the Enemies of the State, which, during the Weſtern Confuſions, were never inconſiderable: Or otherways, by Elections falling on ſuch who afterwards attain'd to great Popularity, which they apply'd to uſurp the Power of the Magiſtrates, and then to incite the People to ſupport their Innovations.

Theſe Diſtempers produc'd an Edict, that no Perſon elected ſhould be conſecrated without the Approbation of the Prince or Magiſtrate, reſerving to themſelves the Right of confirming the great Biſhopricks, ſuch as thoſe in *Italy* of *Rome*, *Ravenna*, and *Milan*, and leaving the Care of the others to their Miniſters.

But in thoſe times, as more Regard was had to the anſwering the true End of good Government in the Church, than to any Appearances, If there happen'd in a City ſome one of that eminent Merit, that was equally the Inclination both of Prince and People, upon a Vacancy he was conſecrated forthwith, without other Formality.

Sometimes Accidents of Wars or Plagues might haſten the Conſecration of a Biſhop, before the Princes Confirmation were obtain'd (*a*): As it happen'd in the Caſe of *Pelagius* II. *Rome* being then beſieg'd by the *Lombards*. But after the Siege was rais'd, that Pope ſent St. *Gregory*, who was then Deacon, and afterwards his Succeſſor, to excuſe it to the Emperor, and to beg he would confirm what Neceſſity had oblig'd to be done.

(*a*) Poſt Benedictum Papam Pelagius Romanæ Eccleſiæ Pontifex abſq; Juſſione Principis ordinatus eſt: Eo quod Longobardi Romam per Circuitum obſiderent; nec poſſet quiſquam a Roma egredi. *Warnefrid de geſtis Longobard. Lib.* 3. *cap.* 20.

In

In this Manner, that is with the Imperial Sanction, the Popes and Bishops continu'd to be chosen in *Italy* until the Year 750. But in *France*, and other Countries beyond the Mountains, the Royal Authority, and even that of the Mayors of the Palace, appear'd more absolute; for the People, as soon as those Princes concern'd themselves in Elections, desisted intirely and withdrew themselves from them. Good Men acquiess'd, in Confidence that their Princes would take all the Care that was necessary in that Matter; and ill Men despair'd to bring about their Designs: So that the Kings of *France* had the sole Collation of all the Bishopricks throughout their Kingdom.

Through all the History of *Gregory* of *Tours*, from the time of *Clouis* the first Christian King of *France*, until the Year 590, we find no Instance of any one Bishop being made in any other Manner than by the Nomination or Consent of the King (*b*). And St. *Gregory* I. who was made Pope in that Year, writing to the Kings of *France* on divers Occasions, laments that Bishopricks were bestow'd on Men not sufficient for that Charge; beseeching them to choose Men of Probity and Capacity, but without any Objection to the King's Right of Nomination, unless it were want of Merit.

It

(*b*) Interempto Rustico Caturoci urbis Episcopo, consensus Regis & Civium pari sententia in Episcopatum Desiderii aspiravit. Nam licet suggestio Civium ad Præsules & Principes jam præcesserit, Rex tamen pro hoc amantissima & valde ambienda præcepta dedit, in quibus perspicuè agnoscitur, vel quamobrem hunc Rex diligeret, vel quam de eo æstimationem haberet. Tale nimirum de illo Rex civibus & Episcopis, cunctoq; populo testimonium dedit, ut jure plebium testimonia regia oracula præcellerent, ac prævenirent. *In vita S. Desiderii Episc. Caturc. cap.* 8. *tom.* 1. *Bibliot. MS.* Labbei, *p.* 703.

Whence it appeareth, The People chose, but that the Election ought to be confirm'd by the Prince. Which is seen in a Letter of *Dagobert*, reported in the Life of St. *Didier*, *viz.*

Juxta Civium petitionem, nostram quoq; concordantem in omnibus voluntatem decernimus, ac jubemus ut adjuvante & clamante laudem ipsius Clero, vel Populo, vir illustris, & verus Dei cultor Desiderius Pontifex in urbe Caturci debeat consecrari, & nostra civiumq; voluntas, quod decrevit in omnibus, in Dei nomine perficiatur, & pontificali benedictione sublimatus, pro nobis, & pro universis ordinibus Ecclesiæ debeat exorare, & acceptibiles Deo hostias studeat offerre. ---- Qua de re, præsenti authoritate decernimus, ut dictus Desiderius Episcopatum in Caturcensi urbe præsentialiter suscipiat. Et ut hæc deliberatio voluntatis nostræ firmior habeatur, manus nostræ præscriptione subter eam decrevimus roborare.

1 *Lib.* 4. *Epist* 53. *ad Childebert.* & *tom.* 1. *Concil. Gall. Epist.* 5. *ad Brunichildem. Lib.* 7. *Ep.* 5. & *tom.* 1. *Concil. Gall. Epist.* 22. *ad Brunich. Lib.* 7. *Ep.* 13. & *Tom.* 1. *Conc. Gall. Epist.* 27. *ad Theodoric.* & *Theodebert. Lib.* 7. *epist.* 114. & *tom.* 1. *Concil. Gall. epist.* 28.

It was easy for those Bishops when once they were made without the Authority of the People, to exclude the People also from the Choice of Priests, Deacons, or other Ecclesiastical Ministers, and to transfer that Right to the Prince alone. Some Part of the People having wholly withdrawn themselves from Ecclesiastical Congregations, to attend their domestick Affairs, others to avoid popular Factions, others again, upon finding themselves contemptuously treated by the Bishop, whose Power was grown to an inconvenient Size, by his Wealth, and the Interest he had in his Prince, of whom he held his Bishoprick by Nomination or Confirmation. And sometimes the Prince would name the Persons to be ordain'd, or would commit that Care to the Bishop, especially when he happen'd to be in his Prince's Confidence. And this often brought him to be farther useful, either in making up Differences among the People, or in decidng difficult Causes referr'd to him by the Prince.

For

For the Reſpect ſhew'd to Religion in thoſe Days having rais'd the Biſhops to a Credit, which was not ordinarily afforded to Magiſtrates, engag'd them more in theſe ſecular Functions than in teaching the Doctrine of Christ, in which ignorant Men had thought, at firſt, conſiſted their principal Duty. So that to be a worldly prudential Man was a better Qualification for a Biſhop, than to be a good Caſuiſt. Which holds good to this Day in that Saying, *That except it be in Places confining on the Infidels, a good Lawyer makes a better Biſhop than a good Divine*; which indeed muſt be allow'd, if the chief Buſineſs of a Biſhop be to try Cauſes.

Jesus Christ, when he ordain'd his Apoſtles, told them, *As my FATHER ſent me, ſo ſend I you.* By which they underſtood he ſent them to teach. But if now every Man be ſufficiently inſtructed, there is no need of any more Teachers; and they ought to quit an Employment grown uſeleſs to the World.

Heretofore the principal Care of a Biſhop was to teach, his next was to take Care of the Poor; but as the Adminiſtration of the Church Affairs came into the Hands of the Clergy, there grew ſome Remiſneſs in both Duties, and the *Quadripartite* Diviſion came to be arbitrary.

Where the Biſhop and Clergy were Men of Conſcience, a reaſonable Diviſion was made, but where they happen'd to be intereſted Men, the Poor wanting Protectors, and the Fabrick of the Church Superviſors, theſe two Portions were in ſome Places ſunk almoſt to nothing, and all was divided betwixt the Biſhop and the Clergy.

And even in Churches where the Diviſion was made with due Proportion, the Adminiſtration of the two Parts which was allotted to the Fabrick and the Poor, remaining ſtill in the Hands of the Clergy, were

were inſenſibly diminiſhed, to the Advantage of thoſe who had the Management; which is made more evident by the few Inſtances that are any where to be found of Fabricks having any particular Revenue, or of any Fund remaining for the Poor, except Hoſpitals, which are of no ancient Inſtitution.

At firſt the Share of the Clergy was not divided among them, but left to the Diſcretion of the Biſhop, to diſpence according to every one's Merit. But afterwards the Prieſts took upon them to make the Dividend among themſelves, excluding the Biſhop from that Care; and when they had ſet out their own Share, in the Direction of which neither the Biſhop, nor any other had any hand, they then ſub-divided it among themſelves. This gave Beginning to every Man's Property, and thus they ceaſed to live in Common.

But tho' the Revenues were thus divided, yet all the Stock or Fund remain'd ſtill intire, and undivided, under the Direction of Deacons, and Sub-deacons, who receiv'd the Rents, and aſſign'd them to the Biſhop, and to every Prieſt, in Proportion to their Shares.

In thoſe times the Church Eſtates were called *Patrimonies*, which I have thought fit by the way to remark, to obviate any Miſtake that this Name might ſignify any ſoveraign Dominion, or Juriſdiction belonging to the *Roman* Church or the Pope. The Eſtate of every Family, deſcending from its Anceſtors, was call'd *a Patrimony*. And the Demeaſns or Eſtate belonging in particular to the Prince, was call'd *Sacrum Patrimonium*, to diſtinguiſh it from the Patrimonies of private Men; as we find in many Places of the 12th Book of the Code. For the ſame reaſon the Name of Patrimony was given to the Eſtate of every Church; and we find mention'd

tion'd in the Letters of St. *Gregory*, not only the Patrimonies of the *Roman* Church, but alſo of the Church of *Rimini*, *Milan*, and *Ravenna*.

Churches in Cities, whoſe Inhabitants were but of moderate Subſtance, had no Eſtates left to them out of their own Diſtrict: But thoſe in Imperial Cities, ſuch as *Rome*, *Ravenna*, and *Milan*, where Senators, and Perſons of the firſt Rank inhabited, were endowed with Eſtates in divers Parts of the World. St. *Gregory* mentions the Patrimony of the Church of *Ravenna*, in *Sicily*, and another of the Church of *Milan* in that Kingdom. The *Roman* Church had Patrimonies in *France*, *Africk*, *Sicily*, in the *Cottian Alps*, and in many other Countries. And the ſame St. *Gregory* had a Law-ſuit with the Biſhop of *Ravenna*, for the Patrimonies of the two Churches, which afterwards ended by Agreement.

And to create yet the greater Reſpect for the Eſtates belonging to the Church, it was uſual to annex the Name of ſome favourite Saint, which that Church held in moſt Veneration. So the Eſtate of the Church of *Ravenna* was call'd, The Patrimony of St. *Appollinare*; that of *Milan*, The Patrimony of St. *Ambroſe*. The Eſtates of the *Roman* Church were call'd, The Patrimony of St. *Peter* in *Abruzzo*, the Patrimony of St. *Peter* in *Sicily*; in the ſame manner as we ſay, The Revenues of St. *Mark* at *Venice*.

Where the Patrimonies of the Prince were not aſſign'd to the Uſe of the Army, a Governor or Intendant (1) was plac'd, who had Juriſdiction in all Cauſes which concern'd thoſe Eſtates: Some of the

(1) This Intendant was ſtil'd, *Comes rerum Privitarum*, to diſtinguiſh him from the *Comes ſacri Patrimonii*: Both are ſpoken of in the firſt Book of the Code: The firſt in the *Title* 33. the ſecond in the *Title* 34.

Roman

Roman Clergy would have uſurp'd the ſame Power, wherever that Church had any, throughout all their Patrimonies, and have been the Judges themſelves, without having any more Recourſe to the Civil Magiſtrate. But St. *Gregory* condemn'd and rebuk'd this Innovation, and forbad the Practice of it under Pain of Excommunication.

The Canon of St. *Ambroſe*, call'd, *Si Tributum* (c), is a Teſtimony that the Eſtates of the Church paid Tribute to the Prince. And it is certain, that in the Year 681, *Conſtantine Pogonatus* or *Barbatus*, exempted the *Roman* Church from Tribute, which it paid for the Patrimonies of *Sicily*, and *Calabria*; and *Juſtinian Ritmenus* in the Year 687, remitted the Tribute for the Patrimonies of *Abruzzo* and *Lucania*.

Yet the *Roman* Church drew not ſo great Revenues from its Patrimonies, as ſome have imagin'd; for Hiſtorians ſpeaking of the Confiſcations of *Calabria* and *Sicily* by *Leo Iſaurus*, in the Year 732, acquaint us, That they both yielded but 3 Talents of Silver, and half a Talent of Gold; which (not to dwell on the Diverſity of Opinions concerning the Value of a Talent) make no more than 2500 Crowns of our Money: And the Patrimony of *Sicily*, tho' very large, amounted to no more than 2100 Crowns.

(c) Si tributum petit Imperator, non negamus; agri Eccleſiæ ſolvant tributum. Si agros deſiderat Imperator, poteſtatem habet vendicandorum; tollat eos, ſi libitum eſt; Imperatori non dono (*for the Eccleſiaſticks having only the Uſufruct and Stewardſhip, they cannot give what is not their own*) ſed non nego. *Cauſa* 11. *quæſt.* 1. *cap.* 27.

CHAP.

CHAP. X.

IT will not be foreign to our Subject to know the particular State of the Church, during the time that the Goods of it remain'd united in one Common-ſtock, and under the ſame Adminiſtration, tho' the Revenues ariſing from thence were divided; But the ſame Face of things was not likely to continue, conſidering the Differences which aroſe betwixt thoſe who had the Adminiſtration, and thoſe who were ſubject to it. So every Miniſter began to retain all the Offerings made in his own Church, and convert them to his own Uſe: Whereas before they carried the Offerings to the Biſhop, who made a Dividend of them. But as an Acknowledgement of the Biſhop's Superiority, every Miniſter preſented him with a 3d Part of theſe Offerings, and ſomething more, as a Mark of Reſpect paid to the Epiſcopal Chair, which was call'd *The Cathedral* (*a*). They alſo divided the Lands, and aſſigned to every Man his Share.

But theſe Changes were not made in all Places, nor all at one Time, where they were made; nor by any publick Edict, but in the Manner wherein all Cuſtoms are introduced, obtaining and enlarging themſelves inſenſibly, eſpecially bad ones, which make the ſwifter Progreſs, and find leſs Oppoſition.

(*a*) Cathedraticum etiam non amplius quam vetuſti moris eſſe conſtiterit, ab ejus loci Presbytero noveris exigendum. *Gelaſius Fabiano Epiſcopo, anno* 494. *Can.* 5. *q.* 3. *cauſa* 10.

Illud te volumus modis omnibus cuſtodire, ne qui Epiſcoporum Siciliæ de Parochiis ad te pertinentibus nomine Cathedratici amplius quam duos ſolidos præſumant accipere Pelagius, *Anno* 580. *Can.* 4.

The Council of *Braga* had fix'd this Right 8 Years before.

Whilſt

Whilſt the Affairs of the Church were in this Poſture, the Princes diſtributed the publick Lands among the Soldiers, upon Conditions of ſeveral Natures, ſome of guarding the Frontiers, ſome of ſerving the State in Civil Affairs, or in the Wars, ſome of defending the Cities and ſtrong Places. And theſe Eſtates, which in the Language of the *Franks* and *Lombards* were call'd *Fiefs*, in the *Latin* Tongue, which was not then wholly extinct, were called *Beneficia*, as held of the Princes Bounty (1). For the ſame Reaſon the Portions of Eccleſiaſtical Eſtates, or the Right of poſſeſſing them, were alſo call'd *Benefices*, becauſe they were in that Reſpect like Biſhopricks given by the Prince; or by the Biſhop, who with the Permiſſion of the Prince, conferr'd the other Dignities: Beſides that the Church-men are conſider'd as a ſort of Spiritual Soldiers, who keep conſtant Guard, and exerciſe a ſacred Warfare.

The Abbies beyond the Mountains by this time being grown to vaſt Poſſeſſions, the Mayors of the Palace took upon them the Authority of making the Abbots: For which the Uſage of thoſe times in making the Monks all of meer Laymen, gave alſo a fair Occaſion: Unleſs ſometimes, as a thing of Grace, the Monks had Leave to chooſe an Abbot themſelves.

In *Italy*, where the Wealth of the Monaſteries had not made them conſiderable before the Year 750, they had paſs'd unregarded by the *Gothick* Kings, the Emperors, and the Kings of *Lombardy*; ſo that the Election remain'd ſtill in the Monks only, with the Super-intendency of the Biſhop.

(1) That which *Marculf* calls *Munus Regium* is nothing but a Fief, according to Mounſ. *Bignon*. *Dedit igitur vir ille per manu noſtra conjugi ſuæ illi villas nuncupantes illas, quas aut munere regio, aut de alode Parentum vel undecunq; ad præſens tenere videtur.* Lib. 1. formula 12.

But the Biſhops being become uneaſy to the Monaſteries, by their aſpiring to too much Power, the Abbots and Monks, to deliver themſelves from this Subjection, betook themſelves to the Pope; beſeeching him to exempt them from the Biſhop's Juriſdiction, and to take them into his immediate Protection.

This was gladly embrac'd by the Popes, who ſaw their Intereſts, in creating, by this means an immediate Dependance on themſelves, in Cities belonging to other Governments; and in enlarging their Authority over the Biſhops. Beſides that it imported extreamly, that ſo great a Body as that of the Monks, who in thoſe times were almoſt the only Perſons, who addicted themſelves to Learning, ſhould depend intirely on the See of *Rome*. And this Exemption quickly extended itſelf to all the Monaſteries, which by this Means became more cloſely united to that See, and ſeparated from the Biſhops (2).

CHAP.

(2) The Abbots, ſaith *Fra. Paolo, lib.* 2. *Council of Trent*, reſolv'd to withdraw themſelves from the Obedience of the Biſhops, beſeeching the Popes to take them under the Protection of St. *Peter*, ſo as to be under no Authority but that of the holy See: Who gladly receiv'd them, as it turn'd much to its Intereſt, ſeeing it is always theirs who obtain Privileges, to ſupport his Authority who grants them. St. *Bernard* deteſting this Innovation, remonſtrates to Pope *Eugene* III. the great Abuſe of an Abbot's refuſing to obey his Biſhop, and the Biſhop his Metropolitan: That the Church Militant ought to govern itſelf after the Example of the Church Triumphant, where an Angel never ſaith, I will not ſubmit to an Archangel: But what would this Saint have ſaid, had he liv'd in one of the following Ages? St. *Bernard*, ſaith *Mezeray*, tho' a Monk, and moſt zealous for the holy See, loudly condemns theſe Exemptions. For, ſaith he, to exempt Abbots from the Juriſdiction of Biſhops, what is it other, than to command them to rebel? And is it not as monſtruous a Deformity in the Body of the Church, to unite immediately a Chapter or an Abbey to the holy See, as in a human Body to join a Finger to a Head? But it is obſervable by the way, That the Exemption from temporal Rights, which the Biſhops themſelves had granted them, opened the Door to this Spiritual Exemption.

Tune tibi licitum cenſeas ſuis Eccleſias mutilare membris, confundere ordinem perturbare terminos, quos poſuerunt patres tui? ------ Monſtrum facis, ſi manui digitum ſubmovens facis pendere de capite, ſuperiorem manui, brachio collaterem. Talè eſt, ſi in Chriſti corpore membra aliter locas, quam diſpoſuit ipſe-----Sicut Seraphim & Cherubim, ac cæteri quiq; uſq; ad Angelos, & Archangelos, ordinantur ſub uno capite, Deo: Ita hic quoq; ſub uno ſummo Pontifice Primates, vel Patriarchæ Archiepiſcopi Epiſcopi, Presbyteri, vel Abbates, & reliqui in hunc modum----- Quod ſi dicat Epiſcopus, nolo eſſe ſub Archiepiſcopo: Aut abbas, nolo obedire Epiſcopo, hoc de Cœlo non eſt: Niſi tu forte Angelorum quempiam dicentem audiſti: Nolo ſub Archangelis eſſe, &c. *De conſiderat. lib.* 3. *cap.* 4.

CHAP. XI.

IN *France*, the Biſhops gave themſelves up intirely to ſecular Cares: And ſeeing thoſe who were made by the King had no Reſtraint on their Behaviour, it was leſs to be expected the others ſhould have any, who were made by the Mayors of the Palace, when the Royal Authority was ſo much declin'd. The Abbots too had their Avocations from the Functions they were at firſt deſign'd to; furniſhing the King with Soldiers, and going themſelves in Perſon to the Wars; but not to do the Duty of Miniſters of Christ, but to draw their Swords in the Field (1).

(1) *The Uſe of Arms was forbid by the* Chap. 61. lib. 6. *of the Capitulars*. Si quis Epiſcopus, Presbyter, Diaconus, vel Sub-diaconus, ad bellum proceſſerit, & arma bellica indutus fuerit ad belligerendum ab omni officio deponatur, in tantum ut nec Laicam Communionem habeat.

This furniſh'd them with an Occaſion to take all to themſelves, inſtead of being contented with the Fourth Part; ſo in this Military Capacity they plunder'd the poor Prieſts who adminiſter'd the Word of GOD and Sacraments to the People, and had nothing left to maintain them: And this oblig'd the People, every Man according to his Zeal, and his Devotion, to contribute to their Maintenance out of his own Eſtate.

But the Difference betwixt the Liberality of Contributions in one Place and another, occaſioning ſometimes great Complaints, the Queſtion grew, What was the reaſonable Part for the Curate? And the receiv'd Opinion of thoſe times was, That it ought to be determin'd by the Divine Law in the Old Teſtament, which gave him the Tenth. And ſeeing GOD had enjoin'd this to the *Jewiſh* Nation (*a*) it was eaſy to repreſent it as due alſo under the Evangelick Law; tho' our Saviour Jesus Christ, and St. *Paul*, are ſilent in it, farther than to ſay, That the People ought to make a neceſſary Proviſion for the Miniſter (*b*) and that he who labours is worthy of his Hire (*c*); and that thoſe who ſerve at the Altar ought to live by it (*d*): But without preſcribing any fix'd Proportion, becauſe in ſome caſes the Tenth Part would be too little, and in others the 100th Part would be ſufficient.

But as this is a thing in itſelf ſo evident, and I ſhall have occaſion to reſume the Subject, and treat it more at large, hereafter, I will leave it now; only with this Obſervation, That all the Sermons of thoſe times, and for ſome Ages after, without touching on Matters of Faith, were all pointed to prove the Obligation of paying Tythes (2); which the Neceſſities, and Intereſts of the Curates or Miniſters, induc'd them to amplify and enforce with all their Eloquence: This, as it happens ſometimes to Orators, carry'd them ſo far, as to place all Chriſtian Perfection in that one Merit of paying Tythes: And not contented with Predial Tythes, they began to claim Perſonal alſo; that is to ſay, the Tythe of every Man's Trade and Induſtry, not excepting even that of Hunting, and the Soldiers Pay.

As many of theſe Sermons are extant without the Authors Names, ſome of them, through Miſtake or Deſign, have been attributed to St. *Auguſtine*, and other ancient Writers. But beſides that the Stile diſcovers that they have been made about the Year 800 (3), Hiſtory puts it out of all Doubt, that there never

(*a*) Decimas tuas non tardabis reddere, *Exod.* 22. Offeretis decimas, & primitias manuum veſtrarum, *Deut.* 12.

(*b*) Dignus eſt operarius mercede ſua, *Luc.* 10. & 1 *Tim.* 5.

(*c*) Dignus eſt operarius cibo ſuo, *Matth.* 10.

(*d*) Qui altari deſerviunt, cum Altari participant---------Dominus ordinavit eis, qui Evangelium anunciant de Evangelio vivere. 1 *Cor.* 9.

(2) A Preacher in the time of *Charlemaign* inform'd his Audience, That they ought not only to pay Tythes to the Prieſts, but to carry them to their Houſes.

Nec debetis expectare ut Preſbyteri & Clerici alii decimas vobis requirant, ſed cum bona voluntate vos ipſi ſine admonitione debetis donare, & ad domum Presbyteri ducere.

In the Appendix to the Capitulars, *p.* 1376. ſee *lib.* 6. of theſe Capitulars, *chap.* 192. where the Prieſts are enjoin'd to preach to this Purpoſe. Againſt which Abuſe *Alcuinus* inveighs in one of his *Letters*.

Tu vero, *ſaith he*, frater dilecte, fili chariſſime, perge in opere Dei, & eſto Prædicator veritatis, non Decimarum exactor; quia Novella Anima Apoſtolicæ Pietatis Lacte nutrienda eſt, donec creſcat, convaleſcat & roboretur ad acceptionem ſolidi cibi. Quid imponendum eſt Jugum cervicibus Idiotarum, quod neq; nos neq; fratres noſtri ſufferre potuerunt? *Ep.* 7. *apud Mabillon, tom.* 4. *Analectorum, p.* 279.

(3) Cardinal *Peron* ſaith, That

never were any Tythes paid either in *Africk* or in the East, and that they owe their Original to *France* (4), as hath been before obſerved.

That theſe Pieces were forg'd by the Monks in the time of *Charlemaign*, becauſe they liv'd moſt at that time by tranſcribing Books. *Perroniana.*

famulantibus populus omnis inferat, quas ſacerdotes aut in pauperum uſum, aut in Captivorum redemptionem erogantes ſuis orationibus pacem populo ac ſalutem impetrent. Siquis autem contumax noſtris ſtatutis ſaluberrimis fuerit, a membris Eccleſiæ omni tempore ſeparetur. *Can.* 5. *in fine.*

(4) *The Council of* Maſcon, Anno 585, *proceeded to excomunicate thoſe who paid not Tythes.* Statuimus, & decernimus, ut mos antiquus a fidelibus reparetur, & decimas Eccleſiaſticis

CHAP. XII.

I Come now to *Italy*, where for many Ages none was ordain'd to the Prieſthood, who had not at the ſame time ſome particular Cure aſſign'd him, unleſs in the Caſe of ſome eminent Man for Piety and Learning, who would not accept the Care of any Pariſh at his Ordination, that might divert him from his ſacred Studies. St. *Jerom* and St. *Paulinus* were thus ordain'd Prieſts, one at *Antioch*, the other at *Barcelona* (*a*); and except on this Occaſion, Antiquity knew no Diſtinction betwixt Ordination and a Benefice, which was always aſſign'd him, and which gave a Right to be entertain'd out of the Common-Stock of the Church.

(*a*) Ea conditione in Barcinonſi Eccleſia conſecrari adductus ſum, ut ipſi Eccleſiæ non alligarer in ſacerdotium tantum Domini non etiam in locum Eccleſiæ dedicatus. *Paulin. Ep.* 1. *ad Severum, Num.* 10.

But

But when Church-men of Merit happen'd, by the Calamities of War, to be driven from their Miniſtry, and receiv'd into other Churches, where they were maintain'd out of the Common-Purſe, in the ſame manner with the Clergy of the Place. As any Vacancy happen'd, by Death or otherwiſe, it was fill'd by ſome one of the ſtrange Clergy, who being thus provided for, was call'd *Incardinatus* (1); and he who ſtepp'd into a Miniſtry, having had none before, was call'd *Ordinatus.*

This Uſage began in *Italy* before the Year 600, when many Biſhops and other Clergymen were plunder'd, and driven from their Cures, by the Ravages of the *Lombards*, and were thus replac'd in other Churches, as Miniſteries became vacant. The Biſhops were call'd *Epiſcopi Cardinales* (*b*), and the Prieſts *Presbyteri Cardinales* (*c*).

Now

(1) That is, ſpeaking ſtrictly, admitted into a Society, tranſferr'd, or tranſplanted.

(*b*) Et temporis neceſſitas nos perurget, & imminutio exigit Perſonarum, ut deſtitutæ Eccleſiæ veſtræ ſalubri debeamus diſpoſitione ſuccurrere; & ideo ſecundum deſiderium veſtrum fratrem & Coëpiſcopum noſtrum illum, cujus Eccleſia eſt ab hoſtibus occupata, Cardinalem veſtræ Eccleſiæ, ſicut petiſtis, conſtituimus ſacerdotem, quatenus vos de propitio, & ordinando, & vigilando, ſolicite ſtudeat gubernare, cui dedimus in mandatis, ne unquam ordinationes præſumat illicitas. *Liber Diurnus ſumm. Pontif. Tit.* 11. *cap.* 3.

(*c*) Hæc vox, *ſaith* Onuphrius Povinius, *in his Interpretation of Eccleſiaſtical Names*, eſt frequens in Regiſtro D. Gregorii, & Epiſtolis Pontificum Roman. Decretalibus, quibus is Cardinalis dicitur Presbyter vel Diaconus, qui certæ alicui Eccleſiæ, vel Diaconiæ proprius & adcerti alicujus tituli ſive Eccleſiæ miniſterium ordinatus, inſertus annexus, & ut ipſe loquitur incardinatus eſt. Nam St. Gregorio idem eſt, Cardinalem conſtituere in aliquo titulo, vel Eccleſia, quod incardinare alicui Eccleſiæ, vel in aliqua Eccleſia cardinare. Idem etiam de Epiſcopis dicit quod de ſua Eccleſia ad aliam neceſſitatis cauſa tranſlatos, Epiſcopos quidem Ec-

 cleſiæ

Now, the greateſt Part of thoſe who were ſo driven from their own Churches, betaking themſelves to thoſe of *Rome* and *Ravenna*, which were the richeſt, and had the moſt Employments in the Miniſtery to give, and theſe Strangers finding a welcome Reception there, both in regard of the Abundance in thoſe Churches, and of the great Concourſe it drew to them of the moſt eminent Perſons of all Kinds (which we ſee continu'd to this Day) it rarely happen'd, that any of their own People were ordain'd, but commonly Strangers: And this was the reaſon, why in theſe two Churches, all who had any Miniſtry, were call'd *Cardinales*: A Name which ſtill remains in the Church of *Rome*, but not in that of *Ravenna*; which *Paul* III. abrogated in the Year 1543.

Thus the Name of Cardinal, which firſt deriv'd it ſelf from a very low and abject Condition, is, by a Change of Signification, become a Title ſo elevated, that Cardinals are now ſaid to be, *Quaſi Cardines omnium terrarum* (2): And that which at firſt was no Degree

eccleſiæ ſuæ, illius vero ad quam tranſlati ſunt, ſacerdotes ſive Pontifices Cardinales vocat.

Where is to be obſerv'd, That by the Phraſe *incardinare aliquem*, St. *Gregory* means ſometimes, To make a Biſhop.

Machiavel gives the following Account of the Original of Cardinals. Under the Pontificate of Paſc. I. ſaith he, the Curates of *Rome* took upon them the Pompous Title of Cardinals, as an addition to the Honour of being the neareſt Miniſters to the Pope's Perſon, and of having a ſhare in his Election: And their Authority encreaſed to that Degree, eſpecially after they had defeated the People of *Rome* of the Right of electing the Pope, that the Pontificate almoſt always fell upon one of them. *Lib.* 1. *Hiſt. of Florence*.

(2) That is to ſay, The Hinges or Axis on which the Government of the univerſal Church turns. And accordingly the Council of *Baſil* expreſſes itſelf, *viz.* Cum ſummo Pontifici S. R. E. Cardinales in dirigenda Chriſtiana Republica Collaterales aſſiſtant, neceſſe eſt, ut

Degree nor Order in the Church, but introduc'd by meer Accidents of Calamity, is exalted to that Pitch of human Grandeur and Dignity, which we ſee it in Poſſeſſion of at this Day.

But whoever will look into the moſt celebrated Councils held at *Rome*, will find that the Cardinal *Roman* Prieſts, in their publick Writings, have always ſigned under the *Italian* Biſhops; and that even in after Times, no Biſhop was made a Cardinal-Prieſt.

The firſt Biſhops who were made Cardinals, were Perſons of Note, who had been driven from their Churches; for Inſtance, *Conrade* Biſhop of *Mentz*, who having been treated as a Rebel by the Emperor *Frederick* I. was receiv'd with open Arms by Pope *Alexander* III. and made Cardinal of St. *Sabin*. In thoſe Days, and until the time of Pope *Innocent* IV. the Cardinals wore no Habit, nor any Mark of Diſtinction. He gave them the Red-Hat on *Chriſtmaſs*-Eve (3) in the Year 1244. And *Paul* II. added the Red-Cap (4) to be worn by all the Cardinals, except ſuch as were Monks or Regulars: Yet to theſe alſo it hath been granted ſince by *Gregory* XIV.

ut tales inſtituantur, qui ſicut nomine ita re ipſa Cardines ſint, ſuper quos oſtia univerſalis verſentur & ſuſtententur Eccleſiæ. *Seſſ.* 23.

Sicut per Cardinem volvitur oſtium Domus, *ſaith* Eug. IV. Ita ſuper hos ſedes Apoſtolica totius Eccleſiæ oſtium quieſcit & ſuſtentatur.

(3) Hic in vigilia natalis Domini 1244. Lugduni in Concilio generali 12 Cardinalibus viris excellentiſſimis creatis ejus ordinis hominibus proprium inſigne, pileum rubrum dedit---quo ſignificabatur eos etiam caput ſuum, ſi opus eſſet, pro Eccleſiaſtica Libertate tuenda gladio offerre debere, & præſertim eo tempore quo Romana Eccleſia a Frederico II. Imp. vehementer oppugnabatur. *Onuphr. Panvin. annot. ad vit. Innoc.* 4.

(4) And alſo Houſings or Horſe-clothes of Scarlet, when they rode on Horſeback. *Quibus etiam*, ſaith *Platina*, in this Pope's Life, *panum coccinei coloris, dono dedit, quo Equos, vel Mulas ſternerent dum equitant.*

We

We have thought a ſhort Deduction of this ſplendid Order, from the Original, neceſſary in this Place, as it concerns ſo eminent a Dignity, which at this Day holds the ſecond Place in the Church, and for which, the World ſeems not to afford Titles pompous enough (5). [*Urban* VIII. who reigns at preſent, gave them the Title of *Eminence*, by a ſolemn Bull (6).]

(5) That we may have every thing before us upon this Subject, what *Mezeray* ſays of Cardinals ſeems to merit a Place in our Obſervations. 'In the Life 'of *Phil. Auguſtus*, ſaith he, 'the Aſſiſtance of ſo many Men, 'choſen out of all Degrees, in 'the Weſtern Church, which 'ſupply'd the ſacred College, 'contributed not a little to ſupport the Popes under the Burden of their Affairs, and to 'encreaſe their Authority in 'the moſt diſtant Countries; 'but being thus agrandiz'd by 'their Means, they deliver'd 'themſelves from their Dependance.

(6) Theſe laſt Words have been added to the Original, in the *Italian*, either by the Copiers or the Printers, who probably have miſtaken a Marginal Note for Part of the Text: For *Frà. Paolo* was dead before *Urban* VIII. obtain'd the Chair.

CHAP. XIII.

FROM the firſt Eſtabliſhment of the Church, until near the Year 500, every Prieſt, as we have already ſhewn, was ordain'd to ſome particular Cure or Miniſtry, and liv'd upon the Common-Stock: And after Benefices came in uſe, no Perſon was ordain'd, without a Deſignation to ſome particular Benefice for his Maintenance.

But in Proceſs of Time, it became the Practice, That if any Man well qualify'd for the Miniſtry happen'd to appear, tho' there were no Room, nor Benefice vacant, the Biſhop, for fear of looſing him, thought

thought fit to ordain him without Office or Title, and conſequently without Benefice, in Expectation of one becoming vacant. And theſe Supernumeraries without Title, were Co-adjutors to thoſe who had Benefices; who, for their Service, allow'd them a Subſiſtence.

But in time alſo this ſort of Clergy, without Benefices, encreaſing to an exceſſive Number, and the Beneficiaries growing weary of their Charity towards them, it produc'd a Multitude of Scandals and Indecencies, which it was neceſſary to remedy by Law; by which, the Biſhops were oblig'd to maintain all the Clergy themſelves, whom they ſo ordain'd without Title (*a*).

This, at the Beginning, put ſome Stop to the Diſtemper; which, tho' often ſuppreſs'd for a while, as often return'd; for which there were two apparent Cauſes: One was a prevailing Deſire among the People in thoſe Days, of getting into Orders, that they might enjoy the Privilege of Exemptions, and withdraw themſelves from the Juriſdiction of Princes: The other was, an aſpiring in Prelates to Dominion, by encreaſing the Number of their Subjects: Nor have yet theſe Diſorders met with ſuch a Remedy, but that frequent Indecencies ſtill happen in many Kingdoms, to the great Diminution of the People's Reſpect for Religion.

(*a*) Epiſcopus ſi aliquem ſine certo titulo de quo neceſſaria vitæ percipiat, in Diaconum & Presbyterum ordinaverit, tam diu ei neceſſaria ſubminiſtret, donec in aliqua Eccleſia ei convenientia ſtipendia Militiæ clericalis aſſignet, Niſi talis ordinatus de ſua paterna hæreditate, vel alia honeſtatis cauſa ſubſidium poſſit habere.

This Canon was made by the Council of *Lateran*, under *Alexander* III. and is to be found in the 4th *Chap. Extra de Præbendis*.

CHAP. XIV.

NEither hath the Episcopal Order itself escap'd this Abuse, since Bishops were begun to be made only Titular, and by Derision call'd *Nulla-tenentes* (1). Yet it cannot be said but some more Ceremony is used in making these, than in the Case of other Priests without Benefices. For tho' Priests and Deacons, and other inferior Ministers are ordain'd without any Cure assign'd them, either real or nominal, there is no Instance of a Bishop being ordain'd without a Diocess assign'd him, from which he takes his Title, tho' it be in *Partibus Infidelium*. But in that Case having no Christian in his Diocess, and only a Name without a People, he lives by serving some great Bishop, who cannot attend the Episcopal Functions, or thinks them too inferior for him to officiate in Person. And these Titular Bishops, before the Council of *Trent*, were in great Abundance, tho' now their Number is very much reduc'd.

(1) That is to say, *Holding nothing*. A *Spanish* Bishop maintain'd in the Council of *Trent*, That a Bishoprick necessarily requir'd a Diocess; that a Bishop and his Church are Co-relatives like Man and Wife: That no Footstep can be found in all Antiquity, where Bishops who quitted their Bishopricks, or were depriv'd of them, ever pass'd afterwards for such, any more than a Man, who hath lost his Wife, for a Husband.

An *Italian* Bishop reply'd That the Titular Bishops having only the Power and Vertue of Order in them, their having a Church was not necessary: That if in former Times no Bishop was ordain'd without having a Church assign'd him, it was because neither Priest, nor Deacon was then ordain'd without a Title: That since that time, it had been found for the Service of GOD and the Church, that there should be Priests without Titles; and consequently Bishops without a Diocess. *Frà. Paolo, lib.* 8. *Conc. Trent.*

Indeed

Indeed seeing the Jesuits have started a Question, Whether the Pope hath Power to ordain Bishops without any Title at all, real or nominal, and that they have been pleas'd to decide it in his Favour, we think it is best answer'd by a Prayer, That GOD would please never to suffer such Power to be put in Practice, lest the Reverence for this Order also be lost, which had been in general preserv'd, and with the highest Observance towards all Ecclesiastical Orders, while no Man was ordain'd that had not a particular Ministry assign'd him: And it had this Effect, that every Man was Resident, since none could be found to spare, to officiate for another.

As the Abuse of Non-residence was then utterly unknown, so also was the Distinction betwixt Benefices, which oblige to Residence; and those which do not. And were the Benefice rich or poor, or the Business of it great or little, the Incumbent could no way avoid serving in Person.

But after they began to ordain without Titles, those who had Titles were from hence supply'd with Curates for small Salaries, which afforded the Titulars a convenient Leasure to follow other Business. Accordingly the Bishops in *France*, and even the Parish-Priests, substituting some poor Priests in their Room, pass'd much of their Time at Court.

A little before the Year 800, this Abuse began to be remedy'd, not by Laws or Ordinances, but by Censures and Deprivations; which Severities serv'd to keep the Beneficiaries in some Order. Yet the Splitting of Benefices, Ordination without Titles, and Regulations for Residence, could not, in the Progress of these Institutions, through so many different Places, pass without some Variations in the Practice. Nor were they avoidable even in the same Church sometimes, from the different Views and

Designs

Deſigns of ſucceeding Biſhops, or the different Orders and Proviſions made from time to time by Princes, to obviate the Diſorders ariſing from the Wilfulneſs of ſome Churchmen, too buſy or enterprizing; or the Reſentment of ſome Laynan, who could not, with Patience, bear to be excluded from the Management of Eccleſiaſtical Affairs.

CHAP. XV.

THings were in this continual Fluctuation until the time of *Charlemaign*, who having brought *Italy*, *France*, and *Germany* under his Subjection, made Reformations in the Affairs of the Church, by reducing the different Inſtitutions he found in different Places, to one eſtabliſh'd Form; by reviving many of the old Synodical Canons that were grown obſolete; and by making ſeveral Eccleſiaſtical Laws concerning the Diſtributions of Benefices, according to the Exigency of the Times.

He reſtor'd in part to the Pariſh-Prieſts or Curates, the Eſtates which (as we have already ſhewn) the Biſhops had taken to themſelves; ordering, that every Curate ſhould have a Share aſſign'd him of the Revenue or Fund call'd, *the Manſo.* (1)

At this time the Cuſtom of paying Tythes to the Pariſh-Church, which had been long eſtabliſh'd in *France*, paſs'd into *Italy*. Only *Charlemaign* added, That the Biſhop, as Super-Intendant and Paſtor-

(1) That is to ſay, All that is neceſſary for Subſiſtence. As St. *Cyprian* obſerves in the Life of *Cæſarius* of *Arles*. *Donec omnes ab ipſo eſſent redempti, eo argento, quo Anteceſſor ejus Eorum Eccleſiæ Menſæ reliquerat.* In Feodal Matters, we yet uſe the Word *Table*.

General,

General, might regulate the Diſtribution of Tythes (*a*) according to his Diſcretion.

And therefore in Places of Plenty, and where the Tythes were large, the Biſhops diſtributed them ſeveral Ways: One Part they took to themſelves, another they aſſign'd to the Prieſts of their Cathedral; and ſome Part alſo to the Monaſteries, on Condition they ſhould appoint a Vicar in the Cure, allowing him a convenient Stipend.

Beſides this Appointment of the Biſhops, ſometimes the Non-Parochial Churches took to themſelves ſome other Part, which in time they came to defend by Preſcription. And Princes alſo aſſign'd Tythes to Churches, for which they had ſome particular Devotion.

Charlemaign likewiſe reſtor'd to the Cities, the Liberty of Electing their own Biſhops, allowing the Clergy and the People to preſent ſome one out of their own Dioceſs; who, when approv'd by the Prince, and inveſted by receiving the Croſier and the Ring, was conſecrated by the neighbouring Biſhops.

This Emperor reſtor'd likewiſe to the Monks, the Liberty of Electing their Abbots (*b*). He order'd farther, That Biſhops ſhould ordain ſuch for Prieſts, as ſhould be preſented to them by the Pariſhioners.

(*a*) Ut Decimæ in poteſtate Epiſcipi ſint, qualiter a Presbyteris diſpenſentur, *Cap.* 143. *lib.* 1. *Capitular.*

(*b*) Monachorum ſiquidem cauſam qualiter Deo opitulante ex parte diſpoſuerimus, & quomodo ex ſe ipſis ſibi eligendi licentiam dederimus, & qualiter quietè vivere, propoſitumq; indefeſſi cuſtodire valerent, ordinaverimus, in alia ſchedula diligenter adnotari fecimus, & ut apud ſucceſſores noſtros ratum foret, & inviolabiliter conſervaretur, confirmavimus.

Finaly

Finally he eſtabliſh'd the Election of the Pope in the ſame Method that had been practis'd in the times when the Emperors of the Eaſt reign'd in *Rome*; which was, That the Clergy and People ſhould Elect, and the Decree of the Election ſhould be ſent to the Emperor, which if confirm'd by him (*c*), the Elect was to be conſecrated.

True it is indeed, that after the Death of *Charlemaign*, the Weakneſs of his Poſterity either in Power or underſtanding, gave Advantage to the Popes, who were choſen by the People, to make themſelves be conſecrated without ſtaying for the Emperor's Confirmation: So *Paſchal* dealt with *Lowis* the Son of the Emperor *Charles*, tho' he afterwards ſent to excuſe it, pretending he was compell'd by the People to comply.

(*c*) See here the Oath, which the Clergy and the People of *Rome* took to *Lowis* the *Debonair*, and to *Lotharius* his Son, *Anno*, 824.

Promitto ego ille per Deum omnipotentem, & per iſta quatuor Evangelia, & per hanc crucem Domini noſti Jeſu Chriſti, & per corpus beatiſſimi Petri, Principis Apoſtolorum, quod ab hac die in futurum fidelis ero Dominis noſtris Imperatoribus Ludovico, & Lothario diebus vitæ meæ, juxta vires & intellectum meum, ſine fraude ac malo ingenio, ſalva fide, quam repromiſi Domino Apoſtolico, & quod non conſentiam, ut aliter in hac ſede Romana fiat Electio Pontificis, niſi canonice & juſte, ſecundum vires & intellectum meum; & ille qui electus fuerit, me conſentiente, conſecratus Pontifex non fiat, priuſquam tale ſacramentum faciat in præſentia Miſſi Dominici Imperatoris, & populi cum Juramento, quale Dominus Eugenius Papa ſponte pro conſervatione omnium factum habet perſcriptum. *Tomo* 1. *Capitul. pag.* 647. *vide Thegan ad annum* 827.

Perduravit hæc conſuetudo, (*ſaith* Onuphrius) uſq; ad Benedictum II. cujus ſanctitate permotus Conſtantinus Imperator, Heraclii pronepos, edicto ſuo juſſit, ut deinceps, quem Clerus, Populuſq; Rom. Pontificem delegiſſent, Is, nulla amplius Imperatoris confirmatione expectata, more vetuſtiſſimo ſtatim ab Epiſcopis ordinaretur. *Annot. ad vit. Pelagii* II.

Some

Some there are who affirm, that *Lewis* renounc'd the Right of confirming the Pope, and alledge for Proof, the Canon *Ego Ludovicus* *; which many others of great Learning, and with great Appearence of Reaſon, maintain to be a meer Figment (2). But it would be time miſpent to reaſon any longer upon it, ſeeing it is out of all Controverſy, that *Lotharius* and *Lewis* II. Son and Grandſon of this Emperor, confirm'd all the Popes elected in their times.

* *Diſtinct.* 63. Vide Florum de Electionibus, in fine operum Agobardi, *cap.* 6. *pag.* 258. & ibi Baluzium. Vide etiam Thegan. ad *annum* 816, & 817.

(2) Witneſs what *Platina* ſays in the Anſwer of *Lewis* the *Debonaire* to the Deputies from the Pope, That the People and *Roman* Clergy ought not to contradict ancient Cuſtom, nor the Agreement of their Fathers, and that they ſhould take great Care for the future, how they offended againſt the *Imperial* Majeſty.

Paſchalis nulla interpoſita Imperatoris authoritate Pontifex creatur. Hanc ob rem ubi Pontificatum iniit, ſtatim legatos ad Ludovicum miſit, qui ejus rei culpam, omnem in Clerum & populum reiicerent, quod ab his vi coactus Pontificum munus obire. Accepta hac ſatisfactione Ludovicus reſpondit, populo & Clero majorum inſtituta, & pacta ſervanda eſſe; caverent ne deinceps majeſtatem læderent. *In vita Paſchalis* I. *initio.*

As for the Authors, who have writ, that *Lewis* the *Debonaire* had renounc'd the Right of confirming the Popes, tis an Error perhaps which might ariſe from what *Platina* reports in the ſame Life, which the Library-Keeper *Anaſtaſius*, that is, Chancellor of the holy See, relates, That *Lewis* granted to *Paſchal* the ſole Power of chooſing Biſhops, to whoſe Conſecration the Conſent of the Emperors was heretofore neceſſary.

Idem Bibliothecarius ſcribit Ludovicum liberam eligendorum Epiſcoporum poteſtatem Paſchali dediſſe, cum antea ea quòq; in re Imperatores conſulerentur: Quam poteſtatem ab Hadriano Pont. Carolo conceſſam idem Author refert.

For, admitting that *Lewis* had reſign'd back to the Pope the Right of electing Biſhops, which Pope *Hadrian* had conferr'd on the Emperor *Charles* his Father, it doth not follow, that he was depriv'd of the Power of confirming the Election of the Popes. Add to this, that the Canon *Ego Ludovicus* is in a Stile very different from all the Acts of *Charlemaign* and *Lewis*, and that it is without Date or Seal.

In that Age, and the Times both preeeding and following, when it ſometimes happen'd, that the Abſence of the Prince occaſion'd Delay of ſeveral Months in the Confirmation and Conſecration of the Pope, the Elect, however, did not aſſert his Choice by any Act of Government, until he were confirm'd, unleſs ſome Emergency made it neceſſary, and to ſupply a Defect in the Adminiſtration: As it happen'd in the Caſe of St. *Gregory*: And he was not call'd *Epiſcopus*, but only *Electus*: Nor did he even hold the firſt Place in the Church; but the Arch-Prieſt, who ſtil'd himſelf, *Servans Locum ſanctæ ſedis Apoſtolicæ*.

But after that Princes were excluded out of the Election, as ſhall be ſhewn in its proper Place, there was but a ſmall Interval of Time betwixt Election and Conſecration. However it was not ſaid that the Popedom was conferr'd by Election only, but by Conſecration alſo: So that if the Elect came to dye before Conſecration, he was not placed in the Catalogues of Popes. Of which one *Stephen*, elected in the Year 752, after the Death of *Zacharias*, is an Inſtance, who, for not having been conſecrated, was never reckon'd in the Number (*d*).

By what appears, *Nicholas* II. was the firſt Pope who decreed, in the Year 1059, That if at any time the Pope, through the Calamities of War, or other Effect of Malignity and Perverſeneſs, could not be crown'd, he ſhould nevertheleſs exerciſe his Authority, as the true and lawful Pope, in governing the

(*d*) Licet defuncto Zacharia, (*ſaith* Platina, *in the Life of Pope* Stephen II.) Stephanum quendam Presbyterum Roman. Pontificem Populus Statim creaſſet, qui tertia die Pontificatus ſui, dum res domeſticas diſponere incipit morbo Apoplexiæ correptus interiit.

Roman

Roman Church *, and in diſpoſing the Goods of the holy See.

However there are ſome Traces left of the ancient Uſage, for if the Pope make a Bull before Conſecration, he doth not ſay, *Pontificatus noſtri anno* 1, but only, *A Die ſucepti a nobis Apoſtulatus Officii* †. And there want not thoſe who maintain, That the Pope, before his Conſecration, ought not to ſtile himſelf *Epiſcopus*, but *Electus*; and that he hath no Right to iſſue Bulls. Inſomuch that this Right being conteſted with *Clement* V. he publiſh'd a Bull in the Year 1306, to forbid under Pain of Excommunication any ſuch Queſtion to be brought into Diſpute *. So that it is now a ſettl'd Point againſt the Opinion of all Antiquity, That the Pope receives all his Authority from his ſole Election by the Cardinals. And it was in this View that the Writers of thoſe times have, with ſome Pains and Contrivance, inſerted this *Stephen* (3). whom we have lately mention'd, in the Catalogue of Popes: And to finiſh their Deſign, they have therefore given themſelves the Trou-

* This Decretal is reported by *Gratian*, *diſt.* 23. *canon in nomine Domini*. 1.

† That is, from the Day of our having undertaken the Apoſtleſhip.

* This Decretal is in the Extravagant's Commun. *lib.* 5. *cap.* 4. *tit.* 10. Vide *John de Selvo* de Beneficio, *part.* 1. *queſt.* 2. & *Blaz. Ortiz*. In Itinerario Adriani 6. *cap.* 7.

(3) *Onuphrius Panvinius*, an Author wholly devoted to the Church of *Rome*, has not reckon'd him as ſuch, neither in his Catalogue, nor Chronicle of the Popes. He only mentions him in theſe Terms: *Antequàm tamen Stephanus quidam Presbyter a Populo creatus tertia poſt die obiit*. In Catalogo. Where is to be obſerv'd, that he names *Stephen* II. immediately after *Zacharius*; whereas he ſhould have nam'd the *Stephen* in queſtion before *Stephen* II. who would have been *Stephen* III. if the other had been actually Pope, and ſo acknowledg'd. This ſhews, That at that time to be *Electus* was not all that was neceſſary to be *Epiſcopus*; and that a Man did not become *Epiſcopus*, but by Conſecration, which follow'd the Election.

ble to change the Numbers of all the following *Stephens* that were Popes, calling the ſecond, the third; the third, the fourth; and ſo all the reſt conſequentially to the Ninth, which they make the Tenth (4) with vaſt Confuſion and Contradiction among the old and new Writers, who are thus made to give one another the Lye, and only for the Intereſt of maintaining this ſingle Point *.

(4) *The ſame* Pavinius *in his Notes on the Life of* Stephen V. *explains the matter,* viz. *That* Stephanus VI. dicendus eſſet, non V. quod ante Stephanum illum, quem Platina ſecundum vocat, fuerit Papa Stephanus alter qui triduò tantum vixit: Non enim plus vel minus vivendi ratio aliquem verum Pontificem facit, ſed vera & legitima comitia, quibus Stephanum illum renunciatum eſſe conſtat. *Ideo & in Stephanis numerorum notæ mutandæ, & qui aliis eſt* 2, 3, 4, 5. *hic debet eſſe* 3, 4, 5, 6, *&c. uſq; ad* 10.

* The Dead have nothing left but Reputation, and to go about to deprive a Writer of his Veracity, is the only way of robbing him. And thus the poor dead Authors were charg'd with a Falſity and Inſincerity, which hath not been ſet to Rights again in ſome Ages.

CHAP. XVI.

IT is plain the Government of the Church in its Beginning was intirely Democratical, All the Faithful having a Share in all Deliberations of Moment. Thus we find them all aſſiſting at the Election of *Matthias* to the Apoſtleſhip (1), and of the ſeven Deacons (2): And when St. *Peter* had receiv'd the Centurion *Cornelius*, who was a *Gentile* (3), into the Number of Believers, he gave an account of it to the whole Church (4).

(1) Act. 1.
(2) Act. 6.
(3) Act. 10.
(4) Act. 11.

Thus

Thus the famous Council of *Jeruſalem* was compos'd of the Apoſtles, the Prieſts, and other Brethren in the Faith; and the Letters which were writ from that Aſſembly, went in the Name of thoſe Three Orders (*a*)

But as the Church encreas'd in Numbers, the Faithful neglecting to aſſiſt any longer at thoſe publick Aſſemblies, and withdrawing themſelves to the Cares of their own Families, the Government reſted ſolely in the Miniſters of the Church, and ſo inſenſibly became Ariſtocratical; which brought all Affairs to have their Determinations by Councils: Excepting as to Elections, which continued Popular ſtill. The Biſhops of the ſame Province aſſembled with their Metropolitan at leaſt twice a Year, and made a Provincial Synod. The Clergy with their Biſhop made a Dioceſan Synod. And almoſt daily they held an Aſſembly, call'd *The Conſiſtory*, in Emulation of the Imperial Council of State, and as if they affected to rank themſelves with the Council which carry'd that Name.

In this Eccleſiaſtical Conſiſtory, which was compos'd of all the principal Perſons of the Churches in the City, aſſiſted by the Biſhop, all the Affairs of the Church were propos'd, debated and determin'd: A Cuſtom every where ſince aboliſh'd, except at *Rome*, and there the Shadow of it only remains. But after Benefices were erected, that the Prieſts had their Maintenance apart, they made the Intereſt of the Community ſo little their Care, that they ceas'd to go any longer to the Conſiſtory, which thus fell into diſuſe, and was held no more.

(*a*) Tunc placuit Apoſtolis & ſeniоribus cum omni Eccleſia mittere Antiochiam viros primos in fratribus ſcribentes per manus eorum, Apoſtoli, & ſeniores Fratres, his qui ſunt Antiochiæ & Syriæ, & Ciliciæ, fratribus ex gentibus, Salutem. *Act. cap.* 15.

To ſupply this Failure, the Biſhops held an Aſſembly of all the Clergy of their Cathedral Church, to aſſiſt in their Councils, or otherwiſe to adminiſter in the Spiritual Government. And theſe receiving their Subſiſtence out of the Common-ſtock, either by the Year, by the Month, or by the Day, were call'd *Canonici* [Canons] from the Word *Canon*, which in the Weſtern Empire ſignify'd ſuch a Meaſure of Corn (*b*) as was ſufficient to feed a ſingle Man, a Family, or a City. And this Inſtitution of Canons took riſe a little before the Reign of *Charlemaign*, by whom alſo it receiv'd ſome Improvement in its Regulation.

(*b*) Canon (*ſaith* John Calvin *in his* Lexicon) in Conſtitutionibus Imperatoriis, anniverſariam penſitationem, collationem, & præſtationem ſignificat, quæ a Provincialibus quotannis populo vel Romano, vel Conſtantinopolitano gratis mittebatur, & ſpeciebus his conſtabat, frumento, vino, carne, oleo, &c.

And it is this Canon which *Caſſiodor* means, and which he commands the *Venetian* Tribunes to ſend in their Barks to *Ravenna*.

Data Juſſione cenſuimus, ut Iſtria vini & olei ſpecies ad Ravennatem dirigeret manſionem. Sed vos qui numeroſa navigia in ejus confinio poſſidetis, providete, ut quod illa parata eſt tradere, vos ſtudeatis ſub celeritate portare. *As for Canons*, Rara avis in terris (*ſaith the Abbot* Valuinus) Canonicus a Canone vitæ. Unde ergo? Audi unde, eſt namque Canon vitæ, & eſt Canon pecuniæ, *viz.* alicujus penſionis certæ, unde ſolet dici, ſolve Canonem meum. Eja ergo, ò Canonice! inveniamus Canonem tuum a quo derivaris, a Canone pecuniæ, non vitæ, id eſt, Canone Regionis, non a Canone Religionis. *In homilia de Zizania.*

CHAP. XVII.

IT is yet farther to be obſerv'd, that in thoſe times the Benefices and Revenues of the Church were grown to that Size, that they became Rewards for the principal Men of the Court and Cities, who were made Biſhops, ſo the Biſhopricks fell to their Share, to whom alſo the Prince had committed a great Part of the Civil Government: At firſt only on extraordinary Occaſions, but after, finding Affairs go well in their Hands, they were conſtantly employ'd, tho' not every where in the ſame Quality or Station, but as the particular Affairs of the Place, the Abilities of the Biſhop, or ſometimes the Incapacity of the Earl or Comes requir'd; which Defect was then ſupplied, by ſubſtituting the Biſhop in his Room.

And hence it came, that when the Poſterity of *Charlemaign* fell into ſuch a State of Degeneracy, as to ſink at laſt into the moſt profound Ignorance of thoſe Ages, the Biſhops thought it adviſable no more to acknowledge this Authority as derived from the Prince, from whence it realy came, but to aſſum it to themſelves, and exerciſe it as a Right peculiar to their Function, under the Name of *Eccleſiaſtical Juriſdiction*.

Such was the Original of this Power, which we now ſee continually and ſo deſperately conteſted with Princes, even to the endangering the Peace of the beſt Civil Governments, and throwing them ſometimes into Convulſions.

CHAP. XVIII.

THE want of Spirit and Genius in the Princes of *Charlemaign*'s Posterity, so requisite to fit them for Empire, made his Statutes of no long Duration; so that the first Disorders regain'd apace. The People, in few Places, and very rarely had any Share in the Election of the Bishops, and less in that of the other Ministers of the Church. The Bishops ordain'd whom they pleas'd, and dispos'd Benefices with the same Liberty: Except when the Prince pleas'd to recommend any Man, and then they never fail'd to obey. The Pope was always chosen by the People, and confirm'd by the Emperor before Consecration, and the other Bishops of *Italy* were never consecrated, until the Emperor had first approv'd them: And this was yet more strictly observ'd in *France* and *Germany*.

When the Pope would favour any Man's Pretensions to a Bishoprick neighbouring to *Rome*, he apply'd to the Emperor to desire his Nomination. And if it happen'd that the Pope were apply'd to for his Consecration of a Person who had not the Imperial Letters of Licence, he refus'd Consecration till he obtain'd it.

But the Posterity of *Charlemaign* having been driven out of *Italy* in the Year 884. Pope *Hadrian* III. ordain'd, That the Popes should, for the future, be consecrated, without applying to the Emperor(*a*) at all. In

(*a*) Hadrianus III. *saith* Platina *in the beginning of his Life*, tanti animi fuit, ut initio Pontificatus sui statim ad senatum populumq; retulerit, an. Dom. 895. ne in creando Pontifice Imperatoris authoritas expectaretur, utq; libera essent, & Cleri Cleri & Populi Suffragia. --- Quod quidem Institutum a Nicholao I. tentatum potius quam inchoatum. Illectum credo hac opportunitate Hadrianum, quod Carolus *(this was* Charles *the Gross)* Imp. ab Italia cum Exercitu discedens in Normanos rebellantes moverat.

The same *Platina*, in the Life of Pope *Hadrian* II. saith, that *Lewis* the *Stammerer* approv'd the *Romans* having put the Pope in Possession of the Popedom without staying for the Confirmation of the Emperor: On which false Step, 'tis probable, *Adrian* III. took the Resolution of excluding the Emperor from the Election of the Pope.

In treating on this Subject of Benefices, it will certainly not be forreign to our Purpose to take Notice of the Popedom itself, as we shall again have occasion to do in the Sequel of this Discourse, seeing it certainly is deservedly to be rank'd in the Number of Benefices; and as it has been expresly so stil'd by *Clement* III. in a Time wherein the Pope had not only ascended to the highest Pitch of human Greatness, but had taken also a particular Stile of Dignity to distinguish him from other Bishops.

Nothing is more known, than that the Names of *Sanctus*, *Sanctissimus*, *beatus*, *Beatissimus*, were common to all Believers in Christ, when all Men under that Profession, were aspiring to an absolute Perfection of Holiness. But when Secular-men became more engag'd in the Affairs of the World than was expedient or decent, and so quitted their Titles to those blessed Names, they fell to the Share of the Eccleasticks only.

And after the Remisness that was found in the inferior Clergy, from their primitive Strictness of Life, these Names remain'd to the Bishops only; but when they too came to sink in their Characters, by too eager a Pursuit after the Things of this World, the Bishop of *Rome* alone retain'd these Titles, in whom they still continue, not as Designations of Vertue, but of Grandeur and Power.

As

As for the Name of *Pontifex*, it was, and is a Name common to all Biſhops; and there are ſome Canons ſtill extant, wherein all Biſhops are ſtil'd *Summi Pontifices* (*b*). And even the Name of *Papa*, which ſeems to be a Title moſt pecular to the *Pontifex Romanus*, was given indifferently to all Biſhops. St. *Cyprian*, Biſhop of *Carthage*, is call'd *Papa*; St. *Jerom* gives this Title to St. *Auguſtine*: And in later Times *Sidonius Appolinaris*, and many of the Biſhops, ſtile one another by the Name of *Popes* (*c*).

And we find in the Decretal of *Gratian*, Titles of ſeveral Canons, wherein *Martin* Biſhop of *Bragua* is call'd *Papa*.

Gregory VII. was the firſt who in the Year 1076 (*d*) decreed that the Name of Pope ſhould be peculiar to him and his Succeſſors, and be aſcrib'd to none but the *Roman* Papa (*e*).

And

(*b*) *Vide Witichind. pag.* 22. *Number* 10. Omnia (*ſaith the Capitular of* Aix la Chapelle) ſummis Pontificibus debentur, & non Chorepiſcopis, qui nec ſummi Pontifices nec Epiſcopi fuerunt. *cap.* 6. *anno* 803.

(*c*) Hanc vocem, (*ſaith* Panvinius *in his Interpretation of Eccleſiaſtical Names*) omnes antiqui Chriſtianorum Epiſcopi pro Patre, & ſive majore Patre frequentarunt, & præſertim magnarum & inſignium urbium, ut Romæ Carthaginis, Alexandriæ, Antiochiæ, Hieroſolymorum, &c. Cornelius enim Epiſcopus Romanus, & alii multi in Epiſtolis ſuis Cyprianum Carthag. Epiſcopum Papam & Papatem vocant. Dionyſius Alexandrinus Ep. Heraclam Predeceſſorem ſuum in Epiſt. ad Philemonem Presbyt. Romanum beatum Papam nominat. Similiter Athanaſius, Theophilus & Cyrillus Epiſcopi Alexandrini Papæ dicuntur. Sidonius in Epiſcopis ſuis paſſim omnes Galliarum Epiſcopos Papas appellat. *Vide Savoronem ad Epiſt.* 1. *lib.* 6. *Epiſt. Sidonii Apolinariis.*

(*d*) In a Council held at *Rome*. *Vide Sirmond ad Ennodium, Lib.* 4. *Ep.* 1.

(*e*) Hæc vox (*ſaith* Panvinius, ibid.) poſt Gregorii I. tempora, reliquis Epiſcopis adempta, ſoli Romano Pontifici attributa eſt, qui & Apoſtolicus eſt aliquando dictus, ob præcipuæ Apoſtolicæ ſedis, cui præeſt, reverentiam.

In

And this Matter was carry'd ſo high, and with ſo much Appearance of Party-rage and Faction, that *Anſelm* Biſhop of *Lucca*, one of his Followers, hath not ſcrupl'd to ſay, That *it is as abſurd and impious to ſuppoſe there are more* Popes *than One, as that there are more than One* GOD.

In which *Panvinius* and *Frà. Paola* are very different, but as the firſt liv'd in the Court of *Rome*, it look'd like a Compliment to that Court, to diſallow the Name of Pope to the Biſhops, 4 Ages before the Pontificate of *Gregory* VII. But tho' this Pope had taken it away from the other Biſhops, yet *Urban* II. his Succeſſor ſcruples not to call *Anſelm* Archbiſhop of *Canterbury*, *Papam alterius orbis*.

CHAP. XIX.

BUT to return to the Times immediately following the Line of *Charlemaign*. *France* gave Birth to an Invention, which tho' it ſeem'd to be all in Favour of the Laity, yet prov'd an immenſe Encreaſe of Wealth to the Churches. This was a Contract call'd *Precaria* (1); by which, whoever

(1) The *Precaria* were in uſe from the time of St. *Auguſtine*. Witneſs *Poſſidius* in his Life, *chap.* 24. and the Monk *Marculfus* in his *Formulæ*.

Add to this the Canon 18. *Concilii Epaonenſis*, held under *Childebert, anno* 517. Clerici quod etiam ſine precatoriis qualibet diuturnitate temporis de Eccleſiæ remuneratione poſſederint cum authoritate glorioſiſſimi Principis noſtri, in jus proprietarium præſcriptione temporis non vocetur, dummodo pateat Eccleſiæ rem fuiſſe: Ne videantur etiam Epiſcopi adminiſtrationis prolixæ, aut precatorias, cum ordinati ſunt, facere debuiſſe, aut diu tentas Eccleſiæ facultates proprietati ſuæ poſſe tranſcribere. *Vide Can.* 1. *Concil. Agath. anno* 506. *Can.* 7, & 45. *Aurelian.* 1. *anno* 511. *Can.* 23. *Aurel.* 4. *Can.* 34. *Lugd.* 2. *Cap.* 5.

made

made a Gift of his Estate to the Church, had the Profits or Usufruct return'd him again, and twice the Value besides, during his Life. And to those who would quit their Usufruct also to the Church, she gave three times (*a*) the Value in other Estates of the Church to enjoy in Exchange: And this Usage pass'd from hence into *Italy*.

For the Present, this Contract turn'd manifestly to the Advantage of those who trebled their Income, and of such as had no Children, or who were more concern'd for their present Advantage than for their Families: But in Truth the Church was the Gainer, which after the Death of the Donor swept all.

From this Time until the Year 963, during the Space of 80 Years, wherein *Italy* labour'd under the extreamest Confusions, as well in the Civil Government as Ecclesiastical, especially in the Papacy (*b*), we must not expect to find any Traces or Form of good Government in the Church, but a meer Chaos

(*a*) This was order'd by the Canon 22. of the Council of *Meaux*, in 845. Precariæ autem a nemine de rebus Ecclesiasticis fieri præsumantur, nisi quantum de qualitate convenienti datur ex proprio, duplum accipiatur ex rebus Ecclesiæ in suo tantum qui dederit nomine, si res proprias & Ecclesiasticas usufructuario tenere voluerit. Si autem res proprias ad præsens dimiserit, ex rebus Ecclesiasticis tripulum fructuario usu in suo tantum quis nomine sumat.

This Council therefore, to whom *Frà. Paul* seems to attribute the Institution of the *Precaria*, is not the Author of it. Its Decree being only a Confirmation of an Usage establish'd long before. Where is to be observ'd, That at first these *Precaria* belong'd to none but Ecclesiasticks, and that after Seculars were also admitted, and even before the reign of *Charlemaign*.

(*b*) *Platina* in the Life of *Formosus* I. saith, That by a strange Fatality the Sanctity of the Popes ended with the Spirit and Activity of the Emperors. And in the Life of *Benedict.* IV. *he saith*, Accideràt huic ætati, ut hominum industria in quovis genere virtutis consenescèret, nullis calcaribus adhibitis, quibus hominum ingenia ad laudem excitarentur.

of

of Impieties, and a general Preparative and Forerunner of the miserable Revolutions and Disorders which follow'd.

Popes were then excommunicated by their Successors, and their Acts cassed and annull'd: Not excepting the very Administration of the Sacraments (*c*). Six Popes were driven out and dethron'd by those who aspir'd to their Places (*d*). Two Popes put to Death (*e*), and Pope *Stephen* VIII. wounded

(*c*) Stephanus VI. (*saith* Platina *in his Life*) tanto odio persecutus est Formosi nomen, ut statim ejus decreta abrogavorit res gestas rescidèrit ------- Arbitror hoc odium ex ambitione ortum fuisse, cum jam eò deveniissent Ecclesiastici, ut non coacti, ut antea, sed sponte, & largitionibus Pontificium munus obirent ---- Res pessimi exempli cum postea fere semper servata hæc consuetudo sit, ut acta priorum pontificum sequentes aut infringerent aut omninò tollerent.

Romanus I. did the same to *Steph.* VI. which *Stephen* had done to *Formosus*. *Stephani Pont. decreta & acta statim improbat, abrogatq*; saith *Platina*, in his Life. And *Theodorus* II. authorized all the Acts of *Formosus*, and favour'd his Adherents, saith the same *Platina*. John X. who succeeded *Theodorus* confirm'd also the Acts of *Formosus*, and condemn'd the Judgment of *Stephen* VI. declaring, that he had unjustly annulled the Ordinances made by *Formosus*.

Habito 74 Episcoporum conventu (*at* Ravenna) & Stephani res gestas improbavit, & Formosi acta restituit, dijudicans perperam a Stephano factum qui censuit eos iterum ordinandos esse, quos Formosus ad sacros ordines asciverat. (*Platina in vita*) And *Sergius* III. restor'd all those whom *Formosus* had degraded from the Priesthood. (*Platina.*)

(*d*) *Leo* V. was dethron'd and imprisoned by *Christopherus*, who had been his domestick Chaplain. *Christopherus* was dethroned in the 7th Month and put into a Monastery, the ordinary Exile of Churchmen in those Days. (*Platina.*)

(*e*) *John* II. (according to *Panvinius*, who doth not reckon the Popes *Joan* with *Platina*) *in vincula conjectus cervicali in os conjecto, necatur* (Platina in vita) I do not find in this Historian, nor in *Panvinius*, the other Pope whom *Frà. Paola* mentions to have been kill'd.

in

in the Face, with ſo much Deformity, that he never after appear'd in Publick (*f*).

Theodora, a famous Courtizan, by the Intereſt and Faction ſhe had then in *Rome*, got her profeſs'd Lover choſen Pope, who was call'd *John* X. (*g*). And *John* XI. was choſen Pope at the Age of 20 Years, the Baſtard of another Pope (*h*), dead 18 Years before. And in ſhort, ſuch a ſeries of wild Diſorders gave occaſion to Hiſtorians to ſay, That *thoſe Times produc'd not Popes, but Monſters* (1).

Cardinal

(*f*) Stephanus VIII. ut Martinus refert, in ſeditione mutilatus, turpiter aliquandiu vitam duxit, cum ob inhoneſta vulnera (*probably the Noſe and Ears were cut off*) prodire in publicum erubeſceret. (*Platina in vita.*)

(*g*) This Hiſtory is related by *Luitprand, lib.* 1. *cap.* 13. *Onuphrius Panvinius* ſaith, that this Pope was not the Son of Pope *Sergius* III. as *Platina* tells us.

(*h*) *Viz.* of *Sergius* III. and of *Marozia*, Daughter of the Curtezan *Theodora*, who proſtituted her Daughters to the Popes.

Joannes II. (*ſaith* Panvinius) Sergii Papæ & Marociæ nobiliſſimæ inter Romanos feminæ (*ſhe was Widow of* Guy *Marquiſs of* Tuſcany) filius matris, quæ tunc in urbe potentiſſima erat, authoritate & ſtudio ſucceſſit —— poſt Leonem VI. & Stephanum 7. *Platina* calls him *John* XII. Joannes XII. patria Romanus, patre Sergio Pontifice, &c.

(1) Ubi cum ipſis opibus, (*ſaith* Platina *in the Life of* Benedict IV.) Laſcivire cæpit Eccleſia Dei, verſis ejus cultoribus a ſeveritate ad Laſciviam, peperit nobis tanta Licentia peccandi hæc Portenta, a quibus ambitione & largitione, ſanctiſſima Petri ſedes occupata eſt potius quam poſſeſſa. Baronius *calls theſe Popes*, ſedis Apoſtolicæ invaſores, non Apoſtolicos, ſed Apoſtaticos an anno 908.

Fra. Paolo makes a very judicious Reflection on the Diſorder of Elections in thoſe times. I have not found, ſaith he in one of his Letters, Reaſons ſufficient to prove the Truth of the Hiſtory of Pope *Joan*, no more than I have met with any to convince me of the contrary. However, to ſpeak ſincerely, I incline to the Opinion of its being falſe, but not for its Abſurdity, that Age producing things as extraordinary as a Lady's being Papeſs.

The Perſecutions rais'd by many of the Popes againſt the Memory

Cardinal *Baronius*, being under ſome Difficulty how to treat theſe Corruptions, ſaith, That in thoſe Days the Church indeed was for the moſt part without a Pope, but not without a Head; its ſpiritual Head Christ being in Heaven, who never abandons it.

In Effect it is certain, that Christ hath never yet forſook his Church; neither can his Divine Promiſe which he hath made us fail, That he will be with it even to the End of the World (*k*.)

And on this occaſion it is the Duty of every Chriſtian to believe with *Baronius*, that the ſame Calamities which happen'd in the World at that time, hath happen'd alſo at another: And, that as the Aſſiſtance of Christ alone preſerv'd the Church in thoſe Times, ſo hath he afforded that Shield of Defence to his Church, and will continue it to her in all the like Events and Accidents of this World: So that a Pope was not neceſſary to the Exiſtence of a Church, even tho' there ſhould never more have been a Pope (2).

A Man may eaſily make a Judgment to himſelf how the reſt of the Churches of *Italy* in thoſe times

Memory of their Predeceſſors, whoſe Acts they annull'd, and even in Councils, being things of no leſs Conſequence. Beſides where is the great Difference betwixt making a Woman Pope, and a Child of 11 Years of Age, ſuch as *Benedict* IX. was: Not to mention *John* XI. and XII. who were little older.

(*k*) Rogabo Patrem, & alium paracletum dabit vobis, ut maneat vobiſcum in æternum ----- Non relinquam vos orphanos. *Joan.* 14. Et ecce ego vobiſcum ſum omnibus diebus, uſq; ad conſummationem ſeculi. *Matt. ultimo.*

(2) Plane (*ſaith* Baronius ad anno 908.) opus Dei eſſe Romanam Eccleſiam, quæ tot admotis facibus non potuerit ad interitum uſq; conſumi, & ad nihilum redigi, facti evidentia declaravit. Stetit ſane, ſtabitq; ſemper immobilis de ſede Petri, ſententia ac promiſſio Chriſti, quod portæ Inferi non prævalebunt adverſus eam.

were

were treated, in considering the State of all the other Members of a Body, when the Head is distemper'd.

But the general State of the Church was then, in Truth, every where else as deplorable. Princes gave Bishopricks to their Soldiers, and even to little Children. Count *Herebert*, Uncle to *Hugh Capet*, made his Son Archbishop of *Reims* (3); and Pope *John* X. confirm'd it.

In those Days no Man went to *Rome*, through the mistaken Motives of Conscience or Devotion; but if he design'd to make bold with the Canons and Usage of the Church, and found not Interest enough in his own Country to support him in it, he presently had Recourse to *Rome*: So it was not the Observers of the Laws of the Church, but the Breakers of them, whose Business lay chiefly at that Court, where a Man's Faults were his Qualifications for all sorts of Dispensations; and where the Apostolick dispencing Power stood ready to give Refuge and Shelter to all the Purposes of Ambition and Avarice.

Popes of such Characters, as we have above describ'd, made no Distinction betwixt any Actions, good or bad, that were in their Power; nor deterr'd by

(3) Post obitum ipsius (*saith* Flodoard, *who was near his Cotemporary*) Heribertus Comes Remis venit advocans Abbonem Episcopum Suessionicum, & Bovonem Catalaunicum, quibus sibi junctis, tractans super electione Rectoris hujus Remensis Ecclesiæ, tam Clericos quam Laicos ad voluntatem intendere fecit. Sequentes igitur ejus concilium, ne forte per extraneas personas Episcopatus divideretur, eligunt filium ejus nomine Hugonem, qui nec adhuc quinquenii tempus expleſſet *lib.* 4. *Hist. Remensis, cap.* 20.

Quod in tanta Ecclesia (*saith* Baronius) male fuit a malo Principe (*John* 10.) usurpatum in exemplum citò transiit aliorum, ut complures hujus seculi Principes sibi sanguine conjunctos adolescentulos in summas Cathedras curaverint promovendos ad anno 925.

by the Wickedness of them; considering every Opportunity of engaging great Men in their Interests, as an Encrease of their own Power: And finding their Interest in maintaining vigorously what they had obtain'd, and the People, either through Simplicity or Fear, were aw'd into an Approbation of what they could not hinder: From hence grew the Opinion, That an Approbation from the Court of *Rome* repair'd and cancell'd all Errors.

CHAP. XX.

IT had been reasonable to imagine, that the little Care the Clergy shew'd of spiritual Affairs, would have cool'd the Zeal of secular Men in their Bounties to the Churches, and consequently have put an End to the Growth of their Wealth: But it took another Turn, for with a supine Neglect of Spirituals, the Spirit of defending their Temporals seem'd to rise in Proportion.

The new Expedient they had found (for before it was not in use on these Occasions) of turning the spiritual Arms of Excommunication to the vindicating all their disputed Rights about their Temporals, and recovering such as had been lost by the Negligence of their Predecessors, was a Weapon they manag'd with such Success, that nothing ever became more terrible to the People, than those Censures, which at first had only been employ'd in the Chastisement of Sinners: And it was astonishing, to see Numbers of Officers and common Soldiers, guilty of so many Rapines, and withheld by no Remorse from the most flagitious Crimes, should be seiz'd in an Instant with a Respect towards the Church, which look'd like a Charm, and guarded it against Sacri-

ledge, on the bare Apprehenſions of its Cenſures. Hence it came, that many People of ſmall Conſideration and Fortunes, to skreen themſelves from the Violence of that Power, found it the eaſieſt way to make a Deed of Gift of their Eſtates to the Church, and make themſelves her Subjects; on Condition that the Donor ſhould be reinveſted with it as a Fief, reſerving a ſmall Acknowledgment.

Thus the Church's Title became a Safe-guard to thoſe who were too weak to defend their Eſtates from the Great-men any other way; which the moſt Powerful dar'd not to touch, when once they became Signories of the Church. And when ever the Male Line of theſe Feudatories came to fail, which was a common Accident, where Wars, and popular Seditions were ſo frequent, the Succeſſion of Courſe fell to the Church.

CHAP. XXI.

QUESTION I.

HAving hitherto conſider'd the Methods, whereby the Church acquir'd her real Eſtates; and on what Foundation the decimating the Eſtates of the Laity came to be an eſtabliſh'd Right in the Church, it will here be requiſite, before we proceed farther, to reſolve a Queſtion controverted in our Days, Whether the Eſtates of the Church be held by a Divine or Human Right, and to whom of Right they belong?

The receiv'd Opinion diſtinguiſhes betwixt the Church's Title to Goods, which come by Will or Donation,

Donation, and that which ſhe hath to Tenths, Firſt-fruits, and other Offerings.

As to real Eſtates, it is agreed by all, that whereever they are found, they ought to be call'd temporal Goods, and that the Church enjoys them by human Right; ſeeing it is certain, and as we have already ſhewn, that after all Communities and Aggregate Bodies had been prohibited from acquiring immoveable Eſtates, the Church, firſt by Permiſſion, and then by Conceſſion from the Emperors, obtain'd that Power.

Agreeable to this is the Canon, *Quo Jure*, *Diſt.* 8. wherein it is declar'd, to be only by Virtue of human Laws, that it is ſaid, This Inheritance is mine, or this Servant belongs to me; and that without which, neither Church, nor any Perſon whatſoever can be ſaid to have a Property in any thing (*a*).

It cannot be doubted, but that the Diviſion of Eſtates derives its Authority from the Civil Law, or that the various Ways of transferring them from one Poſſeſſor to another, by Will, Donation, and all manner of Contracts, are of human Inſtitution.

There have been Examples of Kingdoms and Republicks in the World, to whom Wills, and Teſtaments were things unknown: The *Roman* Law allows the Privilege of making them only to *Roman* Citizens: And it is not conceivable, that the Means of acquiring a Thing ſhould be of human Right, and the Enjoyment and Poſſeſſion of it ſhould be of Divine Right.

Whenever the Title to any Gift or Bequeſt to the Church, happens to be conteſted, it is decided by

(*a*) Jure humano dicitur, hæc villa mea eſt, hæc domus mea, hic ſervus meus eſt. Jura autem humana, jura Imperatorum ſunt ----- Tolle jura Imperatorum & quis audet dicere, mea eſt illa villa, aut meus eſt ille ſervus, aut domus hæc mea eſt.

human Laws; and if it be adjudg'd in Favour of the Church, it is by Authority of the Laws ſhe muſt be ſecur'd in the Poſſeſſion.

But to inſiſt no longer upon a Point, which ſeems to be generally given up, we will leave it, with only this Inference, which may very clearly be made upon the whole Queſtion, That whether the Exemptions which the Church Eſtates enjoy, are owing to a Divine or Human Right, yet ſeeing both the Poſſeſſion, and the means of obtaining it, proceed both from the ſame Law; and that the Lawyers ſay, that Tenures of Servitude, or Freedom and Dominion, all derive their Right from the ſame Law: It would be a manifeſt Contradiction to ſay, That the Church might hold an Eſtate, for Example, *Jure Veneto*, by the Law of *Venice*, and yet that Eſtate ſhould claim to be free and independent by another Right.

As to the Queſtion concerning Tithes, there are two Opinions, one of the Canoniſts ſingly, the other of Divines and Canoniſts, who ſtudy the holy Spripture, and the Canons together.

The Canoniſts ſay, That Tithes are of Divine Right *; becauſe in the Old Teſtament GOD gave them to the *Levites* (*b*): And we have no reaſon to be ſurpriz'd at their manner of reaſoning, who are ſo little converſant in reading the Scriptures; neither is the Study of the Myſteries of the Chriſtian Religion any part of their Profeſſion.

* *Covaruvias* is not of this Opinion. *Vide chap.* 18. *lib.* 1. of his *variarum Reſolut.*

(*b*) Filiis Levi dedi omnes decimas Iſraelis in poſſeſſionem pro miniſterio, quo ſerviunt mihi in tabernaculo fœderis---- Decimarum oblatione contenti, quas in uſus eorum & neceſſaria ſperavi. *Num.* 18.

De filiis Levi ſacerdotium accipientes (*ſaith St.* Paul) mandatum habent decimas ſumere a populo ſecund. legem. *Heb.* 7.

GOD,

GOD, by the Miniſtry of *Moſes*, gave to the *Jewiſh* Nation a Law, which both in the Ceremonial and Judicial Part, was deſign'd to be the Municipal Law of that Nation, until the coming of Jesus Christ, who was to abrogate and annul all its Force (*c*). So that in Truth the Law of Tithes is a Divine Moſaical Law, binding only to the *Jewiſh* People at that Time, but not a Divine-Natural Law, nor Chriſtian, and conſequently binding to no Man now.

The Legiſlature of any Government may enact the ſame Laws with thoſe of Moſes, but they cannot be ſaid to be as binding, nor to carry the ſame Authority, nor can they be call'd Divine, but meerly Civil Political Laws of the Prince who conſtituted them.

There was a Divine Moſaical Law, that a Blaſphemer ſhould be kill'd, but this obligeth no more now, neither doth he ſin, who puts it not in Execution. The Prince may make a Law to puniſh Blaſphemy with Death, and it would be a juſt Law, and what deſerves to be ſtrictly obſerv'd; but this would not make it a Divine Law, tho' GOD gave it heretofore to the *Jews* (*d*).

In theſe and many other caſes, where the Canoniſts fly to the Old Teſtament, to defend the Intereſts they have in aſſerting the Divine Right, we muſt take care to point out the Sophiſtry, and to

(*c*) Tranſlato ſacerdotio, neceſſe eſt, ut & legis tranſlatio fiat ---- Reprobatio fit præcedentis mandati propter infirmitatem ejus & inutilitatem, *Heb.* 7.

(*d*) Dominus locutus eſt ad Moyſen, dicens, Educ Blaſphemum extra caſtra, & ponant omnes qui audierunt, manus ſuas ſuper caput ejus, & lapidet eum populus univerſus. Et ad filios Iſrael loquens: Homo qui blaſphemaverit nomen Domini morte moriatur, lapidibus opprimet eum omnis multitudo. *Levit.* 24.

make the proper Distinction in our Answer, which is, That whatever is of Natural or Christian Divine Right, is binding to us; but not that which is of Mosaical Divine Right; so that if a Prince or Government should make a Law exactly the same with that of *Moses*, it will however be only of human Right.

I cannot here forbear doing that Justice to the Understandings of these Doctors to affirm, That there is much more of Artifice than Ignorance in what they say on this Subject, to gain Credit with weak and unwary People, and to give a Sanction to their Pretensions of the strongest Title in the World, which is, the *Divine Right*. But here they seem to me, to stand convicted, and to be left without Reply. For in the same Text of Scripture, where GOD commands the Tenth to be given to the *Levites*, he also commands, That they shall not possess any Land or real Estates; and that they shall content themselves with the Tithes only (*e*). If therefore the People be oblig'd by this Command to pay Tithes, the *Levites* are under the same Obligation to take no Possessions of Inheritance.

We find also in the same Place, That GOD granted them only the Tenths or the Fruits of the Earth (*f*), and nevertheless the Canon Laws ordain the Payment of Tythes also out of all

(*e*) Dixit Dominus Aaron. In terra eorum nihil possidebitis, nec habebitis partem inter eos. *And a little after it is said*, nihil aliud possidebunt, decimarum oblatione contenti. *Num.* 18.

Non habebunt sacerdotes, & Levitæ partem & hæreditatem cum reliquo Israel, quia sacrificia Domini, & oblationes ejus comedent, & nil aliud accipient de possessione fratrum suorum, *Deut.* 18.

(*f*) Omnem Medullam olei, & vini, ac frumenti tibi dedi, *saith GOD to* Aaron, universa frugum initia, quas gignit humus, & Domino deportantur, cedent in usus tuos.

Merchandize, out of the Soldiers Pay, out of Hunting and the Sports of the Field, and out of every thing gain'd by any kind of Labour and Industry whatsoever.

If GOD have oblig'd the *Jews* to the Payment of no more than Predial Tythes, then it must be granted, that Personal Tithes are only a human Law.

All the Divines, to a Man, and with them many of the Canonists agree, it to be a Precept of the Divine Natural Law, that he who administers at the Altar should live by his Ministry (*g*). As it is an express Command of Jesus Christ in the Gospel, that the Minister, who preacheth the Word of GOD to the People (*h*), should be maintain'd by his Ministry. But the Proportion of the Allowance is not determin'd, but varied according to the Number of Persons, who share it, and the Circumstances of Time and Place, which make that too much at one time, which would be too little at another. Therefore the Ministers of Christ have a Divine Right to a Part, but whether it be a Tenth or a Twentieth Part, more or less, is determined by human Laws, or by Custom, which is many times as powerful.

And where it is said in some of the Decretals, That Tithes were instituted by GOD himself, or that the Payment of them is of Divine Right: In that Sense a certain Part is taken for an uncertain,

(*g*) Filiis Levi, *saith GOD*, dedi omnes decimas pro Ministerio, quo serviunt mihi in tabernaclo fœderis. *Num.* 18.

(*h*) Dominus ordinavit iis, qui Evangelium annunciant, de Evangelio vivere, 1 *Cor.* 9. Si nos vobis spiritualia seminavimus, magnum est, si nos carnalia vestra metamus? *ibid.* Qui bene præsunt Presbyteri, duplici honore digni habeantur, maxime qui laborant in verbo & doctrina —— Dignus est operarius mercede sua, 1 *Tim.* 5.

and ſo by the Tenth is underſtood ſuch a Part as is reaſonable and neceſſary: And as GOD hath inſtituted Tythes in the Old Teſtament, human Laws have, by that Example, inſtituted them in the New. So that we may make this general Concluſion, That all Eccleſiaſtical Eſtates, of what kind ſoever, are in his Power, who is the Patron, and poſſeſs'd by Virtue of human Laws.

Nor let any Man object that this undetermin'd Part is due by the Divine, Natural, and Evangelick Law. For there is a great Difference, as the Lawyers well obſerve, betwixt a thing that is due, a Debt, which may be ſatisfy'd by Payment of the Value; and that of which a Man hath the Demeaſn or Fief, as chief Lord. This laſt, ſay they, may be juſtly demanded, [*actione rei vindicationis*] nothing but the ſame individual Thing can make Satisfaction, and nothing in Lieu of it can be deem'd an Equivalent: Whereas the Creditor can only proſecute his Debt by perſonal Action, the Debtor being oblig'd to pay the Value of the Debt only, but not in this or that individual Thing, or in any particular Species.

By the Reſolution of this Queſtion, it is eaſy to determine, whether Benefices be *Jure divino*, or *Jure poſitivo*: For if real Eſtates and Tithes be of human Inſtitution, it is neceſſary that the Benefices conſiſting of theſe be held by the ſame Title. And to ſum up all, If the real Eſtates of the Church remain'd in Common for ſo many Years, and not divided into Benefices and Cures, as is already declar'd; it is then undeniable that Benefices are of human Inſtitution. But as the World is too well agreed in this, to require any farther enlarging on this Argument, I ſhall only add, that tho' theſe Conſiderations may appear too ſubtle, and too refin'd, the Sequel of this Diſcourſe will convince the Reader, they are no more than neceſſary.

QUES-

QUESION. II.

THE Deciſion of the firſt Queſtion opens the Way to the ſecond Inquiry, Who is the Owner of the Eccleſiaſtical Eſtates? By which I intend only real Eſtates, reſerving to ſpeak of the Fruits and Revenues in the fourth Queſtion (1). For if they be poſſeſs'd by Virtue of human Laws, we have only to find to whom the Laws have granted them. Some will ſay they are GOD's, and who can doubt it, *the Earth and all that is contain'd therein is the LORD's (a)*. But in this Senſe the Goods of the Church are no more GOD Almighty's, than every thing elſe in the World.

The Dominion of GOD is univerſal, but a Sovereign Prince hath another Dominion, which, according to *Seneca*, may be call'd the Dominion of Power (*b*); or according to the Lawyers the Dominion of Protection and Juriſdiction (*c*). Every private Man alſo hath his Dominion, which is that of Property, and the Subject of our preſent Inquiry.

Now it cannot be ſaid, That GOD, beſides his univerſal Dominion over all Things, hath alſo the Property of all Eccleſiaſtical Goods, in the ſame manner as a King hath an univerſal Dominion throughout his Kingdom; and yet hath a private

(1) Which is towards the end of this Treatiſe. See *Queſt.* 4.

(*a*) Ad Deum excelſum, poſſeſſorem cœli & terræ, *Gen.* 14. Domini eſt terra & plenitudo ejus, orbis terrarum, & univerſi qui habitant in eo, *Pſalm.* 23.

(*b*) Ad Reges poteſtas omnium pertinet, ad ſingulos proprietas, *Senec.* 7. *Benef. cap.* 4. Cujus eſt (*ſaith* Pliny *the younger*) quicquid eſt omnium, tantum ipſe, quantum omnes habent. *Paneg.*

(*c*) Ditionis, non proprietatis, tuitionis non deſtructionis. Omnia regitis (*ſaith one* Simmacus, *addreſſing himſelf to Princes*) ſed ſuum cuiq; ſervatis. X. *Epiſt.* 54.

Property

Propriety in the Eſtate of his own Family. For the univerſal Dominion of a Prince may be encreas'd by the Addition of his private Property; but the Dominion of GOD hath an Univerſality, Excellent and Infinite, incapable of any Addition, or of being particulariz'd, neither can it poſſibly be communicated to any Creature. Thus GOD, being LORD of all theſe Goods, no Man can aſſume to himſelf, and ſay, *I who have the ſame Tribunal, the ſame Conſiſtory, the ſame Juriſdiction with GOD, am alſo Lord*; for whatever Dominion any Man may have, in them, he is no leſs a Servant than the leaſt of Mankind.

But there are others, who treat this Matter with more Freedom, and ſay, That the Pope is the Lord and Proprietor, and prove it by the Decretal of *Clement* IV. which declareth, That the Diſpoſition of all Benefices belong intirely to him (*d*).

St. *Thomas* refutes this Opinion in ſaying, That the Pope may indeed be call'd the Principal Diſpenſer of all Benefices, but in no ſort either the Lord, Owner, or Poſſeſſor of them (*e*).

Cardinal *Cajetan* adds for an Explication of this matter, That the Pope can neither give, nor, in any other manner whatſoever, diſpoſe the Goods of the Church, than as right Reaſon ſhall direct, and without exceeding the Truſt of Diſpoſition repos'd

(*d*) Licet Eccleſiarum, Perſonatuum, dignitatum, aliorumq; beneficiorum Eccleſiaſticorum plenaria diſpoſitio ad Romanum noſcatur Pontificem pertinere, &c. *Sexti lib.* 3. *tit. de Præbendis, cap.* 2.

(*e*) Quamvis res Eccleſiæ ſint ejus, ut principalis diſpenſatoris, non tamen ſunt ejus, ut domini & poſſeſſoris. 2*da.* 2*da.* *Queſt.* 100. *art.* 1. *reſp. ad object.* 7.

in

in him (*f*). And the reaſon he gives is very clear and convincing: Theſe Goods, ſaith he, at firſt belong'd to ſome one, who hath transferr'd his Right by Will or Donation: Now, it never was in any Man's Intention to make ſuch a Preſent to the Pope (*g*): And therefore the Property can never have been paſs'd to him.

And it is for this Reaſon, that the ſame Cardinal, and Pope *Hadrian* VI. agree, That the Propriety of all Goods belong to the Church; that is, to the whole Community of the Faithful in that Place, to whom they were left: So that the Propriety of the Goods in the *Roman* Church, belongs really to the whole Body of the *Roman* People.

(*f*) Papa non eſt Dominus, ſed Diſpenſator principalis pecuniæ Eccleſiaſticæ, ac per hoc pecunia Eccleſiæ non eſt ſua abſolute, ut poſſit ad libitum de ea diſponere. *(and then he adds)* Cum poteſtas Papæ, quo ad res temporales Eccleſiæ ſit poteſtas, non Domini, ſed Diſpenſatoris, conſequens eſt, ut plenitudo poteſtatis papalis, circa bona Eccleſiæ temporalia, non exeat limites poteſtatis diſpenſativæ ---- Ac per hoc non poteſt Papa ad libitum donare res Eccleſiæ, ſed poteſt tanquam habens apicem diſpenſatricis poteſtatis, multo plus de iiſdem diſpenſare, quam quicunq; alius proximus alicujus Eccleſiæ prælatus ---- Ex eodem fundamento, quod Papa non eſt Dominus, ſed Diſpenſator, ſequitur quod de plenitudine poteſtatis non poſſit ad libitum dare bona Eccleſiæ cui voluerit; ſed tenetur diſpenſare, ut recta ratio ſuadet. *In Comment. ad* 2. 2. *Queſt.* 100. *art.* 1.

(*g*) Nec Papa, nec aliquis Prælatus, eſt Dominus rerum Eccleſiæ, Eccleſia ipſa eſt Domina; quia Donatores non donant, & transferunt jura ſua in Papam, aut Prælatum, ſed in Eccleſiam Romanam, vel talem. (It is moſt certain, that Princes would never have given ſo many Lands and Revenues to the Church, if they had foreſeen, that the Popes would have become the Maſters of them themſelves, and have turn'd the Profits of them, one Day, to the making War againſt the Donors.) Nec putes, *adds* Cajetan, propterea quod Papa habet plenitudinem poteſtatis Eccleſiaſticæ, ob hoc poſſit de bonis Eccleſiæ diſponere, ſicut poteſt Eccleſia: quoniam plenitudo poteſtatis Eccleſiaſticæ intelligitur in ſpiritualibus tantum. *Coment.* 2*dæ.* 2*dæ.* *ad art.* 8. *Queſt.* 43.

Every

Every one knows, that a Community or Society is as capable in Law of poſſeſſing an Eſtate, as any private Perſon: It is in that Senſe ſaid, that ſuch a thing belongs to ſuch a City; that is, to no particular Perſon, but to the whole People together: And it is the ordinary Stile of Wills to ſay, I leave to the School of St. *Roch* (1), to the Convent of the *Cordeliers* (2), *&c.* And of this, the ancient Uſage of the Church, and the Stile in which the Canons run, are a plain Confirmation.

It is not to be doubted, but that theſe Eſtates being to go under ſomebody's Name, are very properly aſcrib'd to him who is the Proprietor: So all the Canons, and ancient Uſage of the Church having always called that which belongs to the Churchmen, the Eſtates of the Church; ſhe is therefore the Proprietor. And this agreeth with thoſe who ſay, theſe Eſtates are Jesus Christ's; for all Chriſtian Churches, from very ancient times, have taken their Denominations not only from the Name of ſome City, but from their firſt, or moſt famous and eminent Biſhop: So the *Roman* Church is call'd St. *Peter's*, the Church of *Alexandria* St. *Mark's*, that of *Ravenna* the Church of St. *Apollinarius*. From hence the Eſtates of theſe Churches have follow'd the ſame Faſhion, and taken alſo the Name of theſe Saints; and the Eſtates particularly belonging to the *Roman* Church are call'd St. *Peter's*: Which gave occaſion to that way of ſpeaking among the ancient Writers, The Patrimony of St. *Peter*, the Lands of St. *Peter*; the Patrimony of St. *Apollinarius*, *&c.*

(1) The Fraternity of Painters in *Venice*.
(2) The Author calls them *de Fratii*, which is the Name of the great Convent of *Cordeliers* in *Venice*.

And

And becauſe Christ is the univerſal Head, and Protector of all Churches, all that belongs to the Church in general, or to any particular one, is call'd the Patrimony of Jesus Christ; which is the ſame thing as to ſay, the Patrimony of the Church whereof Christ is the Head: And in the ſame Senſe the Eſtates of the Republick of *Venice* are call'd St. *Mark's*, from a Republick which bears the Name of that Saint.

In truth all the Acquiſitions of the Church, when her Eſtates lay in Common in every Dioceſs, belong'd properly to the Univerſal Church, to whom all Donations and Legacies were made. It is certain, they could only be acquir'd by thoſe, whom the Laws made capable of taking them. The Laws of *Conſtantine* granted this Priviledge to Chriſtian Communities or Societies, that is, to all the Body of Chriſtians inhabiting in the Cities to which they were granted. The Dominion or Propriety therefore of theſe Eſtates is in theſe Communities.

But after Diviſions came to be made, and Beneſices to be inſtituted, then follow'd Legacies and Donations to particular Churches, and frequently to ſome particular uſe of Piety. So that there is no determinating who is the Owner, Proprietor, or Patron of theſe Eſtates, and where the Right lies, without ſeeing the particular Diſpoſitions of the Wills and Donors.

To end this Argument upon the fulleſt Examination, it muſt be concluded, that the Prelates, and the other Eccleſiaſticks, are the Guardians, Adminiſtrators, and Diſpoſers of the Eſtates of the Church, to purſue and execute the Intention of the Donor or Teſtator, and to no other Purpoſe whatſoever: And that the Proprietor or Patron of them is the Perſon, or Community, to whom they have been ſo given or bequeath'd.

And

And therefore all Governors of the Church ought wi h conſcientious Care to review and ponder the Conditions of theſe Endowments; for the Neglect of which, nothing but human Frailty can be pleaded. Nor ought any Man to imagine, that Preſcription or long Uſage can have any Force here, ſeeing no Man can pretend to any Benefit from Preſcription, where Integrity and good Conſcience is wanting. And how can any Claim be laid to theſe, where every Man knows, and is conſcious, that theſe Eſtates have not been bequeath'd by the Donors, to be employ'd as we frequently find them.

QUESTION III.

BUT who ſhall be the Proprietor of thoſe Eccleſiaſticks Eſtates, whoſe Inſtitution is not known? By the Natural and Civil Law, an Eſtate falls to the Community or Publick, when particular Owners fail; and by Conſequence, in this Caſe, it will fall to the Church: Which in ſhort, is no more than to ſay, That the Beneficiaries are the Diſpenſers of the Eſtates of their Benefices, that the Proprietor is he to whoſe Favour the Donation or Will is made; and if he be not known, the Right reſts in the Church.

It is no Anſwer to ſay, that there are Laws both Civil and Eccleſiaſtical, which forbid the Alienation of theſe Eſtates; for the Minor or Pupil is the true Proprietor of his Eſtate, and yet hath no Power to alienate. The Propriety or Dominion of a thing, in its largeſt Extent, is a Right of doing whatever a Man pleaſes with his own, as far as the Law allows; which lays a Reſtraint on ſome ſort of Proprietors, who need direction; of which Communities and Societies of People are one.

We

We are not to wonder, if in Queſtions of this Nature, in which the Pope is determin'd to be the abſolute Proprietor of all Benefices and Eſtates, belonging to the Church, there ſhould be ſo many modern Writers, ready to maintain Opinions ſo contrary to thoſe of Antiquity, and to the Cuſtoms and Inſtitutions, which draw their Original from the Apoſtles themſelves, and other Apoſtolical Men. For whereas St. *Cyprian* very ſenſibly complains, as of one of our human Imperfections, that intereſted Men ſet themſelves to adapt their Doctrine to the depraved Manners and Cuſtoms of the Age; when, on the contrary, theſe ought to be regulated by good Doctrine and good Laws.

To which this Obſervation may be added, That in the Courſe of ſo many Ages, there never were any Novelties introduc'd, even in Religion, which have not inſtantly found their Defenders. And therefore it is no wonder, if this happen, where new Cuſtoms and new Methods are introduc'd, contriv'd and made ſubſervient only to the Ends of acquiring Riches, and even to authorize the Purſuit of worldly Intereſts, to which human Nature is ſo addicted.

CHAP. XXII.

THE extream Diſorders and Confuſion, which the great Variety and Changes of ſo many Kings and Emperors in thoſe Times brought upon *Italy* in the Civil Government, affected no leſs the Eccleſiaſtical Affairs: The Biſhops and Abbots being ſometimes made by the Princes, ſometimes intruding themſelves by their own Authority; the other Miniſters of the Church being alſo made, either

ther by those who govern'd the Cities, or by the Bishops; and sometimes again by those, who had the Power in their Hands, or the Favour of the People, possessing themselves of the Benefices.

In the Year 963, *Otho* of *Saxony* * enter'd *Italy*, and subdu'd it by Arms, and in order to settle some Form of Government there, he assembl'd a little Council of Bishops, wherein he depos'd Pope *John* XII. tho' he was of an illustrious Family, and had great Interest and Dependencies in *Rome*: But he had been made Pope at 18 Years of Age, and had dishonour'd the Pontificate by Adulteries, Perjuries, and the rest of his Behaviour, little suitable to his Character (*a*).

Otho oblig'd the *Roman* People, and Pope *Leo* VIII. who had been put in the Place of Pope *John*, to give up to the Emperors the Pretensions to the Right of Electing the Popes (*b*), and the other Bishops in *Italy*. For 36 Years, until the Year 1001, this Prince, his Son, and his Grandson, of the same Name, preserv'd this Right in themselves: And of 12 Popes, which were within that Space, two were

(*a*) Jonannes XIII. (Platina *calls him not the* XII.) Patris Alberici potentia fretus, Pontificatum occupat, homo sane omnibus probris & turpitudine contaminatus, venationibus magis, siquid temporis a Libidinibus supererat, quam orationi deditus. *And some Lines after*, Pontificium munus humeris suis nequaqaum conveniens sibi desumit.---Otho, composito aliquantum statu Civitatis Concilium indicit, convocatis Episcopis Italiæ, quorum judicio vita sceleratissimi hominis dijudicaretur.

(*b*) Cives vero (*saith* Luitprand, *chap.* 6. *towards the end*) sanctum Imperatorem cum suis omnibus in urbem suscipiunt, fidelitatemq; promittunt, hæc addentes, & firmiter jurantes, nunquam se Papam electuros aut ordinaturos præter consensum, ac electionem Domini Imperatoris Othonis Cæsaris Augusti, filii ipsius Regis Othonis. *Vide cap.* 11.

* This was *Otho* the Grandson of the Emperor, sirnam'd the *Fowler*.

made

made by the Prince peaceably, and without Opposition, the other not without Tumults and Disorders: Which occasion'd one Pope to be carry'd Prisoner into *Germany* by *Otho* I. (2), and another by *Otho* II. (3). There was also another Pope who was strangl'd by one who aspir'd to his Dignity: Another robb'd the Treasury of St. *Peter*, and fled (*c*): Another went into voluntary Banishment (*d*). So that considering we meet with several Popes in those Days, who as *Baronius* observes, are plac'd in the Catalogue only to make up the Number (*e*), the Church had then in Effect no other Head but Jesus Christ himself.

(2) Benedict V. *elected seditiously by the Faction and Kindred of* John XII. Cum Imperator (*saith* Platina) hanc electionem nequaquam probaret & Romanos compulit pulso Benedicto, vel dedito potius Leonem suscipere ---- Otho in Germaniam rediens secum Benedictum ipsum duxit qui non multo post dolore animi apud Hamburgum moritur, ubi relegatus erat. *Vide Luitprand, cap.* 11.

(3) Benedictus VI. *or rather according to* Panvinius, *the* VIth, *seeing he who went by this Name, and was chosen by the Faction of* John XIII. *was Antepope, as having been chosen in the Lifetime of* Leo VIII. *which* Leo *had been lawfully chosen.* Benedictus VI. (*saith* Platina) a Crescentio Rom. cive præpotenti captus, in sancti Angeli arcem includitur, eodemq; in loco non multo post strangulatur.

(*c*) Bonifacius VII. (*saith* Platina *in his Life*) relinquere urbem coactus, preciossima quæque E. Basilica Petri subtrahens, Constantinopolim confugit, ubi tamdiu constitit, quo ad divenditis, quæ sacrilegio abstulerat, magnam vim pecuniarum comparasset ---- Pontifex Rom. sacrorum Pater & Rex, sacra ipsa furto abstulit; & qui vindicare sacrilegia debuerat, tanti sacrilegii factus est author.

(*d*) Joannes XVII. (*which ought to be* John XVI.) agitatus seditionibus a Crescentio Consule Romano imperium urbis sibi vindicare conante, cupiditate hominis cedens, exulatum in Hetruriam abiit. *Platina in vita.*

(*e*) Qui non sint, nisi ad consignanda tantum tempora in Catalogo Romanorum Pontificum. *Scripti ad annum* 912.

But the other Biſhops and the Abbots were made by the Emperors (*f*), without any Contradiction. And therefore upon the Death of a Biſhop, his Staff and Ring were carried to the Emperor (*g*), who gave them as the Ceremony of Inveſtiture, to the Perſon on whom he conferr'd the Benefice. And the new Biſhop being conſecrated by his Metropolitan, or by the neighbouring Biſhops, went to take Poſſeſſion: This is a Method yet obſerv'd in *France* and *Germany*. But other leſſer Benefices were diſpos'd by the Biſhops or Abbots, on whom they depended; except when the Prince nam'd one to a vacant Benefice, and then it was never diſputed: Or when he thought fit to recommend one to be provided for, when a Benefice ſhould fall, which Expectative or Reverſion was ſure to be made good by the Biſhop at the next Vacancy.

In this Method the three *Othos* govern'd the Affairs of the Church, and without any Controul from the Popes; tho' *Otho* II. had reſided a

(*f*) It was not that Elections were aboliſh'd, but only made null without Inveſtiture from the Emperor. As *Hugh de Flavigny* obſerves, ſpeaking of *Anſelm de Lucca*, and of another Biſhop.

Cum ergo, *ſaith he*, præſtolarentur diem conſecrationis ſuæ, venerunt nuncii Regis Henrici Romam, rogantes, ut contra morem Prædeceſſorum ſuorum Dominus Papa (*this was* Gregory VII.) eos conſecrare vellet, qui Epiſcopatus electionem ſolam, non autem donum per regiam acceperant inveſtituram. *In Chronico Verdunenſi, pag.* 196.

(*g*) Rex autem uti volens authoritate, & conſuetudine, & autoralibus Privelegiis Imperatorum, qui a Carolo magno per trecentos & eo amplius annos imperaverant ſub 63. Apoſtolicis, dabat licitè Epiſcopatus, & Abbatias, & per annulum & per virgam. *Sigebertus in Chronico. ann.* 4. *Vide Crantz vandal. lib.* 6. *cap.* 25. *Gronem ep.* 8. *ad Richer. ſenonenſem Wilielmum Tyrium de bello ſacro, lib.* 1. *cap.* 13. *& Goffrid. vindocinenſem. tractatu* 2. *pag.* 278.

long

long time at *Rome*, where he alſo died and was buried (*h*).

The Princes ſucceeding the *Othos* preſerv'd the Right of conferring Biſhopricks and Abbies, and even of Nomination to the other leſſer Benefices, and of granting Reverſions or Expectatives of Benefices before they were vacant: Until the Imperial Authority coming to diminiſh in *Rome*, the Church relaps'd into the former Diſorders. For tho' the People, after having reſum'd the Election of the Pope, elected three Popes very peaceably, there broke out ſome Sparks of Sedition and Tumult about the Election of *Benedict* VIII. (4), and *John* XX. (5), who were Brothers, and immediately ſucceeded one another; and after, in that Election of *Benedict* IX. their Nephew, who was choſen at 12 Years of Age, and who, among many other Enormities, made Sale of a part of the Popedom to one *Silveſter* III. and another part to *Gregory* VI. (*i*). And all theſe three fill'd their Chairs in *Rome* at the ſame time, with ſo much more Scandal and Diſorder, as this *Gregory* made uſe of Arms to maintain his Purchaſe (*k*); poſſeſſing himſelf of the Church of St. *Peter*, with a Body of Horſe and Foot, not without much Slaughter. This brought the Emperor, *Henry* the

(*h*) Romæ moritur, & in veſtibulo B. Petri (Paradiſum vocant) labro porphyretico, quod adhuc introeuntibus ad lævam apparet honorificentiſſime ſepelitur. *Platina* in the Life of *Benedict.* 7.

(4) The VII. according to *Onuphrius*.

(5) The XII. according to *Onuphrius* in *Chron. Pont. Rom.*

(*i*) Benedictus (*ſaith* Platina *in his Life*) Joanni Archipresbytero St. Joannis ad portam Latinam, qui poſtea Gregorius VI. appellatus eſt, Pontificium munus, ut quidam affirmant, vendidit. *And ſome Lines after*, Cùm annis decem per intervalla ſedem Petri occupaſſet, tandem moritur. Nec vacaſſe tum ſedes dici poteſt, cum Pontificatum vendiderit.

(*k*) Vide Othon. Friſing. ad anno. 1040. lib. 6. cap. 32.

Black, into *Italy*, who put *Benedict* to Flight, ſent *Silveſter* away, and baniſh'd *Gregory* into *Germany* (*l*), and depriv'd the *Roman* People again of the Power of Election (*m*).

After which he made three Popes ſucceſſively, all *Germans*, who, without other Ceremony, took the Pontifical Habit and Ornaments. The third of theſe, who was *Bruno*, Biſhop of *Toul*, having, by Virtue of the Emperor's Nomination taken the Habit of Pope at

(*l*) Has ob res (*ſaith* Platina *in the Life of* Gregory VI.) Henricus II. [*by the Account of the* German *Writers, it is* Henry III. *otherwiſe call'd* Henry *the black*] in Italiam cum magno exercitu veniens, habita ſynodo, cum Benedictum IX. Silveſtrum III. Gregorium VI. tanquam tria teterrima monſtra, abdicare ſe magiſtratu coegiſſet, Suideregum, Bambergenſem Epiſcopum, cui Clementi XI. appellatio fuit, Pontificem creat.

As for *Gregory* VI. *Onuphrius* reckons him a legitimate Pope, affirming he was not elected till after *Benedict* VIII. *Silveſter* III. and another nam'd *John*, whom *Benedict* had taken for his Collegue, after having driven out *Silveſter* III. had abdicated the Popedom.

Quibus, *ſaith he*, proborum hominum precibus ſacerdotium & ſuorum juri cedentibus, quartus ſuffectus eſt Joannes Gratianus, Archi-presbyter S. Joannis ante portam Latinam Gregorius VI. vocatus, qui Cluniaci Pontificatu privatus, quo ab Imp. Henrico III. relegatus fuerat, mortuus eſt. *Annot. ad vit. Gregorii* VI. *And he* [Onuphrius] *explains himſelf yet more clearly in his Chronicle of the Popes.* Cum ſponte abdicaſſet (*ſpeaking of* Benedict VIII. *called the* IXth *by* Platina) in ejus locum factus eſt Gregorius VI. Joan. Gratianus Archi-presb. S. Joannis ante portam Latinam, qui imperante Cæſare Henr. III. Aug. ſedit annum; coactus in concilio Sutrii (*a little City of the Patrimony of St.* Peter *in* Tuſcany) ab Imp. Henrico III. congregato, abdicavit anno 1046 & ad monaſterium Cluniacenſe relegatus, ibidem Paulo poſt obiit & ſepultus eſt. *and then, before he names* Clement II. *whom the Emperor made be choſen in the Room of* Gregory, *he adds theſe four Words*, Schiſma in Eccleſia Romana, *to make it be underſtood, that the Election of this* Clement *was not canonical.*

(*m*) Henricus, accepta a Clemente Imperii corona, Romanos in verba ſua jurare coëgit, Pontificum electioni ſe nequaquam interfuturos, niſi juſſu Imperatoris id facere cogerentur. *Platina in vitâ Clement.* II.

Freiſingen

Freiſingen (*6*), and continued his Journey as far as *Clugni*, *Hildebrand*, a Monk bred up in the Church of St. *Peter* at *Rome*, a Man of ſingular Addreſs, put *Bruno* upon an Artifice, to bring the Election back again to the *Roman* People. He adviſ'd *Brunon*, who had now taken upon him the Name of *Leo* IX. to habit himſelf like a Pilgrim, and enter *Rome* (*n*) ſo diſguiſ'd; by which he would render himſelf more agreeable to the People. *Leo* follow'd his Advice, and the People at his Entry proclaim'd him Pope. But this Precedent was of no more Authority, for it hinder'd not the Emperor, when *Leo* was dead, from chooſing *Geherard*, Biſhop of *Eichſtat* at *Mentz*, to be Pope, who forthwith took the Pontifical Habit, by the Name of *Victor* II (*o*). And this Emperor did not only then diſpoſe the Benefices, but made Laws againſt thoſe, who obtain'd them by Simony; pardoning paſt Faults, and impoſing Penalties for the future.

(*6*) A City of *Bavaria*, under the Archbiſhoprick of *Saltzbourg*.

(*n*) Cui Romam Pontifico habitu petenti, Abbas Cluniacenſis, & Hildebrandus Monachus, obviam facti, perſuaſere, ut depoſito Pontificali ornatu, Romam privatus ingrederetur, quod dicerent Henricum nullam creandi Pontificis poteſtatem a Deo habere; ſed ad Clerum, populumq; Romanum id pertinere. Motus his verbis Leo, depoſito Pontificio apparatu, privatus urbem ingreditur. At vero Rom. Clerus, ſuadente Hildebrando, eundem Brunonem in Pontificem eligit, eò libentius, quod omnem authoritatem eligendorum Pontificum ab Imperatore ad Clerum tranſtuliſſet. *Platina in vita.*

(*o*) Victor II. (*ſaith* Onuphrius *in his Chronicle of the Popes*) Suevus Germanus, Gebohardus, Comes Calbenſis, Epiſcop. Eiſtatenſis, Henr. III. Imperatoris Conſiliarius, & propinquus, creatus ab Hen. III. Moguntiæ, & coronatus Romæ, *ibid. April.* 1056.

CHAP. XXIII.

THO' during the Minority of the Emperor *Henry* IV. (1), Son of *Henry* the *Black*, the Popes were as yet created with the Consent of the Emperor's Tutors, and the Bishops and Abbots inveſted by him, with the Ring and Croſier-Staff; however the Popes were not wanting to take the Advantage of his Youth, and of the Diſſentions which aroſe among the Tutors: For *Nicholas* II. made a new Conſtitution for the Election of the Pope, whereby the Cardinal-Biſhops were to elect firſt; ſecondly, the other Cardinal-Prieſts; thirdly, the Clergy and the People; and in the laſt place, the

(1) *Platina* ſaith, that he had been deſign'd Emperor by *Hildebrand*, when he went to entreat *Henry* the *Black* on the Part of the Clergy and *Roman* People, that he would give them the Biſhop of *Eichſtat* for Pope. *In the Life of* Victor II.

But *Henry* IV. had no Occaſion to be choſen by *Hildebrand*, to ſucceed to the Empire, which was then Hereditary.

Cæſares (*ſaith* Goldaſtus, in repl. pro Imperio, cap. 18.) uſq; ad Henricum V. legitima ſucceſſione Imperium adibant, & Gregorius VII. (*who was this* Hildebrand) Pontificii Dominatus Auctor, Cæſarum ſucceſſionem turbare primus luſtinuit.

Tam tſi enim (*ſaith another* German *Lawyer*) poſt exſtam Cæſaris proſapiam, Imperatores eligi oportuit, id tamen nunquam contigiſſe Legitur, niſi Legitimus ſucceſſor deficeret. Et Henricus Bambergenſis (*this was the Emperor* Henry II. *formerly Count of* Bamberg) Othonis III. Sobrinus, hæreditario jure ſibi imperium deberi, contra Colonienſem contendebat. *Lampad. Reipubl. Roman. Germanicæ, parte* 3. *cap.* 4.

And beſides, how could *Hildebrand*, who was but an Envoy from the *Roman* People, make an Emperor, *Authoritate Legationis*, to uſe *Platina*'s Phraſe, ſeeing the Pope himſelf had not this Power; and that, on the contrary, the Election of the Pope depended on the Emperor's Confirmation.

Emperor

Emperor was to be apply'd to for his Concurrence(*a*). But *Alexander* II. his Succeſſor, having been choſen after this Model, the Emperor would neither confirm him, nor admit the Excuſes which the Cardinals made him, by one expreſly deputed out of their own Body: And tho' they repreſented, that all they had done, had been to avoid a terrible Civil Diſſention, and that all had been carried with the higheſt Reſpect to the Emperor, ſeeing the Perſon elected was his Friend, yet he nam'd the Biſhop of *Parma* (2) to the Popedom, at the Inſtance of *Gerard* (3) of *Parma* his Chancellor.

But three Years after, Changes happening in the Imperial Court, and the Chancellor, *Gerard*, being diſplaced, the Biſhop of *Parma* alſo was depos'd, and *Alexander* acknowledg'd for Pope (4). And a League being form'd betwixt the *Bavarians* and *Saxons* in the Year 1072 againſt the Emperor, the Pope join'd himſelf to their Party, came into the League, and the next Year cited him to *Rome*, upon

(*a*) Decernimus & ſtatuimus, ut obeunte hujus Romanæ Eccleſiæ Pontifice, in primis Cardinales Epiſcopi ſimul de electione tractantes, mox Chriſti Clericos Cardinales adhibeant: Sicq; reliquus Clerus & populus ad conſenſum novæ electionis accedat --- Eligatur autem de ipſius gremio, ſi reperitur idoneus, vel ſi de ipſa non invenitur, ex alia aſſumatur, ſalvo debito honore, & reverentia dilecti filii noſtri Henrici, qui futurus Imperator, Deo concedente, ſperatur, ſicut jam ſibi conceſſimus, & ſucceſſoribus illius, qui ab hac Apoſt. ſede perſonaliter hoc jus impetraverint. *Diſt.* 23. *C. in Nomine.*

(2) Who, according to *Onuphrius*, was of the Houſe of *Pallavicini*.

(3) *Platina* calls him *Gibert*, and ſays he was Governor of the Kingdom of *Italy*; *Onuphrius* calls him *Gibert* of *Corrigia*.

(4) *Platina* ſaith, that at the Emperor's Deſire he pardon'd the Biſhop of *Parma*, and gave the Archbiſhoprick of *Ravenna* to *Gibert* (or *Gerard*, who was afterwards created Anti-Pope, under the Name of *Clement* III. in 1080, and held the Seat until the Year 1101.

an Accuſation of Simony (*b*), for having ſold ſome Biſhopricks. This Proceeding, as it was very aſtoniſhing, made much Noiſe in the World, no Pope having hitherto made ſo bold a Step. But the Memory of it was ſoon loſt in the Death of *Alexander*, to whom ſucceeded *Hildebrand* the Monk (5), under the Name of *Gregory* VII.

The Emperor being yet young, and *Germany* all in Commotions, this Juncture invited the Pope to exclude him intirely from the Election of the Biſhops and Abbots, and to that end ſent him a Monitory; whereby the Emperor was forbid to concern himſelf any more in thoſe Diſpoſitions (6). To which the Emperor making a ſtrong Oppoſition, the Pope excommunicated him, abſolv'd his Subjects from their Oath of Allegiance (*c*), and depriv'd him of the

(*b*) Annus erat poſt mille 74. quo anno Colonienſis & Hermannus Bambergenſis Pontifices Romam miſſi ſunt, pecuniæ inde Regiæ debitæ colligendæ gratia: Qui Legatione peracta, Literas Alexandri Papæ detulerunt, regemq; vocarunt, ad ſatisfaciendum de Simoniaca hæreſi, cæteriſq; nonullis magna emendatione purgandis, ſuper quibus Romæ Rex erat delatus. *Krantz. hiſt. Saxon. pag.* 106. & *Abbas Urſperg. anno* 1072.

(5) The Author adds, of *Sienna*; but he was of *Soana*, a little Town in *Tuſcany*, under the Arbhbiſhop of *Sienna*, Gregorius VII. *ſaith* Platina, Patria Soanenſis. *And* Onuphrius *adds*, Ex Comitibus Pitiliani, & Soanæ, Monachus & prior olim Cluniacenſis. *In Chron. Rom. Pont.*

(6) *Platina* (ſaith that *Gregory*) forbid only his ſelling the Biſhopricks and Benefices, under pain of Eccleſiaſtical Cenſures. *In the Life of* Greg. VII.

(*c*) Platina *reports the Form of Excommunication of the Emperor* Henry IV. *in theſe Terms:* Beate Petre Apoſtolorum Princeps, inclina quæſo, aures tuas, & me ſervum tuum exaudi, quem & ab infantia educaſti, & uſq; ad hunc diem ab inimicorum manibus vindicaſti, qui me pro mea in te fide oderunt & perſecuti ſunt. Fateor ego, mihi tua gratia, non meis meritis Populi Chriſtiani cauſam demandatam eſſe, conceſſamq; ligandi & ſolvendi poteſtatem. Hac itaq; fiducia fretus, omnipotentis Dei nomine, Patris, Filii, & Spiritus Sancti, Henricum

the Adminiſtration of the Kingdom of *Italy* and *Germany*. He alſo made a League with the Rebels, and drew the Emperor's own Mother into it againſt her Son; excommunicating withal the Biſhops, who were his Miniſters, or in any Employments under him: And betwixt the Years 1076 and 1085, when the the Pope died in Exile at *Salernum*, he had excommunicated the Emperor four times, beſides a General Decree he publiſh'd on the ſame Occaſion, importing, That if any Clergyman ſhould accept a Biſhoprick, Abby, or any other Benefice from the Hand of a Layman, he ſhould no longer be reputed of the Order, but be excluded from entering the Church: And that all Kings, Dukes, Marquiſſes, Counts, or any other ſecular Lords or Powers whatſoever, who ſhould be ſo hardy to pretend to give Inveſtitures of Benefices, ſhould incur the ſame Cenſures (*d*).

The

ricum Regem, Henrici quondam Imperatoris filium, qui audacter nimium, & temerariè in Eccleſiam tuam manum injecit, Imperatoria, Regiaq; adminiſtratione dejicio, & Chriſtianos omnes Imperio ſubjectos juramento illo abſolvo, quo fidem veris Regibus præſtare conſueverunt. *In the ſame Life.*

It is worthy obſervation, that it is by the Force of this Excommunication, that the Popes have begun to ſhake off the Yoke of the Emperors, whoſe Vaſſals they were, and which is more, to aſſume a Right of taking away the Crown from thoſe, who always had the Power of depoſing the Popes, whenever they abus'd the Pontifical Authority.

(*d*) Authoritate omnipotentis Dei decernimus, ut qui deinceps Epiſcopatum, vel Cænobium, vel aliquid aliud Eccleſiaſticum beneficium a Laico acceperit, nullomodo in numero Epiſcoporum, Abbatum, vel Clericorum cenſeatur: Eiſdem quoq; cenſuris teneri volumus, & alligari Reges, Duces, & Principes, qui Epiſcopatus, Eccleſiaſticaſve dignitates, quod contra jus faſq; eſt, demandare alicui fuerint auſi —— Præterea vero gratiam S. Petri, & ingreſſum Eccleſiæ his interdicimus, quouſq; penituerint ſatisfeceritq;. *Ibidem.*

It

The Emperor, seconded by the greater Number of the Bishops, who follow'd his Party, maintain'd his Cause so well, by Arms, against the Pope and his Adherents, that they ran a very imminent Hazard in the Contest. But Pope *Gregory*, who had before excommunicated the *Normans* as Usurpers of the Kingdoms of *Sicily* and *Apulia*, now had Recourse to their Assistance, took off their Excommunication, and made Concessions to them in every Point, which before he had made the Ground of his Quarrel. And if (upon this Agreement, and to ballance the Emperor's Power) *Robert* (7) King of *Sicily* and *Naples*, had not, from persecuting the Pope, turn'd his Arms to his Defence, the Quarrel had ended intirely to the Emperor's Advantage (8). But the Pope, tho' at that time an Exile, with the Assistance of *Robert*, fail'd not to support his Party.

It is to be observ'd, that *Gregory*, to colour his unjust Designs to take away the Right of Investiture from Princes, rank'd it among spiritual Things: Tho' it was no more than a meer civil, and politick Ceremony, by which Princes put the Bishops and Abbots in Possession of the Fiefs and Estates, belonging to the Bishopricks and Monasteries: For to say, that because Bishops carry a Pastoral Staff, which signifies a Spiritual Juridiction over their Flocks, and wear a Ring on their Finger, as a Type of their Marriage Contract with their Church, that it therefore looks as if Princes would pretend to convey spiritual Power, which they have not: This is a sophistical Interpretation, which confounds the Temporalities of the Benefice (of which the Prince, as first Proprietor, and Representative of the People, hath the Disposal,) with the Spirituals, which cannot be communicated but by the Imposition of those Hands, who consecrate Bishops. A Consecration which would be of no Significancy, and ridiculous, if the Investiture of the Prince conferr'd spiritual Authority.

(7) Call'd *Guischard*, that is to say, *The Crafty*.

(8) *Matchiavel*, lib. 1. Hist. of *Florence* saith, That from these Quarrels betwixt Emperors and Popes, arose the Factions of *Guelps* and *Gibelins*, of which the first took part with the Pope, the other with the Emperor.

And

And the continu'd Services of three of these *Rogers*, all Princes of the Family of *Robert*, to the two Successors of *Gregory*, both Monks of the same Order, procur'd from the last of these Popes, *Urban* II. a Present of the Bull of the Monarchy of *Sicily* (9) to one of the Princes, in Recompence of all the Services perform'd by the *Normans* to the holy See: By which Bull, he granted a larger Power over Ecclesiastical Affairs, than that which he attempted with so much Pains to extort out of the Emperor's Hands.

Against whom, Pope *Gregory*, besides his repeated Excommunications, and the frequent Rebellions which he stirr'd up and fomented, prevail'd even with the Emperor's eldest Son (10), to join in Rebellion

(9) Which declar'd him born Legate of the holy See, and as such, constituted him Judge of Ecclesiastical Causes. Tho' this Grant be Apocryphal, and intirely fictitious, in the Opinion of the Learn'd, yet the King of *Spain* and his Ministers fail not to take the Advantage of it, in its utmost Rigor, even to the excommunicating Priests, Monks, Abbots, Bishops, and Cardinals themselves, who reside in the Kingdom; and to attribute to themselves the Title of Most Holy Father. In the Year 1556 the Council of State of *Sicily*, which took upon itself the Quality of the sacred College, publish'd a Book, intitl'd, *The Monarchy*, with Design to authorize the Spiritual Sovereignty. Cardinal *Baronius* hath writ against it, *Tom.* 11. of his *Annals*, but succeeded so ill, that the Vice-Roy of *Naples* and *Sicily*, and the Governor of *Milan* suppress'd this Volum, without any Regard to the Complaints made by the Cardinal, in his Letters to *Philip* III. King of *Spain*.

(10) *Conrad*, who took the Title of King of *Italy*, and made himself be crown'd at *Milan*: After which he married the Daughter of *Roger* King of *Sicily*, who gave him powerful Assistance against the Emperor his Father. So that one of our Advocates-General, of the last Age, whose Name I have forgot, had reason to say, speaking of *Gregory* VII. that under him, the *Romish* Church was truly the Church Militant.

And yet a *Jacobin* Friar of *Enghien*, was not sensible he made himself ridiculous in writing

bellion againſt his Father, who by this Means was almoſt driven out of *Italy*: And the ſucceeding Pope (11) purſuing the ſame Methods, in carrying on the War, pour'd out his Excommunications afreſh upon the Emperor, plied him with frequent Rebellions, ply'd his ſecond Son *Henry* againſt him, and perſuaded him likewiſe to take Arms. So that at length the Emperor, after great Viciſſitudes of Fortune, came to an Accomodation; but was deceiv'd in the Conditions, and in the end reduc'd to a private Life, by a Reſignation of the Empire to his Son (12).

After the Death of the Emperor *Henry* IV. *Paſchal*, the 4th Pope (13), (reckoning from *Grgeory* VII. who firſt took up the Spiritual Arms of Excommunications, to wreſt the Inveſtiture of Biſhops and Abbots out of the Emperor's Hands) held firſt a

ting an Apology for St. *Gregory* VII. in anſwer to Father *Alexander*, a Learn'd Brother of the ſame Order. After which he might well think of making another for Pope *Julius* II. who ſo nearly reſembl'd *Gregory* VII.

(11) *Victor* III. who had been Abbot of *Mount-Caſſin*.

(12) Whom he had caus'd to be crown'd King of the *Romans* at *Aix-la-Chapelle*, *Anno* 1099.

This unnatural Son, ſeeing his Father come with a powerful Army to the Dyet held at *Mentz*, in *January*, *An.* 1096, went to meet him, and caſting himſelf at his Feet, begg'd Pardon, with all the outward Marks of a ſincere Repentance. The Emperor was wrought upon with this feign'd Submiſſion, and they both went together to *Bingen*, where the Son deluded the Father, raiſing a Jealouſy in him, That the Archbiſhop of *Mentz* might keep him Priſoner, if once he enter'd that City, before he was abſolv'd from his Excommunication: That therefore it were more adviſeable for the Emperor, to ſtay ſtill at *Bingen* while his Son went to open the Dyet at *Mentz*, and try to diſpoſe the Princes of the Pope's Party to a Reconciliation. The Emperor ſwallow'd the Bait, and his Son going without him to the Dyet, got himſelf proclaim'd Emperor, at the Requeſt of the Legate, who aſſiſted there in the Pope's Name.

(13) *Gregory* VII. *Victor* III. *Urban* II. *Paſcal* II.

Council

Council at *Guaſtalla*, a little Town in the Dutchy of *Mantua*, and then another at *Troyes* in *France*, in which he renew'd the Decrees of *Gregory* VII. and *Urban* II. importing, That no Laick ſhould intermeddle with the Collation of Benefices (14).

In *France* theſe Decrees were not admitted, but the King maintain'd the former Uſage, as alſo the Emperor *Henry* V. who was his Father's ſecond Son. This Prince, in the Year 1110, marching into *Italy* with an Army, in order to receive the Crown of the Empire, and the Pope having refus'd to crown him, while thoſe Differences were depending; they were compromis'd in this Manner, That the Emperor ſhould come to *Rome* to receive the Crown, and that no mention ſhould be made of the Inveſtitures on either Side, but as an Affair, which had bred ſo much Diſturbance, be dropp'd in Silence. The Emperor came accordingly, and the Pope believing himſelf the ſtronger, would have oblig'd him, contrary to the Agreement, to have renounc'd the Inveſtitures. But the Emperor, having taken a better Eſtimate of his own Strength, had the Courage to demand a Revocation of theſe Decrees, ſaying, He would not be leſs than *Charlemaign*, *Ludovicus Pius*, or the *Debonaire*, or other his Predeceſſors, who had enjoy'd the undiſputed Poſſeſſion of the Inveſtitures *: This enflaming the Quarrel, the Emperor ſeiz'd on the Perſons of the Pope, and the greater number of Cardinals, and carry'd them

(14) *Platina* in the Life of *Urban* II. ſaith, That one *Henry* Biſhop of *Soiſſons* reſign'd his Biſhoprick into the Pope's Hands, as not believing the King of *France*, who had preſented, had a Right to nominate; and took an Oath to the Pope (who reſtor'd the Biſhop to his Biſhoprick) That he would never aſſiſt at the Conſecration of Biſhops, which ſhould be preſented by Lay Hands.

* Vide Sigebert Gemblacens, in Chronico, Anno 1111.

Priſoners

Priſoners out of *Rome*. This produc'd a Treaty again, by which the Pope conſented to crown *Henry* Emperor, and to yield to him the Collation of Benefices (*e*), and no more to excommunicate him for exerciſing that Power: All which, the Pope ſwore to obſerve. Then Celebrating Maſs, the Pope took, and gave the Sacrament upon it, dividing the Hoſt betwixt himſelf and the Emperor (*f*), pronouncing the moſt dreadful and execrable Imprecations on the Violaters of this Peace.

When the Pope return'd to *Rome*, he declar'd ſtill he would obſerve it: Nevertheleſs, his Legates took the Liberty to excommunicate the Emperor, and two Years after, in the Year 1112, theſe Imprecations had ſo loſt their Force, that he held a Council, in which he confirm'd the Decrees of the Popes *Gregory* and *Urban*, that none ſhould receive Inveſtitures from Lay Hands; and procur'd alſo the late Pacification with the Emperor to be annull'd

(*e*) In Reconciliatione autem quæ facta eſt inter Imperatorem & Papam, (nam ipſum Papam cum Epiſcopis, & Cardinalibus ceperat) die Paſchæ Henrico in Imperatorem coronato, poſt Lectum Evangelium, tradidit ei Papa ante altare Apoſtolorum Petri & Pauli, in oculis omnium Principum Privelegium de Inveſtitura Epiſcopatuum, vel Abbatiarum tam per annulum quam per virgam ſcilicet ut regni ejus Epiſcopis, & Abbatibus, libere præterviolentiam & Simoniam electis, inveſtituram Virgæ & annuli, conferat; poſt inveſtitionem verò Canonicè conſecrationem accipiant ab Epiſcopo ad quem pertinuerit. *Sigebertus in Chronico, Anno* 1111. & *Abbas Urſergenſis, eodem anno.*

(*f*) Confirmatio pacis inter Apoſtolicum & Imperatorem, dum in Celebratione Miſſæ traderet ei Corpus & Sanguinem D. N. Jeſu Chriſti: Domine Imperator hoc corpus Domini natum ex Maria Virgine, paſſum in Cruce damus tibi in Confirmationem veræ pacis inter me & te. *Sigebertus in Chronico anno cit. vide Juretum in Notis ad Ep.* 236. *Yvonis Carnt. pag.* 195.

and

and declar'd void, by that Council (15): And to leave no Doubt of its being ſo, he finally excommunicated the Emperor again, in the Year 1116.

Pope *Gelaſius* II. was immediate Succeſſor to *Paſcal*, and next after him, came *Caliſtus* II. betwixt whom and the Emperor the Conteſt ſtill laſted, and he was excommunicated ſucceſſively by them both.

Theſe three Popes not only made uſe of Excommunication, but found him Employment likewiſe in the ſeveral Rebellions, which they ſtirr'd up againſt him, and which were headed by *Lotharius* of *Saxony*, whoſe Arms had gain'd frequent Advantages againſt him. At length, the Emperor finding himſelf beſet with ſo many Difficulties, renounc'd his Claim to the Inveſtitures (*g*). Thus ended a Quarrel, which

(15) When the Emperor complain'd of the Excommunication thunder'd againſt him, ſome time after by the Council of *Lateran*, the Pope, *Paſcal*, made anſwer, That he had indeed promis'd, he, himſelf, never would excommunicate the Emperor, in Claim of the Inveſtitures, but never promis'd that he would not make him be excommunicated by a Council. To which the Emperor might have reply'd, That this Excommunication was an Act of the Pope himſelf, ſeeing he had confirm'd it with the Revocation of the Inveſtitures: For the Popes pretend, that the Acts of Council are not valid without the Papal Confirmation: So that both the Revocation and Excommunication had been void if the Pope had not confirm'd them.

(*g*) *See the Act itſelf*: Ego Henricus Dei gratia Romanorum Imperat. Auguſtus pro amore Dei, & ſanctæ Romanæ Eccleſiæ & Domini Papæ Caliſti, & pro remedio animæ meæ dimitto Deo, & ſanctis ejus Apoſtolis, Petro & Paulo, ſanctæ Eccleſiæ Catholicæ omnem inveſtituram per annulum & baculum & concedo in omnibus Eccleſiis fieri electionem & liberam conſecrationem. Poſſeſſiones & regalia B. Petri, quæ a principio hujus diſcordiæ uſq; ad hodiernam diem ſive tempore Patris mei ſive etiam meo, ablata ſunt, quæ habeo, eidem ſanctæ Rom. Eccleſiæ reſtituo: Quæ autem non habeo, ut reſtituantur, fide liter juvabo. Poſ-

ſeſſiones

which (had lasted 56 Years, under six Popes) had been the Occasion of excommunicating an infinite Number of People, Ecclesiasticks and Seculars, who had engag'd in the Emperor's Quarrel; and which had been the Destruction of Millions of People, on one Side, and the other, in 60 Battles, fought by *Henry* the Father, and in 18 by *Henry* his Son. [*Tantæ molis erat*] So great a Work it was to lay the Foundation of so vast a Structure, which we have since seen carry'd up to its Height: Of which, we shall have occasion to discourse of hereafter.

In the mean time, the Judgments were very various, which were made concerning these Differences, betwixt Pope *Pascal* and the Emperor: Some said the Agreement on the Pope's Part was void, as proceeding from Fear, and made while he and the Cardinals were under Confinement, and in the Emperor's Power (16); and that therefore the Pope had Reason to disown it. On the other side, it was answer'd, That if this were void, as having been extorted by Force, that Argument were as good for the Emperor, who was as little bound to observe all that he had agreed to on his Part, to shelter himself from these Storms of Excommunications and

sessiones etiam omnium aliarum Ecclesiarum & Principum, & aliorum tam Clericorum, quam Laicorum concilio principum, & justitia, quas habeo ut reddantur, fideliter juvabo. Et do veram pacem Calisto, sanctæ Rom. Ecclesiæ, & omnibus qui in parte ipsius sunt, vel fuerunt, & in quibus sancta Rom. Ecclesia auxilium postulaverit fideliter juvabo. *Abbas Urspergensis in Chron. an.* 1122.

(16) The Emperor had foreseen, and prevented this Objection; for after his Coronation, where the Pope had divided the Host betwixt them, in Token of a perfect Reconciliation, he procur'd a second Bull of the same Tenor with that which the Pope had granted before he was set at Liberty; to the end the Court of *Rome* should have no Pretext to protest against the Concession, or rather Confirmation of Investitures.

Anathema's, besides so many open Rebellions and private Conspiracies, which may be reckon'd as thrown into the Composition to raise the Storm: And therefore what Reason was there any more to renounce an Agreement made for Fear of Imprisonment, than one made in Terror of Excommunication and the Consequences of it, and of seeing his People in Confusion, and his Estates torn in Pieces, and overturn'd with Civil Wars.

Some Fathers of the Council in the Presence of *Pascal*, made use of this *Dilemma*, "If the Decree "by which the Pope consented to yield up the "Investitures to the Emperor, were lawful, it ought "to be observ'd: But if it be unjust, and, as some "say, heretical, the Pope, as the Author of it, "is therefore unjust and heretical also *.

It is certain, that a Concession of a Thing just and due in itself, is valid, tho' made through Fear; and on the other side, an Act is never justifiable, if against the Law of GOD, by the strongest Impression of Fear that can be pleaded (17).

* *Abass Urspergensis in Chron. anno* 1116.

(17) Because the Natural Divine Law is, of itself, good and immutable, and commands things absolutely necessary to Salvation. And for this Reason, according to St. *Thomas*, the Commandments of GOD bind absolutely, and not the Commands of the Church, which, for that Reason may, in some Cases, be dispens'd with.

CHAP. XXIV.

THE Strugglings and Contentions betwixt the Popes and Emperors, about the Inveſtitures of Biſhopricks and Abbies, were not confin'd to *Italy* and *Germany* alone, which were the Kingdoms and Dominions of the Emperor: But ſeveral Biſhops in *France* likeways, excited either by Intereſt or Example, took the ſame Occaſion to oppoſe the King *. But as they were not enough united, to enter all into the ſame League with the Pope †, the King generally carried his Point: And the Popes contented themſelves to gain that by little and little, which it had not been poſſible for them to have compaſs'd all at once.

In *England*, where the Kings had hitherto always conferr'd the Biſhopricks and Abbies, *Anſelm*, Archbiſhop of *Canterbury*, in the Year 1102, in Obedience to the Pope's Decrees, began to refuſe to conſecrate Biſhops nominated by the King (*a*). This Conteſt held for many Years, the King maintaining

* *Vide Goffrid. Vindocin. tract.* 2, 3, & 4.

† *Vide Yvon. Carnot. ep.* 60.

(*a*) Eodem anno [1113] Anſelmus Cantuarienſis Epiſcopus Concilium tenuit Londoniis in eccleſia St. Petri, præſente Rege, & ſuffraganeis Epiſcopis. In hoc concilio ---- Regi, quæ Romæ decreta erant, Concilio generali, plano ſermone deſcripſit, quod videlicet nullus Eccleſiarum Prælatus, Epiſcopus, vel Abbas, vel Clericus Inveſtituras alicujus Eccleſiaſticæ dignitatis de manu ſuſcipiat Laicorum. Et quoniam ad juſſionem Regis quoſdam Epiſcopos, qui inſtitutiones a Rege ſuſceperant, conſecrare noluit, vel eis communicare Rex vehementer iratus præcepit Gerardo Archiepiſcopo Eboracenſi, ut eos conſecraret: Sed Willielmus Giffardus Wintonienſis Electus, qui conſecrari debuit, Gerardi ſprevit conſecrationem. Quare juſſu Regis eliminatur a Regno. *Matth. Paris in Henrico. Vide Furetum in notis ad epiſt.* 190. *Yvonis*, & *Baluzium Miſcell. tom.* 4. *pag.* 477.

his

his Authority (1), and the Archbiſhop, ſupported by the Pope, oppoſing it. The King, in Hopes to bring the Pope to hear Reaſon, ſent an Ambaſſador to *Rome*, who, provok'd by the rough Anſwers and Menaces of the Pope, declar'd that his Maſter would never yield up his Authority, tho' he loſt his Kingdom in its Defence: To which the Pope, with no leſs Boldneſs, reply'd, He would never ſuffer the King to nominate to the Benefices, if he loſt his Head (*b*). The King ſtood his Ground, and *Anſelm* was forc'd to quit the Kingdom; nor could he ever return again, without complying with the King (*c*). But this Prince dying without Sons, and a Civil War enſuing, it was eaſy for the Clergy to introduce in *England*, what the Pope had done in the Empire, by the Renunciation of *Henry* V.

(1) He inſiſted, that the Inveſtitures of Biſhopricks was a Right of his Crown, and enjoy'd by his Anceſtors for time immemorial.

(*b*) Die pro Regiis conſtituo negotiis, Willielmus de Warenaſt Clericus, & Procurator Regis Anglorum cauſam ipſius in medium tulit, ac inter alia conſtanter allegavit, quod nec ipſe pro regni amiſſione inveſtituras Eccleſiarum amittere velit, & hoc verbis minacibus affirmavit. Ad hæc Papa, ſi quemadmodum dicis, Rex tuus nec pro regni amiſſione donationes Eccleſiarum amittere pateretur, ſcias præcise coram Deo dico, quia nec pro mei capitis redemptione eas illi impune permitterem obtinere. *Math. Paris anno* 1103. *Vide Will. Malmſburienſem, lib.* 1.

(*c*) Eodem anno [1109] factus eſt Conventus Epiſcoporum & Abbatum pariter & magnatum Londiniis in Palatio Regis, præſidente Archiepiſcopo Anſelmo, cui innuit Rex Henricus, & ſtatuit, ut ab eo tempore in reliquum nunquam per donationem baculi paſtoralis, vel annuli, quiſquam de Epiſcopatu, vel Abbatia per Regem, vel quamlibet Laicam manum inveſtiretur in Anglia, concedente Archiepiſcopo, ut nullus ad prælationem electus, pro homagio quod Regi faceret conſecratione ſuſcepti honoris privaretur. *Mat. Paris.*

Mezeray, ſpeaking of this Agreement, ſaith, that ſtrictly ſpeaking, it was only changing Terms, for who pays Homage is a Vaſſal, and holds of him to whom he pays it. *In the Life of* Phil. Auguſtus.

It is true indeed, that in the Year 1132, *Lotharius* of *Saxony*, who ſucceeded the Emperor *Henry* V. being ſought to by *Innocent* II. to acknowledge him for Pope, and *Anacletus* II. (2), his Competitor, refus'd it, unleſs *Innocent* would reſtore the Inveſtitures, which *Henry* the Emperor, his Predeceſſor, had renounced: And probably *Lotharius* had obtain'd them, if he had not deſiſted from his Pretenſions at the Inſtance of St. *Bernard* (*d*), his intimate Friend; who made him ſenſible how ill it would look in him, to maintain a Claim, which himſelf, at the Inſtigation of Pope *Paſcal*, had taken Arms againſt the Emperor *Henry* to overthrow, and which, at the ſame time, would be owning himſelf to have been a Rebel againſt his Prince in an ill Cauſe.

And here we find a very ordinary Conſequence of great Victories, that where the Force of an Enemy is not quite broken and exhauſted, the Remains of the vanquiſh'd Party often gather Strength, and revive their old Pretenſions (*e*), which a prudent Conqueror will try rather to defeat by Artifice and Temporizing, than to return to open Force, which might re-kindle the War (*f*).

(2) Who, according to *Onuphrius*, was created the ſame day with *Innocent* II. and held the Chair 7 Years and 9 Months. *Innocent* was choſen by 17 Cardinals, and *Anacletus* by 21, which ſeems, with ſome Reaſon, to make the Election of *Innocent* very doubtful.

(*d*) Importune Lotharius Rex inſtitit, tempus habere ſe reputans opportunum, Epiſcoporum ſibi reſtitui Inveſtituras quas ab ejuſdem prædeceſſore Imp. Henrico per maximos labores Rom. Eccleſia vendicarat. Expaveſcentibus Rom. R. potentiam, murum ſe oppoſuit Abbas ſanctus, audacter enim reſiſtens Regi, verbum malignum mira libertate redarguit, mira authoritate compeſcuit. *In his Life, by* Allen *Biſhop of* Auxerre, cap. 18.

(*e*) Relictis per quos reſurgeret bellum. *Tacit. Annal.* 3.

(*f*) Eſſe adhuc victis vires, ambiguas, ſi deliberarent, acres, ſi deſperaſſent, victoriam conſiliis, & ratione perfici. *Hiſt.* 3.

Thus

Thus it happen'd on the preſent Occaſion, the Popes could not gain ſo abſolute a Victory; in a Cauſe of ſuch vaſt Pretenſions, but that there would yet remain, here and there, ſome Benefices in the Diſpoſal of Laymen, and that there was ſtill ſome Prince, who, for Intereſt of State, would diſpoſe of Biſhopricks, without any Regatd had to the Pope's Pretenſions.

In *France* the Regale remain'd in Force, which is a Right the King hath of conferring all ſinple Benefices, or ſuch as are without Cure, that ſhall fall vacant after a Biſhop's Death, untill a Succeſſor be appointed (3).

In *Germany*, the Emperor preſerv'd a Right in many Churches *, of preſenting one of the Canonries: And ſeveral other Princes retain'd likewiſe divers particular Rights.

The Popes fearing to revive the old Quarrel, and to hazard the loſing all the Advantages they had gain'd, if they ſhould attack thoſe particular Cuſtoms, or to prejudice the Common-cauſe, by letting them run on, wiſely had Recourſe to Negotiations and Artifice. So they bethought themſelves of a middle Courſe, which was to ſet the Canoniſts, and other Pen-men, who were in their Intereſts, on writing, to prove, that Princes enjoy'd this Power by Conceſſion only from the Popes; which ſerv'd to advance an Opinion, that Princes had no Right whatſoever, but what proceeded from the Grace and Favour of the Popes, and even, to carry the Pretenſions of the holy See yet higher: Tho', whatever the Pretenſions were, they met

(3) The Regal laſted not only until the Creation of a Succeſſor, but until he had taken the Oath of Fidelity to the King, and had obtain'd Letters of Licence to take Poſſeſſion.

* Abbas Urſpergenſis, anno 1122.

with a great Diſpoſition in Princes to bear with them; who perſuaded themſelves, that the Addition of a Title from the Church, ſtrengthen'd their own; that it was a quieting and enſuring the Poſſeſſion, and putting them under Covert from the Papal Perſecutions.

But the Event ſhew'd how much they were miſtaken in the Remedy they propos'd, which prov'd a Poiſon to the Diſtemper, and deſtructive of all Quiet: For about the Year 1300, *Boniface* VIII. had ſharp Conteſts with *Philip* the *Fair*, King of *France*, to make him renounce the Regale; and the Quarrel went ſo high, that the Kingdom was brought into a very dangerous Condition, not only by its being laid under Excommunications and Interdictions (*g*), but by its being made a Preſent to the Emperor *Albert*, to incite him in his undertaking the Conqueſt of it.

Thoſe, who at firſt believ'd it would be for their Intereſt, to hold that by Conceſſion from the Papal Chair, which was, in Truth, the ſole Property of the Princes, did not conſider, by what brittle Bands all Apoſtolick Conceſſions were held; ſince no Agreement could ever be found ſtrong enough to

(4) The Author adds, That the King was depriv'd of his Kingdom; but this is eaſily underſtood, ſince *Boniface* gave it to another Prince. Yet this hinder'd not *Philip* and *Albert* from coming to an Interview as good Friends, at *Vaucouleurs* in *Champagne*, where they renew'd the ancient League betwixt the Empire and *France*, *anno* 1299. and the Year following a Marriage was ſolemniz'd betwixt *Rodolphus* Son of *Albert*, with *Blanch* the Daughter of *Philip*.

(*g*) Miſſo in Franciam Archi-Diacono Narbonenſi Philippum vetat [*Bonifacius*] quidquam de Eccleſiæ proventibus percipere, qui tametſi Eccleſiæ defenſor ſit, ſe tamen Regnumq; Franciæ per ejus contumaciam ad Rom. Eccleſiam eſſe devolutum. *Gagvin. lib. 7. de rebus geſtis Franc. Vide Paul Æmilium in Philippo pulcho, pag.* 169.

bind

bind Popes, but that they pretend to a Power of revoking, even without a Cauſe, (not that they ever want Pretexts for one) any Privileges whatſoever, granted by their Predeceſſors: Beſides, that whoever poſſeſſeth any thing in his own Right, and yet is contented to acknowledge it as held of Grace from another, may aptly be compar'd to a Man, who leaves his own Ground, to build on another Man's.

On the Contrary, when any Prince, whoſe Patience was worn out, and grown weary of the Dependance, conferr'd any great Benefice of himſelf, which the Kings of *England* and *Sicily* did very frequently, the Popes made no Words of it to the Prince, for fear of engaging too far in Conteſts; but to prevent any future Prejudice by the ill Precedent, they ſo wrought by the Monks, that the Elect ſhould renounce all his Right into the Pope's Hands (*h*), who ſhould oblige himſelf to give them the Inveſtitures; by which Expedient they arriv'd at the peaceable Enjoyment of that, which otherways would have been eternally conteſted, and have put the Elect in endleſs Difficulties.

(*b*) Hac ratione, atq; hoc ordine Pontificatus ſcandere coactus ægre quidem cum multa hæſitatione conſenſit propter contentionem illam quæ erat inter regnum & ſacerdotium cauſa Inveſtituræ, & electionum Eccleſiarum, quas evacuare ſibiq; vindicare plus æquo nitebatur Imperialis authoritas. Rurſus autem verebatur, non ſine Divinitatis nutu jam tertio ſibi auferri Epiſcopatum, eumq; ſi tertio ſibi repudiaret, poſſe in ipſum competere illam ſententiam: Nolult Benedictionem & elongabitur ab eo. Inter has igitur anguſtias poſitus, quod unum ſalutare exiſtimabat, ad ſanctæ & Apoſtolicæ ſedis auxilium confugere decrevit. In ipſo igitur articulo, cum adhuc in Aula Imperatoria eſſet, votum nuncupavit Domino, nunquam ſe in Epiſcopatu permanſurum, niſi conſentiente & poſtulante Eccleſia ſua, ipſius Pontificis Maximi manu, & conſecrari & inveſtituram conſequi mereretur. *Anonym. in vita S. Ottonis, anno* 1102.

Of this manner of proceeding, *Florence* of *Worcester*, and *Ivo* of *Chartres* *, Writers of that Age, make frequent Mention, as of a common Practice in *Germany* and *France*, where, to use their own Phrase, the Popes took with one Hand, and gave with the other. And it found the easier Admission with the Parties concern'd, because it drew them out of the present Difficulties: And when the King who had presented, came to know it, he was apt to let it pass, since it wrought no immediate Alteration, without considering what Consequence it would have in the End. The Popes also, at this Day, play the same Game against the Catholick Bishops of *Germany*, who refuse to admit their Right of Prevention or Reservations; of which, more shall be said in its proper Place †.

In *Spain*, the sedate and quiet Temper of that prudent Nation, together with the good Government of their Kings, amidst an universal Agitation round about them, preserv'd that Country in a perfect Calm: To which, the Exercise the *Saracens* gave them in those Ages, might possibly contribute, so far as to incline them to live in Union with their Kings, and to make Peace more valuable.

These Kings had never strain'd their Power over the Clergy to any extravagant Pitch, in order to bring them lower; nor had the Clergy ever enter'd into any foreign Engagements, beyond their Duty, to exempt themselves from the King's Jurisdiction. Besides that, when it was evident that the Popes had, either by Force or Terror, or by Intrigues, gain'd Advantages over other Kingdoms, these Princes studied always such Expedients, as might prevent the Effects of these Innovations as much as

* Epist. 190, 191, & 233. † See the Article 39.

possible. And therefore, tho' Bishops and other Ecclesiasticks had been constantly ordain'd here according to the ancient Usage, yet when the Changes we have mention'd came to be made in other Countries, these Princes would have no Differences with the Popes, but by a wise Temperament, contented themselves with contriving, That no Bishop should be ordain'd, without their Consent: And to secure himself of that Right, *Alphonsus* VI. sought to *Urban* II. for his Confirmation; who granted him the *Jus Patronatus* of all the Churches in his Kingdom (5).

Thus we see the Kings of *Spain* have proceeded in quite another Method than those of *Germany*, *France*, and *England*; for being contented to hold that Precarious, and as of Grace from another, which belong'd to themselves singly, they purchas'd a more peaceable Enjoyment: When others have been a long time struggling and defending themselves against any such Acknowledgement: And yet, both the one and the other acting upon very prudent Considarations.

These saw evidently, that it was the high Road to Subjection, and to lose all; seeing the Demand of the Pope was not an End of his Pretensions, but a Step to much greater. They consider'd their own Subjects, especially the Ecclesiasticks, carried by a Passion for Liberty, that might be call'd Licentiousness: And consequently, as they were always ready to enter into Engagements with Forreigners, to lessen the Authority of their Prince, such a Door ought not to be left open to invite them.

(5) *Platina* saith, That *Urban* II. gave the Pallium to the Archbishop of *Toledo*, and created him Primate of *Spain*, and excommunicated the King of *Galicia*, and all the Province, for having imprison'd the Bishop of St. *James*'s

But

But in *Spain*, tho' the Confidence which the Princes had in the peaceable Diſpoſitions of their Subjects, gave no Jealouſy of their having Recourſe to any foreign Intereſts, yet theſe Princes had a great deal to apprehend from the low State of their Affairs at that time, and from the Artifices of thoſe who had been already ſo ſucceſsful in making the Subjects of other Princes revolt, who far exceeded theſe in Power: And therefore, prudently determin'd to receive freely, what greater Princes than themſelves had been compell'd, after ſo many Wars and bitter Conteſts, to ſubmit to.

Finally, in that Space of Time, betwixt the Years 1122, wherein the Emperor *Henry* V. renounc'd the Inveſtitures, and 1145, it became a Rule almoſt every where eſtabliſh'd, that upon the Death of the Biſhop, his Succeſſor ſhould be choſen by the Chapter *, and confirm'd by the Metropolitan: That the Abbots ſhould be choſen by the Monks †, and then confirm'd by the Biſhop, if the Monaſtry were not exempted, and if it were, the Pope (1) was to be apply'd to for his Confirmation. That the other Benefices, which were *de Jure Patronatus*, ſhould be conferr'd by the Biſhops upon the Preſentation of the Patron: But that all the reſt ſhould be at the intire Diſpoſal of the Biſhops.

* See St. *Bernard*, Ep. 22. ad Clerum Senonenſem 276. ad Eugen. Papam, & 282. ad Ludovicum Regem Francorum.

† Id. Ep. 381. ad Alexandrum Priorem de Fontibus.

(1) *Matth. Paris* ſaith, That this was not practis'd in *England*, till after the Year 1257. Eodem anno ſtatutum eſt Romæ a Domino Papa, & fratribus Cardinalibus qui vigilanter ſua temporalia procurant commoda & emolumenta, aliena non curantes ut quilibet qui in Abbatem exemptum ex tunc eligeretur, Romanam Curiam adiret confirmandus & benedicendus. *In Henrico* 3.

There

There remain'd indeed the chief Election of all, the Popedom, which ſeem'd not to fall under any Regulation; for, after the Emperor had been excluded from the Election, inſtead of its returning to the People, which was a Conſequence ought to have been expected, *Innocent* II. upon a Quarrel betwixt him and the *Roman* People, in which he was driven out of *Rome*, in Return, took away the Right of Election from the People (*k*).

(*k*) Innocentio II. *ſaith* Onuphrius, qui pacem quam bellum malebat a Civitatis adminiſtratione ſubmoto, novum reipublicæ corpus, præter ejus voluntatem, conſtitutum eſt [becauſe the *Roman* People deſir'd to ſhake off the Yoke of the Prieſthood, and re-eſtabliſh the old Democratical Government] In quibus controverſiis populus Romanus, quod Pontifici rebellis eſſet, Anathemate notatus, tunc primum a Pontificiis comitiis omnino excluſus. Primus porro, ſine ullo populi interventu Papa creatus eſt, mortuo Innocentio ſecundo, Cæleſtinus ſecundus. *Annotat. ad vitam Innoc.* II.

CHAP. XXV.

During the Troubles which aroſe upon the Subject of theſe Differences, many Cities revolted againſt the Emperor, at the Inſtigation of their Biſhops, who were in Confederacy with the Pope; and having made themſelves the Heads of the Rebellion, became Maſters of the publick Revenues, and of the Rights and Royalties belonging to the Crown: And when Things came to be compos'd, they

they were ſo well fix'd (1) in thoſe Poſſeſſions, that the Prince was oblig'd to grant them the Fiefs of what they had really uſurp'd (2): By this Means they acquir'd the Titles of Dukes, Marquiſſes, and Counts, of whom we find many in *Germany* at this Day, both in Name and in Reality; tho' in *Italy*, indeed, they retain only the Name. And thus we ſee how vaſt Secular Eſtates became Eccleſiaſtick, [and grew ſacred] which receiv'd alſo a conſiderable Addition during the other Troubles and Confuſions, which happen'd under the Emperors of the Houſe of *Suabia*.

(1) *Tacitus* obſerves, that it is uſual for Uſurpers to alledge a long and unjuſt poſſeſſion for a juſt Title.

Regis Appionis agros proximus quiſq; poſſeſſor invaſerant, diutunaq; licentia & injuria quaſi jure & æquo nitebantur. *Anno* 14.

(2) It was becauſe of theſe Fiefs, that many Biſhops, both *German* and *French*, were oblig'd to go in Perſon to the Wars.

CHAP. XXVI.

THE Monks in theſe Days, by intereſting themſelves, and by their active Appearance, in favouring the Attempts of the Popes againſt the Princes (1), loſt much of the Opinion, which was had before in the World, of their Sanctity.

(1) *Mezeray* ſaith, that in Conſideration of the Services done to the holy See, in the Quarrels with the Emperors, that the Popes honoured the principal Abbots with Epiſcopal Ornaments, *viz.* A Miter, a ſort of Veſtment or Surplice, or Veſtment call'd *Dalmatica*, Gloves, Sandals, and then with the Croſier. *Life of* Phil. Auguſtus.

As,

As, indeed, all Diſcipline and ſtrict Obedience among them were ſunk ſo low, ſince they had intruded themſelves into the Affairs of State and War, that it put a Stop to the Growth of their Fortunes; except in ſome little Fraternities newly inſtituted in *Tuſcany*, who made themſelves no Parties in theſe Broils, but preſerv'd their Diſcipline (2): So that theſe ſtill ſhar'd in the Peoples Devotion, and ſtill preſerv'd the Means of acquiring it, tho' in a very moderate Degree, becauſe of the Poverty of the Country.

(2) *F. Paolò* here tacitely praiſeth the Order of *Servites*, whoſe Habit he wore: For it was about this time that this Order, and many others, were ſeated in *Tuſcany*. Origo eſt, *ſaith he, in one of his Letters to* M. Gillot, ex Florentia, in ea Civitate Mercatores quidam ſe in Collegium coegerunt anno Dom. 1230. Quo tempore ea Regio hujuſmodi partuum ferax erat. Quod in laudibus B. Virginis cantandis aſſidue occuparentur ---- a vulgo tunc ſervi B. Mariæ vocati; unde ad nos ſucceſſores nomen.

CHAP. XXVII.

BUT there was another Incident in the Times of which we have been ſpeaking, which contributed vaſtly to the Acquiſitions of the Church, and that was, The holy War. And Men were ſo tranſported with Zeal for Expeditions to the holy Land, and for Contributions towards its Recovery, that loſing all Memory of their Wives, Children or Eſtates, they enroll'd themſelves in that Service, ſold all they had, and paſs'd the Seas. The ſame Inſenſibility reach'd even the ſofter Sex, who, without any Concern for their Children or Families, on this Occaſion ſold their Inheritances to carry on that War.

The

The Popes, by Virtue of their Briefs, declar'd themſelves, and the other great Prelates, Protectors of the Families and Affairs of all thoſe, who had taken upon them the Cruſade (*a*), (the Term uſed for thoſe who went to that War againſt the Infidels); And the Churches drew to themſelves all the Profit which uſually ariſes from being Tutors, Truſtees, Procurators or Sollicitors for Widows, Pupils and Minors. Nor did the Civil Power think fit to make any Oppoſition, deterr'd by the Cenſures of the Church, which were then ſo formidable and fulminated in ſo great Abundance.

Eugenius III. went yet farther, he ordain'd that every Man might, in Favour of this holy War, alienate even the Fiefs he held; which, if the Lord could not come to take Poſſeſſion of, the Church might, even againſt the Will of the Lord:

(*a*) Eis qui Hieroſolymam proficiſcuntur, & ad Chriſtianam gentem defendendam, & tyrrannidem Infidelium debellandam efficaciter auxilium præbuerint, ſuorum peccatorum remiſſionem concedimus, & domos, & familias, & omnia bona eorum in B. Petri & Rom. Eccleſiæ protectione, ſicut à domino noſtro Papa Urbano ſtatutum fuit ſuſcipimus. Quicunq; ergo ea diſtrahere vel auferre quam diu in via illa morantur, præſumpſerint, excommunicationis ultione plectantur. *Conc. Lateran. ſub Calixto* II. *an.* 1122. *cap.* 11. See the 2d Canon of the Council of *Clermont*, and the Notes of Mr. *de Marca*. *Ives de Chartres*, *ep.* 173, & 197. *William* Archbiſhop of *Tires*, *lib.* 1. *cap.* 15. *William de Newburg*, *lib.* 3. *cap.* 23. *Roger Hoveden*, *p.* 639. *Matth. Paris an.* 1245. *Otho* of *Friſingen*, *lib.* 1. *de geſtis Friderici cap.* 35. & *epiſt.* 197. *of Innocent* III. *lib.* 15.

Obſerve what the Archbiſhop of *Tyre* ſaith, that many Gentlemen went to the holy Land only to get diſcharg'd from paying their Debts: To which the following Bull of *Gregory* IX. relates, *viz.* --- Si qui vero proficiſcentium illuc ad præſtandas uſuras juramento tenentur adſtricti, creditores eorum per Eccleſiarum Prælatos, ut remittant eis præſtitum juramentum, & ab uſurarum exactione deſiſtant, præcipimus compelli. *See Matth. Paris in Henrico* III. 1251.

Which,

Which, alone, open'd a Way to mighty Acquiſitions (1).

It likewiſe happen'd, that the Popes would employ the Arms deſign'd for the holy War, in ſome Enterprizes for enlarging the Temporalities of the Church; and their Legates, and the Biſhops of ſuch Places as were the Rendevouzes for the Troops when they were drawn together, would employ them likewiſe in ſome Service, for the Encreaſe of their Temporalities.

To this may be added the large Sums which were drawn from devote People, chiefly from the Women, and others incapable of ſerving, themſelves, in Perſon; either to free them from the Obligation of ſome Vow, or to obtain Indulgences and other ſpiritual Graces: All which, no Body imagines, were laid out in the War; for beſides that, there is no doubt, the Princes got ſome Share, a conſiderable Part was ſtill reſerv'd in the Hands of the Prelates, and ſo became an Encreaſe to the Church.

Then follow'd the Inſtitution of the Religious-Military Orders of the Knights, Templars (*a*), Hoſpi-

(1) The Cruſades, ſaith *Mezeray*, render'd the Popes very powerful, for they order'd Princes to enrol themſelves in thoſe Expeditions; they retain'd the Soveraign Commands of theſe Armies by their Legates, and they became, in ſome ſort, Lords in Chief of all thoſe who went to the Cruſade; not only becauſe the Popes exacted Obedience from them, but becauſe they took the other under their Protection till their Return, which was like Letters of State, and ſuſpended all civil and criminal Proceedings. Mezeray *in the Life of* Phil. Auguſtus.

(*a*) Templariorum militum ordo inſtitutus anno 1118. Hieroſolymis ab Hugone de Pagonis & Gaufrido de Aldemaro: Horumq; fuit primitus profeſſio, ut vias & itinera maxime ad ſalutem peregrionorum contra Latronum & incurſantium inſidias pro viribus conſervarent. Cum autem 9 annis poſt eorum inſtitutionem in habitu fuiſſent ſeculari,

Hoſpitalers, *&c.* to guard the Temple of *Jeruſalem* (*b*), protect the Pilgrims who reſorted thither, and to fight againſt the *Saracens*. And tho' Religious Inſtitutions toſhed Blood, ſeem'd ſomething new, and not eaſily to be reconcil'd, yet they were embraced with ſuch a Fervour, that the Orders grew to immenſe Riches in a very ſmall time, and conſequently, all together, were vaſt Articles of Encreaſe in the whole.

ſeculari, in concilio Trecenſi data fuit eis regula & habitus aſſignatus fuit, albus viz. de mandato Honorii Papæ, & Hieroſolymitani Patriarchæ. Poſt modum vero ſub Eugenio Papa cruces de panno rubeo, ut inter cæteras eſſent notabiliores, aſſuere cœperunt, tam equites, quam eorum fratres inferiores, qui dicuntur ſervientes. Atq; hi quoniam juxta templum Domini in Palatio Regio manſionem habebant, fratres militiæ templi ſeu Templarii appellati ſunt. *Cangius in Gloſſar. ex Willielmo Tyrio, lib.* 12. *cap.* 7.

(*b*) Terra illa promiſſionis, lacte & melle fluens, non ſolum religioſos clericos, ſed etiam laicos tam milites quam alterius conditionis, ut in ea relictis parentibus & propriis patrimoniis regulariter viverent, incitavit attraxit & illexit, quorum quidam hoſpitalarii, ſive fratres hoſpitalis S. Joannis, alii fratres militiæ templi, alii fratres hoſpitalis Sanctæ Mariæ Teutonicorum in Hieruſalem nuncupantur. *Jacob. de Vitriaco, cap.* 64. *Hiſt. Hieroſol.*

But in the Year 1313, the Order of Templars being aboliſhed, their Goods were given to the Hoſpitalers: Which is related at large by the Continuer of the Abbot *Urſpergenſis, pag.* 28.

CHAP.

CHAP. XXVIII.

ANother conſiderable means of Encreaſe, was a ſtrict Review made concerning the Buſineſs of Tythes, proceeding by Cenſures againſt thoſe who did not pay them, and compelling the Payment, not only of the Predial Tythes, but of mixt Tythes alſo; that is to ſay, beſides thoſe of the Fruits of the Earth and of Cattle, Perſonal Tythes, which proceed from human Induſtry and Labour.

To this Enforcement of the Payment of Tythes, they added alſo the Firſt-fruits: Theſe were firſt inſtituted by *Alexander* II. in Imitation of the Moſaick Law, which enjoin'd them to the *Jews*; but *Moſes* had not determin'd the *quantum*, but left it at large, to the Pleaſure of thoſe who offer'd them. Since that, the *Rabbins*, as St. *Jerom* informs us, have determin'd, that theſe Oblations ſhould not be under a 60th Part, nor above a 40th; which is a Rule our Churchmen have follow'd in the moſt gainful Way, adjudging that to be the 40th Part only, which, in our Days, is call'd the Fourth.

About the Year 1170, *Alexander* III. order'd Proceedings by Cenſures, to enforce the intire Payment of Tythes of Mills, Fiſheries, Hay, Wool (1), and Bees (2): And that the Tythes of every Thing ſhould be paid, before the Charges in gathering the

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(1) Mandamus quatenus Parœcianos veſtros monere curetis, & ſi opus fuerit ſub excomunicationis diſtrictione compellere, ut de potentibus molendinarum, piſcariarum, feno & lana decimas Eccleſiis quibus debentur cum integritate perſolvant. *Decret.* 3. *tit. de decmis, &c. cap.* 5.

(2) Mandamus quatenus parœcianos tuos de apibus, & de omni fructu decimas perſolvere eccleſiaſtica diſtrictione cempellas. *Ibid. cap.* 6.

Fruits (3) ſhould be deducted. And in the 1195, *Celeſtin* III. decreed, under Pain of Excommunications, the Payment of Tythes, not only of Wine, Grains, Fruits, Trees, Cattle, Gardens, Merchandiſes, Soldiers Pay, Hunting (4) and Wind-mills (5); All which are expreſs'd in the Decretals of the Popes: But the Canoniſts have gone much farther, affirming, that the Poor who beg about the Streets, are oblig'd to pay the 10th of all the Alms they get, and Common-Women likewiſe a Part of their infamous Gain: With ſome other laudable Fruits of the ſame Nature, but which have never yet obtain'd to be put in Practice.

Tythes were aſſign'd to the Miniſters, in Conſideration of their Services they perform'd, in teaching the Word of GOD, and adminiſtring the Sacraments; ſince nothing elſe was paid them for theſe Functions: Except where ſome devout and rich People would give ſometimes out of meer Bounty, for the burial of their Relations, or for

(3) Cum homines de Hortona de frugibus decimam eccleſiæ cujus parochiani ſunt ſine diminutione ſolvere teneantur, & antequam id faciant, mercenariis ſuis de frugibus, non decimatis debita totius anni, pro ſervitio ſuo impendant, tunc demum de reſiduo decimam perſolventes: Mandamus quatenus eos cogatis ut decimam ſtatim fructibus collectis perſolvant. *Ibid. cap.* 7.

(4) Revera ſicut ſancti Patres in ſuis tradiderunt ſcripturis, de vino, grano, fructibus arborum, pecoribus hortis, negotiatione, de ipſa etiam militia de venatione decimæ ſunt, miniſtris Eccleſiæ tribuendæ, ita ut qui de his eas ſolvere neglexerint, eccleſiaſtica, diſtrictione debeant percelli. Volumus ergo & diſtricte præcipimus quatenus decimas Eccleſiis cum integritate debita perſolvatis. *Ibid. cap.* 12.

(5) Quia fidelis homo de omnibus quæ licitè poteſt acquirere decimas erogare tenetur: Mandamus quatenus H. militem ad ſolutionem decimarum de his quæ de molendino ad ventum proveniunt ſine diminutione aliqua compellatis. *Ib. cap.* 23.

Adminiſ-

Adminiſtration of the Sacraments; which Generoſity, in time, turning into a Debt, and a Sum certain, created a Diſpute; the Laicks refuſing to pay for the Adminiſtrations of the Sacraments, becauſe the Tythes they paid were deſign'd for that Purpoſe, and the Miniſters refuſing to perform their Functions, if they had not what they pretended was their Due.

About the Year 1200, *Innocent* III. apply'd a Remedy to this Evil, firſt by forbidding the Prieſts to make any Bargain for performing their Miniſtry, or to refuſe officiating to thoſe who refus'd to pay: And then by providing, that after they had ſo officiated, the Laicks ſhould be compell'd, by Cenſures, to keep up the laudable Cuſtom (for ſo it is term'd) of paying what was cuſtomary (6): In which great Difference was made betwixt forcing the People to comply with a Bargain, and a Compulſion by Cenſures after: The one being condem-

(6) Quidam laici laudabilem conſuetudinem erga ſanctam Eccleſiam introductam nituntur infringere. Qua propter pravas exactiones fieri prohibemus, & pias conſuetudines præcipimus obſervari: Statuentes ut libere conferantur, eccleſiaſtica ſacramenta, ſed per Epiſcopum loci, veritate cognita compeſcantur qui malitiose nituntur laudabilem conſuetudinem immutare. *Decret. lib.* 5. *tit. de Simonia. cap. ad Apoſtolicam.*

This Conſtitution having been quoted in the Council of *Trent*, *John Maria del Mente*, firſt Legate, ſaid, It was doing great Injury to the Pope and the Council of *Lateran*, to believe ſo great an Abuſe was authoriz'd by them: And that who would read the Chapters preceding this, would find that the Council had condemn'd this Cuſtom: And that in the ſame Chapter he did not approve the Uſage of Gifts or Offerings at the Adminiſtration of the Sacraments, but only certain laudable Practices eſtabliſh'd in Favour of the Churches, as Tithes, Firſt-fruits, Offerings at the Altar, &c. As *Bartholus* and *Giles de Roma* have interpreted it. *Fra. Paolo, lib.* 2. *Hiſt. Counc. of* Trent.

ned as Simonical, the other being justify'd as lawful (7).

(7) If therefore those who serve at the Altar, after the Offices perform'd, have a Right to exact a Salary, and can employ spiritual Arms against those who refuse it: By the same Rule, when the People have paid the Temporalities which they ow'd the Church, they may maintain themselves by Force, in the Possession of the Spiritualities, which it has endeavour'd to deprive them of; and say with the Maccabees, *Nos pugnabimus pro animabus nostris, & legibus nostris.* 1 Maccab. 3.

CHAP. XXIX.

ANother Novelty, contributing greatly to their Wealth, was introduced at this Time. It had been prohibited by the ancient Canons, to accept any Donations or Legacies from divers Kinds of publick Sinners, such as sacrilegious Persons, Curtezans, and those who were at Variance with their own Brothers (*a*). But all these Difficulties were intirely remov'd, and all Gifts, from what Hand soever they came, were indifferently receiv'd.

(*a*) Oblationes dissidentium fratrum neq; in sacrario neq; in gazophilacio recipiantur similiter dona eorum qui pauperes opprimunt, a sacerdotibus refutanda sunt. *Canon* 93. *Concilii Carthag.* 4. *apud Gratian dist.* 90. *Can.* 2.

The Reason why these sort of Offerings were not receiv'd, was, accordidg to *Salmasius*, Quia ex Canone 37. Codicis Ecclesiæ Africanæ liquet primitias in Altari offerri solitas & suam habuisse propriam benedictionem. Non igitur pium aut sanctum visum est Patribus antiquis, Deo rite consecrari, & benedici quas a Peccatoribus offerrentur. Hinc Canon. 28. Concilii Illiberitam: Episcopum placuit ab eo, qui non communicat, munus accipere non debere. *Vide Mendozum in hunc locum.*

And

And it is even evident in Practice, that the greatest Part of Legacies and Donations bestow'd on the Church, are owing to the Bounty of infamous and Publick-Women (1), or of People who are gratifying that way their own particular Quarrels with their Relations.

The Popes set all their Wits on work to facilitate and encourage these Acquisitions, as well as to preserve the Power of disposing them, as we have shew'd, which had with so much Toil and Blood been wrested out of the Princes Hands, and transferr'd into the Clergy's. To this the whole Ecclesiastical Order, induc'd by their own Interest, not only consented, but concurr'd with their utmost Assistance in their Preachings and Writings, continually inculcating that the intermeddling at all in the Distribution of Benefices, and particularly in the Election of the Pope, had been the Effect of Tyranny in Princes, and Usurpation in the People. And in our Days *Baronius*, throughout all his Annals, upon all Occasions, and with great Earnestness maintains, That for Princes to Interest themselves in the Election of Bishops, and especially of Popes, is an impious and tyrannical Usurpation. Not considering, that the best Popes have all along been those whom the Princes have made; and every time that the Ecclesiasticks have had the Elections to themselves, without any Lay Mixture, infinite Disorders have ensued.

But that which is most observable is, that the Popes of the holiest Lives, and Emperors whose Memories will be eternal, have recomended this Practice, and judged it necessary. Neither can it

(1) A *Venetian* Priest told me once pleasantly, That the Whores left their Estates to the Church, that they might be allow'd to be Christians.

now conſequently be cenſur'd, without caſting Reflections on the Memories of 24 Popes of the beſt Livers, and among others of St. *Greory*, and without condemning the ancient Doctrines of the Councils and the Fathers.

CHAP. XXX.

IF the Churchmen had at firſt diſcern'd the Conſequence of attempting to take away the Inveſtitures from Princes, they would ſcarce have been drawn into ſuch an Innovation: But they thought to have found their own Intereſt in it, and a Means of being more Independent. Thus the firſt Uſage came to be renew'd, of beſtowing all the Benefices within their proper Dioceſſes, by Election of the Chapter and Collation of the Biſhop. The Pope likewiſe kept to this Rule, without pretending to any Donations out of the Dioceſs of *Rome*; except in Caſe only where a Prelate, whom Devotion or Buſineſs had carry'd to *Rome*, and happen'd to die there (1); and that ſome Perſon of very eminent Merit, of the ſame Nation, were found in his Company or Retinue: Him the Pope immediately would name in Place of the Deceas'd, and ſend him back with Letters of Condolance to the Dioceſs or Monaſtery, on their Loſs, and Conſolation on the Perſon he had ſent to ſucceed. This found the eaſier Compliance in the Chapter or the Monaſtry, as it happen'd but very rarely, and as it paſs'd rather as a Favour from the Pope: Beſides that, there appear'd

(1) Theſe Benefices were call'd *Vacantes in Curiâ*. See Article 35. of this Treatiſe, and Chap. 2. *de prebendis in Sexto*.

pear'd no Room for Exception againſt a Man of Merit, and of the ſame Country.

But if the Pope had not fill'd up the Vacancy before the News of it came to the Place, they waited no longer, but forthwith proceeded to Election according to Cuſtom: And in no other Caſe did the Pope diſpoſe of any Benefices out of his Dioceſs.

In the mean time, as the See of *Rome* had merited ſo highly of the whole Clerical Order, in having with ſo many Labours, Dangers, and the Effuſion of ſo much Blood, purchas'd the ſole Diſpoſition of Benefices, to the total Excluſion of Prince and People, both which had, in their Turns, been in Poſſeſſion of that Right; the People firſt, when Benefices firſt began, and the Princes for a long time after; ſo the Biſhops held the Pope's Friendſhip in the Eſteem it deſerv'd, and ſought to make him all the Returns in their Power: And this encourag'd the Popes to deal with the Biſhops after the Example of the Emperors, and to recommend a Clergyman now and then to be provided with a ſuitable Benefice.

At firſt theſe ſorts of Requeſts gave great Alarms to Princes, who plainly ſaw, by this means, a Gate open'd to introduce Strangers into the Benefices of their Dominions: Yet they met with all the Compliance that could be expected from the Biſhops, who being big with nothing ſo much as the Deſign of excluding the Princes, were not aware, that in depriving them, any other Power could ſtep in betwixt themſelves and the Collation of the Benefices. And yet the Profits which the Court of *Rome* drew from theſe ſort of Recommendations, in the Preſents which were made to obtain them, and from the Bulls which were made on theſe Occaſions, ſo multiply'd theſe Prayers and Recommendations, and brought them on ſo thick, that the Biſhops became

depriv'd almoſt of all their Collations (2), which oblig'd them, ſometimes, to refuſe their Compliance.

But the Popes found a Remedy for this too, by adding Commands to their Requeſts, which indeed enforc'd Obedience at firſt, but becoming alſo too frequent, the Biſhops, at laſt, loſt all Patience, and without having any Regard to Commands, or the Cenſures contain'd in them, or without obſerving any farther Meaſures, beſtow'd the Benefices as they thought moſt agreable for their own, and their Church's Intereſt: And then the Pope found it requiſite to appear contented, and to pardon them for that time, as for a thing already done, for which there was now no Remedy.

But the Channel which this Corruption had found, would eaſily have been ſtopp'd, if this Court had not thought of a farther Expedient ſtill, which was, to accompany theſe Prayers and theſe Commands with ſome Perſon who was ſent to ſee them put in Execution, and to confer the Benefice, if the Biſhop did not, as well as to puniſh him for his Diſobedience. Yet the Popes came but ſlowly to theſe Extremities, and when the Contumacy of the Biſhop made it neceſſary. But in the End, to ſhorten the Proceeding, they expedited the Prayer, the Command, and the Execution of them, all at once.

(2) They deſerv'd it well for having abandon'd the Intereſt of their Princes, and eſpous'd a foreign Power: The Popes had humbled the Emperors before, in taking from them the Right of Inveſtitures, and it was but reaſonable that the Biſhops, who had join'd with the Popes in it, ſhould have their Turn in being mortify'd.

This

This gave the Church and the Biſhops an unſpeakeable Vexation (3); and the Princes and Nations where theſe things were acted, complain'd loudly, not only that their Rights were taken away, but that the Benefices, which by long Preſcription had been given only to Natives of the Country, by this Means fell all into the Hands of Strangers (*a*), who reſided at the Court of *Rome*. Which had often this Conſequence, that Biſhops and Pariſh-Prieſts were made, who underſtood not the Language of their Auditors, and which they were very unapt to learn, being ſo different from their own; many *Italians*, for inſtance, being benefic'd in *England*.

At length the Evil grew ſo notorious, that the Pope was oblig'd to take Notice of it, and to forbid

(3) They complain'd (ſaith *Mezeray* in the Life of *Phil. Auguſtus*) that the Popes depriv'd them of a great part of their Authority, which belong'd to them as Succeſſors to the Apoſtles, by taking to their own Tribunal the Knowledge of all Cauſes, leaving almoſt nothing to the firſt Cognizance of the Biſhops; by granting Diſpenſations of the holy Canons, as if all Eccleſiaſtical Diſcipline depended meerly on their abſolute Pleaſure: By granting Exemptions to Inferiors, thereby to draw them from the Obedience to their Superiors; and by their engroſſing to themſelves the greateſt part of the Benefices.

(*a*) Beneficiorum Eccleſiaſticorum peculia manus ocupant indignorum, & nonnunquam exterorum & plerumq; dignitates & beneficia notabiliora perſonis conferuntur incognitis & non probatis, quæ in iiſdem beneficiis non reſident ſicq; vultus ſibi commiſſi gregis non agnoſcunt, linguam aliquando non intelligunt: Quinnimo animarum cura neglecta velut mercenarii ſolumodo temporalia lucra quærunt. *Præmii Pragmaticæ ſanct. pag.* 34.

Panormus, *tho' an* Italian, *complains thus of the Abuſe*, Effet, *ſaith he*, valde honeſtum & fructuoſum, ut quiſq; in patria ſua beneficiaretur, ut ſic unus non occuparetu beneficia vel ſtipendia alterius, nec daretur materia depauperandi beneficia, & quia inducuntur facilius ad reſidentiam tales indigenæ quam Extranei. *Chapt. ad Decorem, de Inſtitution.*

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any one to poſſeſs a Benefice, and eſpecially a Pariſh-Prieſt, who underſtood not the Language of the Country: But then reſerving to themſelves that Invaluable Power of Diſpenſation, their Prohibitions had no other Effect, than inſtead of curing theſe Diſorders, to raiſe the Prices of committing them, to the manifeſt Profit of the Court of *Rome*, which was always ready to grant Expectatives or Reverſions to Forreigners and Strangers, and after that a Brief of Diſpenſation.

But whatever Scandal this Exorbitancy of Power in the Court gave to good Men, it was, however, very agreeable to many of the Clergy, and others, Suiters and Candidates for Benefices, who lay fetter'd under ſome Canonical Impediments, which made them incapable. No Biſhop durſt prefer Men under theſe ſort of Marks, with-held by a juſt Reſpect for the Canons: But what was too ſcandalous for Biſhops, the Pope took upon him without any Scruple, by Virtue of that diſpenſing Power, which could admit of no Stain, which he apply'd to the diſſolving all the Canons and Eccleſiaſtical Conſtitutions by a certain Formula, *De Plenitudine Poteſtatis*, and the Clauſe *Non obſtantibus*; Phraſes unknown and unheard of in ſo many foregoing Ages, but which are now the Stile of every beneficiary Bull. Nay, on the Contrary, Popes in the beſt Times, and in the ſtricter Ages of Piety, valu'd themſelves on a ſtricter Obſervation of the Canons, which related to the Diſtribution of Benefices in the Dioceſs of *Rome*, than any other Biſhop's. And we find St. *Leo* and his Succeſſors placed one of their chiefeſt Glories in the punctual Execution of the Canons, firſt as to their own Parts, and then in exacting it from others. Nor let it be anſwer'd, that theſe had leſs Authority; ſure we are, they had a larger Share of Vertue and Wiſdom, which made them Cowards in

in every Action that was not allowable to others: Whereas, ſince thoſe Days, every thing ſeems privileg'd at *Rome*, which no Body dar'd to do any where elſe.

St. *Bernard*, who liv'd about the Time when theſe Novelties were introduc'd, tho' they had not then prevail'd ſo far as they have done ſince, reproves them ſharply: Writing to *Eugene* III. he laments that *Rome* was the common Rendevouze for the Ambitious Man, the Covetous, the Sacrilegious, the Adulterer, and the Inceſtuous, who all reſorted thither in Purſuit of Benefices (*b*), and where they met with a Reception, they could have no where elſe; no place, but *Rome* alone, putting a Sanction upon Things illicite and illegal, and which had always been ſo reputed, giving them a Paſſport through the World.

The Popes themſelves could not deny the Grievance, which the granting Expectatives was to the Churches: *Gregory* IX. *Cap. Mandatum de Reſcript.* openly avows it, and on this Occaſion therefore, he qualify'd theſe Expectatives, by inſerting this Clauſe, *viz. If we have not already writ for another* (*c*)

(*b*) Nec mihi opponas nunc Apoſtoli vocem qua ait, cum eſſem liber, ex omnibus omnium ſervum me feci: Longe eſt iſtud a te, nunquid hac ille ſervitute hominibus inſerviebat in acquiſitione turpis queſtus? Nunquid ad eum de toto orbe confluebant ambitioſi, avari, ſimoniaci, ſacrilegi, concubinarii, inceſtuoſi, & quæq; iſtiuſmodi monſtra hominum, ut ipſius Apoſtolica authoritate vel obtinerent honores Eccleſiaſticos vel retinerent? Ergo ſervum te fecit homo, cui vivere Chriſtus erat & mori lucrum, ut plures lucri faceret Chriſto, non ut lucra augeret avaritiæ. *Cap.* 4. *lib.* 1. *Conſider. a Eugenium.*

(*c*) Mandatum Apoſtolicum ad te directum ut magiſtrum S. faceres in Canonicum recipi, & in fratrem Novienſ. Eccleſiæ; ſi pro alio ibidem non ſcripſimus, qui hujuſmodi gratiam proſequatur, alio jam beneficium per noſtras literas obtinente, proſequi non teneris, nam ſuper receptione duorum, gravandi Eccleſiam non fuit intentio mandatoris. *Decret. lib.* 1. *tit.* 3.

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which was a way of fixing a Cuſtome as a Right, that every Pope might grant one Expectative in every Church, and no more.

And ſince that, they have brought it into a Cuſtom alſo, at their Entrance into the Popedom, to revoke the Expectatives granted by their Predeceſſors, either to make Room for their own, or to oblige thoſe who had them before, to purchaſe them over again. And ſometimes alſo they revok'd thoſe which themſelves had granted, to oblige the Grantees to the Expence of new Bulls to confirm their Title.

As for elective Benefices, ſuch as Biſhopricks and Abbies, there they granted no Expectatives in thoſe Caſes, there being no Examples or Precedents of Princes having ever granted any. But the Court of *Rome* found out other Expedients to draw to themſelves the Collations of theſe Prelatures, in preſcribing many Conditions which were to be obſerv'd before Election, and others during the Election itſelf; beſides divers Qualifications requir'd in the Perſon elected himſelf *: And if the Electors fail'd in any of theſe Conditions, they were for that Time depriv'd of the Right of Election, and ſo it lapſed to the See of *Rome*.

And then as Difficulties would often ariſe concerning the Validity of Elections, from the Variety of Intereſts in the Electors, or from other Cauſes, one of the Parties would appeal to *Rome*, and ſo Occaſion would very often be taken to judge them both in the wrong: The Election being thus vacated, was another Means of making the Collation

* Vide *Cap.* 25. ex de electione & electi Poteſtate.

of

of the Biſhoprick or Abby, lapſe alſo to this Court (*d*).

Laſtly, when the Pope underſtood there was a good Biſhoprick or Abby vacant, he immediately diſpatch'd an Injunction not to proceed to Election without his Knowledge; and ſo under the ſpecious Care of preventing or remedying any Diſorders that might happen, he ſent ſome Man of Addreſs to aſſiſt and preſide at the Election, who, by divers Arts and Cabals, procur'd it to fall upon him, whom the Court of *Rome* thought moſt in their Intereſts.

(*d*) Vix enim remanſit aliquis Epiſcopatus, ſive dignitas Eccleſiaſtica, vel etiam Parochialis Eccleſia quæ non fieret litigioſa & Romam deduceretur ipſa cauſa. Sed non manu & vacua lætare ſuper iniquitatem filiorum hominum, quoniam in recompenſationem tantorum malorum datur, tibi pretium. *Abbas Urſpergenſis in Philippo.*

The new Law or Doctrine (ſaith *Mezeray*, in the Life of *Philip Auguſtus*) having perverted all the ancient Canons, and reduced all Elections to the Tricks and Subtleties of the Law, as there often happen'd Conteſts, what with Intrigues among the Electors, and Difficulties ſtarted upon the Judgement of the Metropolitan, one of the two Parties never fail'd to appeal to *Rome*; which was an inextricable Labyrinth of Proceedings: And for want of ſome Form in the Election, the Pope declar'd it null, and reſerv'd to himſelf the Right of providing for the Biſhoprick.

CHAP.

CHAP. XXXI.

THUS by the foregoing Accounts it appears, that few Elections to Biſhopricks or Abbies were made, which fell not under Conſideration at *Rome*, ſo that the Pope came to intermeddle, almoſt in all Elections, after they were over, under the Mask of an honeſt Concern for the Publick Intereſt, and in that the Electors oftentimes fail'd in ſome Points of their Duty; it ſeem'd a favourable Opportunity to afford his Aſſiſtance in Elections, even before-hand; commanding, when he ſaw Cauſe, either that the Electors ſhould not go to Election till they had his Leave, or not to elect without the Concurrence of ſome Perſons ſent by him, to attend it; ſo that by diverſe Contrivances they ſtill aſſum'd ſome Share in the Elections.

And yet theſe Methods which were differently put in Practice, according to the Exigency of the Caſe, had not the Force of a Law, but rather of Cuſtom and Decency, until the Year 1227, when *Gregory* IX. following the Examples of *Theodoſius* and *Juſtinian*; the former having form'd the Conſtitution of the Empire, by collecting his own Ordinances, and thoſe of his Predeceſſors into one Volum, which was afterwards call'd the *Theodoſian* Code; the latter having accommodated likewiſe the ancient Laws to the Uſage of his Times, and reduced into one Body the Decrees of his Predeceſſors, under the Name of the *Juſtinian* Code; after their manner form'd a Policy or Conſtitution of his own, collecting into one Body all the Deciſions, and all the Cauſes which ſerv'd to advance the Papal Power; and extending that to general Uſage, which had been ſettled in one particular Place, and perhaps in one Caſe only, and aboliſhing and deſtroying all the reſt, which made againſt it. This

This Book was call'd, *The Decretals of* Gregory IX. (*a*), who thereby laid the deepeſt Foundation of the Papal Monarchy, eſpecially in what concerns Benefices: But it muſt be allow'd, that this Book is much more edifying in the skilful managing of a Law-ſuit, than in the Salvation of Souls.

Gratian, as well as the other old Collectors of the Canons, made a Collection of all he thought might moſt contribute to the aggrandizing the Papal Authority, even to the changing, vitiating, and even falſifying the Places from whence he drew the Deciſions (1): By which Means he thought he had done his utmoſt to wind up this Power to the higheſt Pitch it could poſſibly bear: And according to the State of thoſe Times, he was not miſtaken; but a Change of Circumſtances in Affairs, made this Compilation no longer ſeaſonable: And ſo to this Decree or *Decretum* (2) of *Gratian*, which was

(*a*) It was compil'd by his Penitentiary *Raymond de Penaſort*, a Dominican, whence it came to be call'd alſo, *The Compilation of* Raymond: It is alſo call'd *Extra*, becauſe it is ſeparated from the Decree compil'd by *Gratian*; and alſo, the *Pentateugh*, becauſe it contains five Books, diſtinguiſh'd in this Diſtick, *Index, Judicium, Clerus, Sponſalia, Crimen.*

Hæc tibi deſignant, quid quæq; volumina ſignant.

It began to be in uſe in the Year 1231. *Gregory* IX. was Nephew to *Innocent* III. and both of the noble Houſe of *Conti*, at this Day one of the four, who have the Title of *Roman* Barons.

(1) A *French* Lawyer ſaith, that the Decretum and the Decretals *ſunt Compilationes ac Farragines tum bonarum tum pravarum rerum incondite & imperitè coercervatæ.* Gentillet. ex Concil. Trid. lib. 5.

(2) Which was approv'd and publiſh'd by Pope *Eugene* III. in 1151, and according to ſome Authorities only under the Pontificate of *Alexander* III. *Gratianum Compilatorem Decreti Alexandri III. Pontificis temporibus quidam aſcribunt*, ſaith *Platina* in the Life of *Innoc.* III. to whom others attribute the Publication of the Decree; as *Platina* alſo obſerves in the ſame Place.

call'd

call'd after him, ſucceeded the Decretals; but neither of which in Proceſs of Time grew to ſignify much: The Popes, as they grew in Authority, eſtabliſhing ſtill new Orders and Regulations; ſo that neither the *Decretum*, the Decretal, nor the *Sextus* (3), were any longer of uſe as to Benefices, but other Rules and Methods came in Requeſt, as will appear hereafter.

(3) It is a Book ſo call'd, becauſe it is a Supplement to the five Books of Decretals. It was publiſh'd by *Boniface* III. in 1298. from whence it is call'd, *Codex Bonifacianus*.

CHAP. XXXII.

THE large Opportunities which the Court of *Rome* had in their Hands of obliging, by the Diſpoſal of ſo many Benefices, drew neceſſarily thither a Concourſe of the Clergy of all ſorts. Thoſe who had no Benefices, in order to obtain them; and thoſe who had already, to get them chang'd for better: Which was another Reaſon added to the former, why ſo many Reſidentiaries reſided not upon the Place. And the Court not being any longer able to pretend Ignorance of ſo loud and general a Complaint which every Dioceſs made, That the Churches were abandoned, and left without Government; and of which they laid the Blame in the right Place, a Reſolution was taken to apply ſome Remedy.

But the Popes of that Age thought it not adviſeable to proceed by Puniſhment, as had been heretofore practis'd; whether it were that the Guilt was grown too general, or that the Court of *Rome* muſt

muſt have been deſerted by ſo ſevere a Remedy, as that of ſending ſo much Company out of *Rome*: To which another Conſequence might be added, that People would generally have choſen rather to have made their Court to their own Biſhop for Benefices, than to lay out their Money at *Rome*, in Expectatives or Reverſions. An Expedient was therefore found, to make a Law to enjoin Reſidence to ſuch certain Beneficiaries [who were under ſo unlucky a Planet] as to have little Intereſt at Court: And ſo theſe ſtood condemn'd to ſtay at home, without making any mention of the reſt (1), who therefore fell not within this Rule. Thus in the Year 1179, *Alexander* III. order'd Reſidence to all Beneficiaries that had Cures of Souls *; to whom afterwards were added and taken into the Number, all who had Dignity, Adminiſtration, or Canonry.

As for other inferior Beneficiaries, it was never affirm'd that they were not oblig'd to Reſidence, but neither was it commanded them, and ſo by Degrees they began to think it not incumbent on them. Hence grew the Diſtinction betwixt Benefices that oblige to Reſidence, and others call'd ſimple Benefices, which oblige to none. Afterwards the Doctors declar'd, that in Strictneſs, and of Right, all Benefices oblige to Reſidence; as indeed they cannot ſay otherways, without giving the Lye to all Antiquity; but that long Cuſtom only hath excepted ſimple Benefices.

According to the Signification of that common Maxim, *Beneficium datur propter Officium*, ſimple Be-

(1) Silence in this Caſe, ſaith *Fra. Paolo*, they believ'd exempted them from Reſidence; and the Popes were willing it ſhould be ſo underſtood, in the Hopes that the voluntary Ignorance of theſe Beneficiaries ſhould turn to their temporal Greatneſs. *Lib.* 2. *Hiſt. of Counc. of* Trent.

* Vide *cap.* 4, & 6. Extra de Clericis non reſidentibus.

 nefices

nefices muſt ſeem an uſeleſs Station in the Church; ſince thoſe who were abſolv'd from Reſidence, ſeem to have no Buſineſs left. But here they have been forc'd to take in Aid, a meer Equivocation: For the *Horæ Canonicales*, which before were celebrated in the Church by all the Congregation, and which ſome Perſons afterwards took the Liberty to perform privately, began about the Year 800 to be call'd *Officium Divinum (a)*. And this Office or Service being by all Believers perform'd either in Publick or private, they ſaved the Appearauces of this Propoſition, *Beneficium datur propter Officium*; as if repeating Divine-Service were all that were underſtood by it; when in Truth, ſerving the Faithful, in reſiding at the Churches, and exerciſing the Miniſtry in all Chriſtian Offices, as was done of old, is in Truth that *Officium*, for which the *Beneficium* is intended (2).

The

(a) Presbyter mane matutinali officio expleto, penſum ſervitutis ſuæ canendo, primam, tertiam, ſextam, nonamq; perſolvat, ita tamen ut poſtea horis competentibus juxta poſſibilitatem, aut a ſe, aut a ſcolaribus, publicè compleantur.

These are the Words of *Regino*, Author of the 10th Age, *chap.* 208. *lib.* 1. of his Collection. As for the Office of the holy Virgin, *Gaufridus Veſtenſis* ſaith, they were not ordered till the Year 1095.

Anno Dom. 1095, Urbanus Papa in Gallias veniens, Gregorii Papæ decreta renovat, & confirmat --- -- Claromonte in Arvernia Concilum celebrat, menſe Novembri hoc anno ſequenti, in quo ſtatutum eſt, ut horæ beatæ Mariæ quotidie dicantur, officiumq; ejus diebus Sabbati fiat. *In Chronico, cap.* 27.

(2) In the primitive Times, ſaith *Fra. Paolò*, the Eccleſiaſtical Degrees were not Dignities nor Honours, as they have been for ſome Ages, but Charges and Miniſtries, which St. *Paul* calls Labours and Functions, and Jeſus calls Labourers, [Opus fac Evangeliſtæ, miniſterium tuum imple, 2 *Tim.* 4. Siquis Epiſcopatum deſiderat, bonum opus deſiderat, 1 *Tim.* 3. Meſſis quidem multa, operarii quidem multi, *Matth.* 9. & *Luke* 10.] So that in thoſe Days

The Conſciences of many Beneficiaries being thus ſecured from any Scruple, in abſenting from their Churches, it was alſo thought neceſſary to find an Expedient, even for ſome of thoſe Beneficiaries who were oblig'd to Reſidence, to ſtay at *Rome*, when their was Occaſion, without breaking the Laws.

Days none could have the Thought of abſenting; and if any one did, he could neither keep the Title nor the Profits. ---- Beſides, none took an Employment which hinder'd the Functions of his Miniſtry ---- And it is only ſince the Year 700, that they began to appropriate the Title and Profits of a Cure, upon occaſion of the Changes which happen'd in the Weſtern Churches, where Eccleſiaſtical Miniſteries degenerated into Dignities, Honours, and even into Rewards for Services. And whereas before, they called none to the Miniſtry, but ſuch as were proper to officiate, it became afterwards a Cuſtom to give the Dignities of the Church according to the Quality of the Perſon: Whence came the Abuſe of doing the Duty by a Deputy; and that produced another Abuſe, which was to think one's ſelf diſpenſed with, not only from officiating in Perſon, but even from being preſent, and to rely on his Subſtitute. And the Diſtemper had grown ſo great, as to have endanger'd the very Clerical Order being deſtroy'd, if the Popes had not commanded the Biſhops and Curates, tho' they acted by Deputies, to reſide upon the Place, which is call'd Reſidence; to which the Canons were alſo oblig'd, without ſpeaking of any other Beneficiaries: From thence came the deteſtable Diſtinction of Benefices of Reſidence and Non-reſidence; which is authoriz'd both by the Doctrine maintain'd and the Practice. And yet there cannot be a more manifeſt Abſurdity, than to have a Title and a Salary, without being oblig'd to do any thing for it.

But to palliate this, the Canoniſts have ſaid, That the *axiom Beneficium datur propter Officium*, which condemns Non-reſidence, ſignifies only, That the Benefice is given for ſaying Divine Service only; ſo that when the Church yields a Revenue of ten thouſand Crowns and more, 'tis only that the Beneficiary may ſay the Breviary very low, without thinking of any thing, more than running over the Words. *Hiſt. Counc. of* Trent. *lib.* 2.

For this End *Honorius* III. about the Year 1220. declar'd, that whoever was in the Pope's Service, ſhould not be oblig'd to reſide (3): So then there wanted but one Expedient more, by which all thoſe who had rich Benefices, with a Cure of Souls, might be ſet at Liberty, and exempted from Reſidence. Neither did this Expedient fail likewiſe, for it being an ordinary Practice for a Curate, when he had a lawful Impediment, to appoint a Vicar to ſerve in his Room, allowing him a competent Stipend; it was thence determin'd, that with the Pope's Authority the Curate might creat a perpetual Vicar (1), ſettling a reaſonable Allowance upon him; and oblige him to Reſidence, tho' the Curate remain'd unconfin'd, and retain'd the beſt part of the Income to himſelf: So that, by this Means, in Effect, his Share became a ſimple Benefice; and the Vicar's Share became a Proviſion for the Curate.

And as giving a Benefice for any other Conſideration than for the Sake of the Office, (by which was underſtood officiating in Perſon) was unknown to the ancient Church, ſo two Offices were never aſſign'd to one Man; both becauſe of the Impoſſibility of performing them in two Places, and that

(3) Mandamus quatenus non obſtante conſtitutione quæ contra abſentes Canonicos inter vos (*he ſpeaks of the Chapter of* Metz) dicitur emanaſſe, fructus præbendæ ſuas aſſignetis Mag. Ottoni, in noſtro ſervitio commoranti; cum familiares noſtri qui circa nos ſe obſequiales exhibent nniverſi, minori non debeant prærogativa gaudere, quam veſtrum ſinguli, quorum negotia per ſe ipſos ſæpius promoventur.

(1) It appears by ſeveral Paſſages in the Hiſtory of *Mat. Paris*, that Vicarages became in uſe throughout *England* ſometime before the Council of *Lateran*, under *Alexander* III. And for that Reaſon, the firſt three Chapter *Extra de Officio Vicarii*, are addreſs'd to the Biſhops of *England*. See Mr. *Pithon*, *ad cap.* 1. *extra de Officio Vicarii*, and *Thomas Walſingham*, *pag.* 275.

the

the performing one well, was always reputed by theſe Holy-men a Task ſufficient: Beſides that there are many Canons which refer to ancient Statutes, by which a Clerk cannot be ordain'd to two Titles, nor ſerve in two Churches (*a*).

(*a*) Et in illo titulo perſeverent, ad quam conſecrati ſunt, ita ut nullum de alterius titulo presbyterum aut diaconum ſuſcipere præſumat Conc. Calchutenſe, *an.* 787. *cap.* 6. *Conc. Renenſe*, *an.* 813. *cap.* 20. *Conc. Metenſe*, *an.* 888. *Can.* 3. *Canon.* 2. § 1. *diſtinct.* 70. *ex concilio Urbani* II. *habito Placentiæ*, *an.* 1095. & *Can.* 1. *Cauſ.* 21. *q.* 1. *ex* 7*ma Synod. cap.* 15. *an.* 787. *Even among the Heathens, the Prieſts were oblig'd to Reſidence*, Quoſdam exilia, *ſaith* Seneca, quoſdam ſocerdotio uno loco tenent de tranquilitate vitæ. Viſus eſt ſibi quis, *ſaith another Pagan*, ad firmamentum templi Neptuni catena alligatus eſſe; factus eſt ſacerdos Neptuni; oportebat enim ipſum inſeparabilem eſſe ſacerdotem. *Artemidor*, *lib.* 5. *de ſomniorum eventibus*, *Somnio* 1. *Vide Ulpianum in leg.* 2. *ff. de in jus vocando.* & *leg. pen. ff. de vacat.* & *excuſat. muner.*

CHAP. XXXIII.

IN the Times when the Diſtinction began betwixt Benefices which oblig'd to Reſidence, and the other call'd ſimple Benefices, which oblig'd to none, another Doctrine was ſet on Foot, That of ſuch Benefices as did not oblige to officiate in Perſon, it was lawful to hold more than one*: Whence aroſe the Diſtinction of Benefices, compatible and incompatible. Thoſe which oblige to Reſidence, are certainly incompatable with one another, ſeeing a Man cannot divide himſelf into two Places; but

* Vide caput dudum 54. extra de electione & ibi gloſſ. & Garciam de Benef. parte undecima, *cap.* 5 § 2, & 3.

ſimple Benefices, ſeeing they require not perſonal Service, are compatable and conſiſtent with one another, and with other Benefices too.

At firſt they proceeded on this Head with much Caution, contenting themſelves with ſaying, that in caſe a Benefice were not ſufficient to maintain the Incumbent, he might have another which was compatible; but they never had the Hardineſs to carry it ſo far as to a third, or even to two Benefices, if the firſt were ſufficient.

The Biſhop's Authority never went farther than this, but as for the Pope, it was allow'd he might confer more than two Benefices on the ſame Perſon, when the two were not ſufficient to maintain him(1). But then this Sufficiency or Competency, was carved out by the Canoniſts with ſo liberal a Hand*,

(1) The Author gives this Account of the Original of Plurality of Benefices, *in lib.* 2. *Counc. of* Trent. Seeing, ſaith he, the ancient Canons were ſtill in Force, a Clerk could not have two Titles, nor conſequently two Benefices. But the Revenues happening to be diminiſh'd, either by Calamities of War or Inundations, they gave the Benefice to ſome Clerk who had one already, provided he could officiate them both. Which was practis'd after, not in Favour of the Incumbent, but of the Church, where its own Revenue would not maintain a particular Miniſter to its ſelf, that it might not want Divine-Service. But under colour that one Benefice afforded not a ſufficient Subſiſtence, and none would undertake it, they found the way of giving ſeveral Benefices to one Man, tho' it were not neceſſary for the Service of the Churches: And ſo, by little and little, they took off the Mask, by doing that in Favour of the Incumbent, which at firſt was done in Conſideration of the Church only. And ſeeing the World was ſcandaliz'd at this Novelty, the beſt Colour was given to it, that could be, by adding to the diſtinction already made of Benefices of Reſidence and Non-reſidence, another of Benefices compatible and incompatible. By incompatible with one another, they underſtood Benefices of Reſidence, and by Compatible, thoſe of Non-reſidence; which may be held with one another, and with other Benefices too.

* Gloſſa ad Can. Clericus, I. Cauſ. 21. q. 1.

that

that the Neceſſities of Life were very large; which, ſay they, as to ſimple Prieſts, include whatever is neceſſary, not only for the Maintenance of their own Perſons, but alſo of their Families, their Relations, three Servants and a Horſe; as alſo for Hoſpitality and entertaining Strangers (2). Then if the Beneficiary be a Gentleman, or a Man of Learning (*a*), they allow him over and above this, all that is proper for his Quality. And what they ſay of a Biſhop's Allowance is amazing (3): As for Cardinals, nothing can be ſurprizing that is ſaid of them, when one conſiders the Stile of the Court of *Rome*, *Regibus æquiparantur* (4).

(2) If this were ſo, there would be at this Day more Prieſts than Laicks; and Princes would be no more than the Portmanteau's of the Popes. But all the Canoniſts are not of this Mind. *Vide Gomez de Expect. Num.* 107. *Flamin. Paris de reſign. benef. lib.* 5. *q.* 6. *Num.* 131. *Azor. p.* 2. *lib.* 6. *cap.* 10. *q.* 8, & 9. *Menoch. de Arbitrar. lib.* 2. *caſu* 216. *Navar. Miſcellan.* 62. *de Orat. & Gloſſ. ad cap.* 5. *extra de peculio Clericorum.*

(*a*) Vide caput de multa 28. in fine. extra de Præbendis.

(3) It is more ſurprizing, to ſee the ſmall Regard the Court of *Rome* hath for the *Italian* Biſhops of the Eccleſiaſtical State, who not only keep ſtanding before Cardinals, but think it no Diſhonour to ſerve them at the Table: With which the Biſhop of five Churches reproacheth the Biſhop of *Rieti* in full Congregation, [*Fra. Paolo, lib.* 6. *Hiſt. Conc. of* Trent.] Beſides that, their Biſhopricks are ſo loaded with Penſions, that they would think themſelves very happy, if the Popes would aſſign them a ſufficient Livelihood and make that the Rule, as the Canoniſts do to ſimple Prieſts.

* Vide Nicol. de Clemangis de corrupto Eccleſiæ ſtatu, *cap.* 11. & Pet. de Aliaco de reform. capitis, ſeu ſtatus Papalis, & ſuæ Rom. Curiæ & Cardinalium.

(4) Whence they conclude, ſaith he, *ibid.* That no Revenue is too great for them, that is not ſuperabounding for Kings themſelves. And 'tis for this Reaſon, that Popes have granted them the Privilege of having *Os apertum ad omnia beneficia, viz.* of being capable of holding all Sorts of Benefices, either Secular or Regular.

But indeed there is nothing in all this, that exceeds the ordinary Terms of ſpeaking on this Subject, ſeeing it is the Tenent of every Canoniſt, that the Pope can grant Diſpenſations for the holding as many Benefices as he pleaſeth: And in Effect, Diſpenſations were grown to ſuch a Height, that *John* XXII. (5) revok'd them all, reſtraining the Diſpenſations to two Benefices only (*a*). But then his Reſerving to himſelf the Diſpoſal of all the other Benefices, as ſhall be ſhewn when we come to ſpeak of Reſervations *, gave ground for the Belief, that he made that Order for his own Profit, and not for the Sake of reforming the Abuſe: Eſpecially conſidering withal the Character of this Pope, who had a particular Talent in all the ſubtil Ways of improving his Revenues. And the Event made it good, for the Church relapſed into the ſame Diſtemper of Pluralities, more fatal, and with more Violence than ever; which we ſee continued to this Day, in the Practice of Diſpenſations, with ſuch a Looſe to Avarice, as exceeds all Bounds.

All the Canoniſts and Caſuiſts agree, that Diſpenſations ought to be granted only for lawful Cauſes, and that the Pope ſins who grants them for any other: But they have not decided, whether he who

(5) *James Doſſa*, of the Dioceſs of *Cahors* in *France*, Son of a poor Cobler.

(*a*) Nos, omnes & ſingulas diſpenſationes ſuper receptione, aut retentione plurium dignitatum, aut beneficiorum, &c. quibus cura animarum ſit annexa ---- cuicunq; perſonæ conceſſas, (Cardinalibus tamen exceptis) duximus taliter moderandas, quod per moderamen noſtrum effrenatum talium beneficiorum multitudinem refrenemus. Statuimus itaq; quod obtinentes pluralitatem hujuſmodi beneficiorum ---- unum tantum ex beneficiis quibus cura imminet animarum cum beneficio ſine cura quod habere maluerint poſſent licite retinere. *Extravagant tit. de præbendis cap. execrabilis.*

* See the Article 37, and the Note 3.

who makes uſe of ſuch Grant, as is made without lawful Cauſe, ſtands acquitted from all Guilt *.

Some ſay, the Diſpenſation is good before GOD and Men; others, that is ſerves to avoid the Penalties of the Canon-Laws, but that in Conſcience, and before GOD, it is of no Validity: And to this Opinion, the greater Number of the beſt and moſt devout People adhere (*b*). But the other is more agreeable

* Vide Gloſſam ad cap. propoſuit 4. extra de conceſſ. præbendæ. verb. ſupra jus.

(*b*) D. Bernard Ep. 7. ad Adum Monachum. Nunquid ideo, *ſaith he*, aut malum eſſe deſiit, aut minora tum eſt, quia Papa conceſſit? quis vero malum eſſe negent, aſſenſum præbere malo? *Idem lib.* 3. *de Conſiderat. cap.* 4. & *ep.* 271. *ad Theobald. Com. Campaniæ.* *Langius in Chronico Citizenſi, anno* 1044. & *Rebuff. in praxi benef. tit. de diſpenſ. Num.* 57. A Biſhop giving his Opinion in the Council of *Trent*, upon Diſpenſations, ſaid, That the Council ought to declare, that there ought to be a lawful Cauſe of Diſpenſation, and that who grants it otherwiſe, ſins, and cannot be abſolv'd without revoking it: And that he who accepts, and makes uſe of the Diſpenſation, ſo far from being faultleſs, lives in continual Sin as long as he makes uſe of it. To which others replied, That in Truth, he who grants it without lawful Cauſe, ſins, but that however, the Diſpenſation holds good, ſo that the Conſcience of him that obtains it, is untouch'd, tho' he knows that the Cauſe is not lawful. *Fra. Paolò lib.* 2. *Hiſt. Conc. Trent.*

A *Dominican*, one *Hadrian Valentine*, had the Courage to ſay, That the Pope being above all human Laws, had full Power to diſpenſe with them, and that even tho' he ſhould grant a Diſpenſation without Cauſe, it ought ſtill to be deem'd valid: And that he can alſo diſpenſe with Divine Laws, provided there were a lawful Cauſe. He afterwards adds, That tho' Diſpenſation of a Divine Law, granted without good Cauſe, were not valid, yet whatever the Diſpenſation were, every one ought to captivate his Underſtanding, and believe that there were a lawful Cauſe.

In the ſame Hiſtory, *lib.* 7. *John de Verdun*, a *French Benedictine*, is quite of a different Opinion, Human Laws, ſaith he, are ſubject to Diſpenſation, becauſe of the Imperfection of the Legiſlator, who cannot foreſee all the particular Caſes which may call for an Exception: But where God is the Legiſlator, the

agreeable to the Court of *Rome*, who love not to have the Law given them, or that any Rules ſhould be preſcrib'd to the Papal Authority, eſpecially in the Matter of Benefices. For ſome among them hold, tho' warmly oppoſed by others of the ſame Profeſſion, That the Pope may grant Diſpenſations for holding ſeveral Benefices with Cure of Souls *. Yet the Court of *Rome* hath not taken much Advantage of this Doctrine, ſeeing it hath found out other ways of giving ſeveral Benefices under one Name, and in ſuch Manner, that they ſhould look like one Benefice. One of theſe ways is the Union, the other the *Commendam*; both the Product of the Times we have above-mention'd, and of which it is now proper to treat.

the Law is without Fault, becauſe nothing can be hid from his Knowledge.

It is not therefore, that he who diſpenſeth, can ever diſengage him who is obliged; nor make him remain obliged, who is deny'd a Diſpenſation if he deſerves one. It is a popular Error to believe that Diſpenſations is a Favour, ſeeing it is an Act of diſtributive Juſtice as much as any: And he ſins, who grants it not to thoſe to whom it is due. The Church is not a Servant, nor is the Pope its Maſter: It is the Pope's Part, who is only Servant of him who has ſet him over the Chriſtian Family, to give to every one what is due to him. *Quem conſtituit Dominus ſupra familiam ſuam, ut det illis in tempore tritici menſuram*, Lucæ 12. Diſpenſation is nothing, but a right Interpretation of the Law; and conſequently the Pope cannot, by his Diſpenſations diſengage thoſe, who really are ob ig'd to obſerve a Law; but he may very well declare to thoſe, who are not under any Obligation to a Law, that they are not oblig'd to obſerve it.

Fra. Paolo in the ſame Hiſtory, *lib.* 7.

I recomend this laſt Inſtruction as deſerving to be deeply engraven in the Hearts of all Chriſtians.

* See *Garcia*, de Benef. *parte* 11. *cap.* 5. *num.* 337.

CHAP.

CHAP. XXXIV.

IT was a Practice of great Antiquity, that when a People by any Calamities, as of War, Plague, or Inundations, were reduced to ſo ſmall a Number, that they could not maintain a Miniſter, the Biſhop committed the Care of them to the neighbouring Curate *, with the ſmall Revenue that was left: And this was call'd uniting the two Cures. In the ſame Manner when Cities became depopulated, and fell to ſuch Decay, that they were not able to afford their Biſhop an honourable Maintenance, the Metropolitan and his Suffragans aſſembled in Council, added two or more Cities to one Dioceſs, and ſo theſe Biſhopricks were called united. On the contrary, when the People in any Place multiplied ſo faſt, that one Curate was not ſufficient for the Charge, the Cure was divided: A Method which continues in uſe to this Day, and a very commendable one, both for the Service of GOD, and the Convenience of the People (*a*).

It was afterwards thought expedient to make Unions, in favour of ſome particular Places of Devotion; and thus divers Benefices became united to Biſhopricks, Monaſteries, or ſome poor Hoſpital. By which Union, the beneficed Perſon ſeems to

* Vide Can. univerſ. cauſ. 10. q. 33. ex concil. Tolet. cap. 4. an. 693.

(*a*) Et Canonica tradit authoritas, & ratio ſuggerit naturalis, ut cum neceſſitas exigit, vel utilias perſuadet, ut unus Epiſcopatus dividatur in plures & plures conjungantur in unum, ne cura paſtoralis deſit alicui, vel aliquid deſit curæ paſtoris, *Innoc.* 3. *ep.* 52. *tom.* 2. *lib.* 10. *ad Epiſcopum Pavienſem.*

hold

hold two Benefices, when in Reality he holds but one (1).

But in order to give two Benefices to the ſame Perſon, which were really incompatible and inconſiſtent to be held together, human Subtilety had invented the way of uniting the one Benefice to the other, during the Life of the Incumbent; ſo that by giving the principal Benefice, the united one was included in the Gift, and went along with it for Company. By which means the Law againſt holding more than one Benefice, is ſaved in Appearance, but in reallity it is a meer Obſervance of the Words, and a plain Tranſgreſſion of the Senſe: Which the Lawyers call, Evading the Law (2).

This Invention alſo ſerv'd to confer Benefices with Cures upon Children, or on illiterate Men, and without any Obligation of taking holy Orders, by uniting the Benefice with Cure, to a ſimple Benefice for Life; and then by conferring the ſimple Benefice in Title; and ſo the Beneficiary became in Poſſeſſion of the Cure, and the Letter of the Law preſerved.

But the valuable Power of uniting Benefices for Life, was reſerv'd to none but the Pope alone; nor could the Biſhops ever obtain it on any Occaſion whatſoever. Some Civilians call this an Union in Name, but in Reallity it is a total Diſſolution of the

(1) Theſe Unions of Grace or Favour were forbid by the Council of *Lateran*, and abrogated by the Council of *Baſil*, under the general Title of Reſervations. *See the Pragmatick Sanction*, de Electionibus & quia verbo, exceptis: Et Guim. *ibidem*.

(2) See Garcia de Benef. parte 12. cap. 2. de unione, num. 84.

Law

Law (3): And for that Reaſon, hath been prohibited in ſome Countries with great Marks of Deteſtation. This Evil reign'd very long in the Court of *Rome*, but is now worn out, and no longer in any Force (4), with many other Artifices and Subtileties (not to call them Cheats) of the ſame Nature; which are too evident, for Reaſons which ſhall be given, when we come to ſpeak of the Affairs of our own Times.

(3) Thus the Congregation of Cardinals and Biſhops ſpoke to *Paul* III. who had deputed them in 1537. to try to make a Reformation in his Court.

Quid de unionibus beneficiorum ad vitam unius, *ſay they*, ne ſcilicet obſtet illa beneficiorum pluralitas ad obtinenda incompatibilia, nonne eſt mera fraus legis?

(4) Since the Council of *Trent*, which aboliſh'd it in the Seſſion 7. *chap.* 7. of the Reformation.

CHAP. XXXV.

Commendams were alſo of a very ancient and laudable Inſtitution; for when an elective Benefice became vacant, ſuch as a Biſhoprick, Abby, or ſome Benefice, that was *Jus-patronatus*, for which the Ordinary could not, for ſome Reaſon, provide immediately, the Care of it was recommended by the Superior to ſome Man of Merit *, who ſhould only take upon him the Direction of it, till the Vacancy ſhould be fill'd up, but who could enjoy none of the Profits: And therefore ſome excellent Perſon was generally pitch'd upon, to whom the Underta-

* Vide Greg. III. lib. 1. ep. 76. lib. 2. Ep. 13, & 35.

king

king was an Expence, and had nothing to recommend it, but the Trouble which he was to undergo for the Service of the Church: But he would have been very improperly said to hold this Benefice in *Commendam*, and consequently, in Reality, had not two Benefices (*a*).

However, not to wrangle about Words, it grew to be a Maxim among the Canonists, That a Clerk might hold two Benefices, one Titular, the other in *Commendam* *. At first, the *Commendam* was to continue only till other Provisions were made; Afterwards it grew to be given for a certain determinate Time, which sometimes prov'd a little with the longest. This occasion'd the Popes prohibiting the Bishops to extend it beyond six Months (*b*), tho' he made it no Rule for himself. On the Contrary, the *Commendams* contracted too much of this Habit, not altogether commendable from the *Roman* Chancellory; for when the Pope would confer a Benefice on any one who happen'd to be incapacitated, either for want of Age, or because the Benefice was regular, and the Person secular, the Pope gave it him in *Commendam*, until he was in a Capacith to take the Title.

(*a*) Quia Commendatio, *say the Canonists*, non facit Prælatum, sed Procuratorem, & qui commendavit, potest revocare, quando vult. Nam commendare nil aliud est quam deponere. *Gloss. can. ad unum* 4. *caus.* 21. *q.* 1.

* Ibidem & cap. Dudum, extra de election.

(*b*) Nemo deinceps, *says* Gregory X. parœcialem ecclesiam alicui non constituto in ætate legitima & sacerdotio commendare præsumat. Nec tali etiam nisi unam, & evidenti necessitate, vel utilitate ipsius Ecclesiæ suadente. Hujusmodi autem commendam ut præmittitur, rite factam declaramus ultra semestris temporis spatium non durare: Statuentes quicquid secus de commendis Ecclesiarum parœcialium actum fuerit, esse irritum ipso jure. *Cap. nemo* 15. *de elect. in sexto an.* 1273.

At

At last, about the Year 1350, the Popes throwing off all sort of Considerations, and having got the other Bishops ty'd down to the Term of six Months, gave a Loose at once to the asserting their own Power, and conferred the *Commendam* for Life: And if this happen to one who hath another incompatible Benefice in Title before, the Letter of the Law is preserved strictly and without Reproach, which forbids two Benefices to be given, unless the one be in Title, the other in *Commendam*: But the Sense or Spirit of the Law is perverted; seeing the Commendatory for Life, as to the Profits, is, to all Intents, the same with the Titular (1). In the same Manner,

(1) When by reason of any Calamity of War or Plague, says the Author in the same Place, an immediate Election could not be made, the Superior recommended the vacant Church to some Person of known Vertue and Ability, who besides the particular Care of his own Church, govern'd in the Vacancy of this, till it was fill'd: And this Commendatory was only the Depository of the Revenues.

Afterwards, the Commendatories, under divers Pretences of Necessity and Decency, made use of the Fruits; and that they might enjoy them longer, they put off the Nomination or Election of the Titulars by several Artifices, which occasion'd the fixing the Term of the *Commendam* to six Months. But the Popes making use of their plenary Power, prolong'd the Term, and even granted the *Commendams* for Life, with all the Profits.

This Invention, which in its Original was pious, degenerated into so much Abuse, as to be made use of in corrupt times to countenance Pluralities, of which one sort, they said, was possess'd in Title, the other in *Commendam*; by which, the Words of the Law were observed, but the Sense was defeated; seeing the Commendatory for Life differ'd in nothing from the Titular, [*Witness the Form of Bulls of* Commendam, Curam Monasterii ac regimen & administrationem tibi in spiritualibus & temporalibus plenarie committentes.] And in *lib.* 3. of the same History, he speaks thus, When the Western Empire was ravaged by the barbarous Nations, it happened often that the Churches lost their Pastors, and that those to whom it belong'd to provide

others,

others, were hinder'd by the Inroads and continual Violences of this accurſed People.

For this Reaſon, the chief Biſhops of the Province recommended the Orphan Church to ſome vertuous Churchman, till they were at Liberty to chuſe a Paſtor canonically. The Biſhops and neighbouring Curates did the ſame, when ſome Country Pariſh fell vacant. And the Perſon pitch'd on for Commendatory being always a Man of Conſequence, who was much concern'd to anſwer the Expectation had of him, the Church found great Advantage by it. But as Corruption commonly creeps into the beſt things, ſome Commendatories began to divide their Care betwixt the Service of the Church recommended to them, and their particular Intereſt, and the Biſhops to recommend Churches, when there was no Occaſion. So this Abuſe ſtill encreaſing, a Law was neceſſary to limit the Time of the *Commendum* to ſix Months, and to forbid the Commendatory to take any of the Profits. But the Popes, ſetting themſelves above all Law, prolong'd the Term of the *Commendams*, and granted a Part of the Profits to the Adminiſtrators; and afterwards carried things ſo high, as to grant *Commendams* for Life, with all the Revenues. After which they changed alſo the Stile of their Bulls, ſaying, "We recommend this Church "to thee, that thou mayeſt "ſupport thy Condition with "more Eaſe and Decency." [*ut ſtatum tuum juxta gradum tuæ nobilitatis decentius tenere valeas.*] Whereas, the Title before was, "To the End, that "during this Interval, this "Church may be ſerved and "governed." Farther, they order'd, that the *Commendams* ſhould be left wholly to their Diſpoſal, without allowing him who had the Right of Collation to uſe his Right, upon the Death of the Commendatory. Now, as the Commendatories were made by the Popes, and depended only on him, People choſe rather to ſollicite at *Rome* for Benefices in *Commendam*, than for Benefices in Title; ſeeing by this Means, they withdrew themſelves from the Biſhop's Authority, who thus loſt it over moſt of the Churches of their Dioceſſes. Whence it came to paſs, that the Commendataries being no longer accountable to any Body, retrench'd to their own great Advantage all the neceſſary Expences, and let the Buildings go to Ruin; minding nothing but how to ſupport their Condition according to the Tenure of their Bulls.

I thought it proper here to inſert theſe two Pieces of Hiſtory, extracted out of the Hiſtory of the Council of *Trent*, by *Frà. Paolo*, becauſe they give a perfect Account of every Thing that is requir'd to be known, in the Buſineſs of *Commendams*.

Manner,

Manner, as a Benefice given in *Commendam*, to one who hath not the Qualifications requir'd by the Canons, is not offending againſt the Words of the Canons; but the Benefice is given in Effect, tho' not in Words. The *Commendams* of Biſhopricks and other Benefices, are almoſt diſus'd indeed in *Italy*, only there ſtill remain ſome Abbies in *Commendam*, upon Occaſions, which ſhall be mention'd when we come to our own Times.

By the Methods we have deſcrib'd, the Popes drew to themſelves a great Part of the Collation of Benefices, in all the Chriſtian Kingdoms of the Weſt. But in the Eaſtern Churches they were not allow'd to diſpoſe one Benefice, not only towards the latter Times of that Empire, when the *Greeks* ſeperated intirely from the Church of *Rome*, but even when they were united; except in the Parts of *Syria* and *Greece*, when theſe Countries were under the Dominion of the *French* and *Venetians*. And tho' theſe Bulls, which diſpos'd of Benefices in ſome one of the Methods above-mention'd, were for the moſt obey'd yet they met with ſo many Complaints and Murmurings, as made it ſometimes be diſputed, whether the Pope had any Right at all all to ſuch Power.

In *Italy* no Oppoſition was made to it, except by ſome conſcientious Men, who had only the Service of GOD in View: The *Italians*, of whom the *Roman* Courtiers were compos'd, finding their Advantage in this great Authority of the Pope, which help'd them to Revenues beyond the Mountains.

In *Spain*, the Prudence of that Nation eluded all the Artifices of the Court of *Rome*, by Negotiations.

In *England*, where the Benefices are very rich and numerous, the *Roman* Courtiers made ſuch mighty

Acquisitions (2), that in the Year 1232, the Clergy, and the Military Men of the Kingdom, form'd a Confederacy or Association *, and pillaged all the Goods and Revenues of the beneficed *Roman* Clergy throughout the Island (*c*). The Pope commanded the King, under Pain of Excommunication, to chastise them with his Temporal Arms, and the Bishops to excommunicate them: But the Confederates were too strong, either for the Kings to touch them, or the Bishops to excommunicate them. Yet this Interval of Quiet lasted but for a few Years, for Pope *Innocent* IV. a *Genoese* (3), taking Courage, sent one *Martin*, a Kinsman of his, to renew the Pretensions of the Court (*d*): The *English*

(2) *Matth. Paris* saith, That *Gregory* IX. commanded the Archbishbp of *Canterbury*, and the Bishops of *Lincoln* and *Sarisbury*, to provide 300 *Romans* with the first Benefices that should be vacant in their Churches, suspending all their Collations, until these 300 were provided for. *Anno.* 1240.

* Matth. Paris in Hen. III. *Anno.* 1231.

(*c*) Eodem anno distracta sunt horrea Romanorum per totam fere Angliam a viris quibusdam armatis, & adhuc ignotis, bonis conditionibus & ad commodum multorum, & opus licet temerarium in solennitate paschali, inchoantes sine contra dictione & libere, quod quandoq; minimos inter pauperes seminantes eos colligere hortabantur. *Idem in Henrico. anno* 1232.

(3) Of the Family of *Fiaschi* of the Counts of *Lavagna*, elected in 1243. call'd the Father of the Canonists.

(*d*) Circum idem tempus misit Dominus novus Papa quendam novum pecuniæ extorsorem magistrum videlicet Martinum, autenticum papale deferentem, & habentem potestatem excommunecundi, suspendendi, & multipliciter voluntati suæ resistentes puniendi. *Idem. Matth. Paris.*

It is observable, that the Popes pretended to so great an Authority over *England*, by Virtue of an ancient Right, founded on the Donation of *Constantin*, by which, all the Islands were given, as was pretended, to the Church of *Rome*.

Ad preces meas illustri Regi Anglorum Henrico II. concessit & dedit (Hadrianus) Hiberniam jure hæreditario possidendam. Nam omnes Insulæ de jure antiquo tiquo ex donatione Constantini, qui eam fundavit, & dotavit, dicuntur ad Rom. Ecclesiam pertinere. *Joannes Sarisburiensis lib.* 4. *Metalogici, cap.* 42.

English complain'd to the King, that the *Italians* had got Possession of all the Benefices; and the King drove *Martin* out of the Kingdom, and making a Computation of all the Revenues which the Popes drew out of *England*, found they were equal to his own Revenue, which amounted to 60000 Marks (4). And upon his laying these Grievances before the Pope, in the Council of *Lyons*, who presided there in Person, he was answer'd, That the Council was not assembl'd for that Affair (5), nor was the Season proper to remedy it.

While this Council was held in the City of *Lyons*, the Pope had a longing Desire to bestow some Prebendaries of that Church on some of his Relations, which made so great a Disturbance in the City, that on Notice that they were in great Danger of

(4) The same Historian saith, that the Revenue of the *Italian* Beneficiaries, establish'd in *England*, amounted to more than 70 thousand Marks of Silver; and that *Innocent* IV. had more impoverish'd the Church of God, than all the Popes together had done, since St. *Peter*.

Episcopus Robertus Lincolniensis fecit a suis Clericis diligenter computari, alienorum proventus in Anglia, & inventum est, & veraciter compertum est, quod Innocentius IV. plus Ecclesiam universalem deperaverat quam omnes Prædecessores a tempore Papatus primitivi. Redituſq; Clericorum per ipsum in Anglia alienorum, quos Ecclesia Romane ditaverat, ad plusquam septuaginta millia Marcarum ascendit, Reditus Regis non ad ejus partem tertiam computatur. *In vita Henrici III. ad anno* 1252.

In another Place, *ad an.* 1255. he calls *Innocent* IV. *Dissipator Ecclesiæ Dei, & venditor Ecclesiarum.*

(5) He had call'd it, under Pretence of sending Succours to the Holy-Land, but his true Motive was, to excommunicate the Emperor *Frederic*. *Rainald an.* 1245. § 1. & *Matth. Paris anno* 1245.

being thrown into the *Rhone* (*e*), he ſent them privately out of Town.

Nevertheleſs the Court ceaſed not to make new Attempts. In the Year 1253, the ſame Pope commanded *Robert*, Biſhop of *Lincoln*, a Perſon eminent in thoſe Times, for Learning and Strictneſs of Life, to confer a Benefice upon a *Genoeſe*, againſt the Canons: Which appearing both inconvenient and unjuſt, this Prelate anſwer'd, That he receiv'd the Apoſtolick Commands with the Reſpect due to them, as they were conformable to the Doctrine of the Apoſtles, but that the *Non-obſtantibus* made up of Uncertainties, Inconſiſtencies, and proceeding from want of Faith, came like a Torrent to overthrow the Peace of *Chriſtendom*: That it was a grievous Sin to take away the Paſture from the Sheep: And that the Apoſtolick See had all Power to edify but not to deſtroy (*f*). The Pope was enraged at this

(*e*) Eodem tempore cum vellet Dominus Papa quibuſdam Præbendis Lugdunenſis Eccleſiæ vacantibus, quoſdam alienegenas conſanguineos vel affines ſuas, inconſulto Capitulo intrudere, reſtiterunt ei in facie Canonici Lugdunenſes, comminantes, & cum juramento obteſtantes, quod ſi tales apud Lugdunum apparerent, non poſſet eos, vel Archiepiſcopus vel Canonici, protegere, quin in Rhodanum mergeretur, *Mat. Paris, anno* 1245.

Emeric Gueri, Archbiſhop of *Lyons*, chuſe rather to quit his Archbiſhoprick, than to ſee his Church expoſed to the Plunder of the Pope. *Gallia Chriſtiana pag.* 324. *Mat. Weſtminſt.*

(*f*) Mandatis Apoſtolicis, *ſaith he, in his Anſwer to the Pope*, affectione filioli devotè & reverenter obedio, his quoq; quæ mandatis Apoſtolicis adverſantur, paternum zelans honorem, adverſor & obſto; ad utrumq; enim teneor ex divino mandato ---- Non eſt igitur literæ, tenor Apoſtolicæ ſanctitati conſonus, ſed abſonus plurimum & diſcors. Primo, quia de illius literæ, & ei conſimilium ſuper accumulato non obſtante ſcatet cataclyſmus inconſtantiæ audaciæ & procacitatis, inverecundiæ, mentiendi, fallendi, diffidenter alicui credendi, & ex his conſequentium vitiorum quorum non eſt numerus, Chriſtianæ religionis puritatem,

this Anſwer, and Cardinal *Ægidius*, a *Spaniard*, a prudent Man, endeavour'd to appeaſe him, repreſenting, That proceeding to Extremities, in a Cauſe ſo odious in the World, and againſt a Prelate ſo univerſally eſteem'd, could have no good Effect (*h*). But

tatem, & ſocialis converſationis hominum tranquillitatem commovens, & perturbans. Præterea ---- non eſt, nec eſſe poteſt, alterum genus peccati tam contrarium Apoſtolorum doctrinæ, & evangelicæ & ipſi Domino Jeſu Chriſto tam deteſtabile, & abominabile, quam animas curæ paſtoralis officii & miniſterii defraudatione mortificate & perdere. *And after ſome other Remonſtrances of the ſame Strain, he finiſheth his Letter thus:* Apoſtolicæ ſedis ſanctitas non poteſt niſi quæ in ædificationem ſunt, & non deſtructionem: Hæc enim eſt poteſtatis plenitudo omnia poſſe in ædificationem: Hæ autem quas vocant, proviſiones non ſunt in ædificationem, ſed in manifeſtiſſimam deſtructionem. Non igitur eas poteſt beata ſedes Apoſtolica acceptare, quia caro & ſanguis (*becauſe* Innocent *gave all the Benefices to his Kindred, and fill'd the* Engliſh *Church with* Genoeſes) quæ regnum Dei non poſſidebunt, eas revelavit, *Mat. Paris*, in the Life of *Hen.* III. 1251.

(*g*) Hæc cum ad Papæ audientiam perveniſſent, non ſe capiens præ ira ſuperbo animo ait: Quis eſt iſte ſenex delirus, ſurdus, & abſurdus, qui facta audax, immo & tenærarius judicat [which of the two doated, the Pope, who broke the Canons, or *Lincoln*, who defended them? Which of them was deaf, *Lincoln*, who hearken'd ſo well to the Voice of the LORD, or *Innocent*, who was deaf to an Apoſtolical Prelate, who told him his Duty?] per Petrum & Paulum, [he ſware by St. *Peter* and *Paul* againſt the Biſhop of *Lincoln*, who gave him the ſame Rebuke then, which St. *Paul* had given to St. *Peter*, *quia reprehenſibilis erat, & non rectè ambulabat ad veritatem Evangelii*, (Galat. 2.) inſtead of imitating St. *Peter*, who profited by this Correction] niſi moveret nos innata ingenuitas, ipſum in tantam confuſionem præcipitarem, ut toti mundo fabula foret & exemplum. *Ibid.*

(*h*) Non expediret, Domine, ut aliquid durum contra ipſum Epiſcopum ſtatueremus, ut enim vera fateamur, vera ſunt quæ dicit, non poſſumus eum condemnare. Catholicus eſt, imo & ſanctiſſimus, nobis religioſior, nobis ſanctior, excellentior, & excellentioris vitæ, ita ut non credatur, inter omnes Prælatos majorem, imo nec parem habere. Novit hoc Gallicana & Anglicana Cleri univer-

But whilſt the Pope was meditating which way to be reveng'd, *Robert* died, continuing to ſpeak in the ſame Strain to the laſt Moments of his Life (1); And as he paſs'd for a Saint, the Report went that he wrought Miracles. The Pope, when he heard of his Death, order'd a Proceſs againſt him, to take him out of his Grave, and ſent it to the King to

univerſitas, noſtra non prævaleret contradictio. Hujuſmodi epiſtolæ veritas, quæ jam forte multis innotuit, multos contra nos poterit commovere. Hæc dixerunt Dominus Ægidius Hiſpanus Cardinalis, & alii, conſilium dantes Domino Papæ ut omnio hæc conniventibus oculis ſub diſſimulatione tranſire permitteret, ne ſuper hoc tumultos excitaretur. *Ibid.*

This Cardinal, by the Teſtimony of the ſaid Mat. Pars, *was a great Man.* Pare carens, *ſaith he,* columna in curia Romana veritatis, & Juſtitiæ, & munerum aſpernator, quæ rigorem æquitatis flectere conſueverunt. *He died* 1255. *aged near* 100 *Years.*

(1) Privelegia ſanctorum Pontificum Rom. Prædeceſſorum ſuorum Papa impudenter annullare per hoc repagulum non-obſtante non erubeſcit: Quod non ſit ſine eorum prejudicio & injuria manifeſta; ſic enim reprobat, & diruit, quod tanti, & tot ſancti ædificaverunt ---- Nonne dicit Papa de ſuis pleriſq; prædeceſſoribus, ille vel ille piæ recordationis prædeceſſor noſter, & ſæpe adhærentes ſancti prædeceſſoris noſtri veſtigiis, &c. Quare ergo, quæ jecerunt, diruunt fundamenta, qui ſequuntur? Nonne plures, divina gratia ſalvati, majores ſunt uno ſolo adhuc periclitante? ---- Unde ergo hæc injurioſa temeritas, privelegia antiquorum ſanctorum multorum in irritum revocare? *That is to ſay,* The Pope is not aſham'd to caſs and annul, with a *non-obſtante,* the Conceſſions and Acts of their holy Predeceſſors, not conſidering the Injury he doth to their Memories, in overturning all their ſpiritual Fabrick. When the Pope ſpeaks of any of his Predeceſſors, doth he not ſay, Our Predeceſſor *N.*--- of pious Memory? And very oft he ſaith, Being willing to follow the Footſteps of our holy Predeceſſor: Will he then ruin the Foundations which others have laid? Many Popes, who, by God's Grace, have happily arriv'd at the Harbour, are not they of greater Weight than one alone, who is in Danger of making Shipwreck? How comes it then, that *Innocent* is ſo bent upon revoking the Privileges, which ſo many holy Fathers have granted? *Matth. Paris,* in the ſame Life.

execute.

execute. But the Night following, *Robert* appear'd to the Pope, either in a Viſion or Dream, clad in his Pontifical Robes, and reproaching him for perſecuting his Memory, gave him a Blow on his Side with his Croſs (*k*), which awaken'd the Pope with an exceſſive Pain, which continued with him till his Death (*l*).

In the Year 1258, *Alexander* IV. *, his Succeſſor, on the like Occaſion excommunicated the Archbiſhop of *York*, who perſevering and juſtifying him-

(*k*) Hoc anno 1254. Dominus Papa dum iratus ſupra modum vellet oſſa Epiſcopi Lincolnienſis extra Eccleſiam projicere ---- juſſit talem Epiſtolam ſcribi Domino Regi Angliæ tranſmittendam: Sciens quod ipſe Rex libenter deſæviret in ipſum, [*For, as our Hiſtorian ſaith, 6 or 7 Pages before,* Robert *was* Domini Papæ & Regis redargutor manifeſtus] ſed nocte ſequenti apparuit ei idem Epiſcopus Lincolnienſis pontificalibus redimitus, ac voce terribili ipſum Papam in lecto ſine quiete quieſcentem aggreditur & affatur pungens ipſum in latere, ictu impetuoſo, cuſpide baculi ſui paſtoralis: Et dixit ei, Sinibalde, Papa miſerrime, propoſuiſtine oſſa mea extra Eccleſiam projicere? Unde hæc tibi temeritas? --- Nullam poteſtatem in me habere te Dominus a modo patietur: Scripſi tibi in ſpiritu humilitatis, & dilectionis, ut errores tuos crebros corrigeres: Sed tu monita ſalubria faſcinante corde contempſiſti. Væ, qui ſpernis, nam & tu contemneris, & ſic Recedens Robertus ipſum Papam ---- dereliquit ſeminecem. *Ibid. anno,* 1254.

(*l*) Papa in Latere quaſi pleuriſi infirmatus, vel lancea ſauciatus: Nec potuit ei Cardinalis Albi Phyſica Suffragari; non enim pepercit Robertus Lincolnienſis Sinibaldo Januenſi, (*which was the Name and Country of* Innocent) & qui vivum noluerat adire corripientem, ſenſerat mortuum impingentem. Nec unquam poſtea ipſe Papa unum bonum diem vel proſperum continuavit uſq; ad noctem vel noctem uſq; ad diem ſed in ſomnem & moleſtam, *Ibid.*

(*m*) Towards the End of the Year 1254. *Mat. Paris* reports, That *Innocent* being at the Point of Death, and ſeeing his Friends weep, ſaid to them, *Quid plangitis miſeri? Nonne vos omnes divites relinquo? quid amplius exigitis.*

* He was of the Houſe of *Conti*, the ſame with *Innocent* III. and *Gregory* IX.

ſelf, ſtood the Perſecution with great Fortitude (*n*), and drawing near his End, wrote a Letter of great Prudence to the Pope, exhorting him to imitate his holy Predeceſſors, and to ſuppreſs theſe Innovations, ſo injurious to the Church, and ſo dangerous to the Safety of his own Soul (*o*): And then died, in the Reputation of a Saint and Martyr.

During the Confuſions of theſe Times, there was a Regulation found neceſſary to be made in *France*, which I ſhall here recount, introducing it with this

(*n*) Anno 1257. aggravavit manum ſuam Dom. Papa in Archiepiſcopum Eboracenſ. juſſitq; eum ignominioſe nimis in tota Anglia excommunicari. Ipſe tamen Archiepiſcopus exemplo B. Thomæ Martyris nec non B. Rob. Epiſcopi Lincolnienſis fidelitate eruditus de ſolatio celitùs mittendo minime deſperavit, omnem papalem tyrannidem patienter ſuſtinendo. *And 8 Pages after,* Renuit genua flectere Baal, & indignis Barbaris opima beneficia Eccleſiæ ſuæ, quaſi Margaritas porcis, imo ſpurcis diſtribuere. *Ibid. And 4 or 5 Pages after,* Nec cenſeo prætereundum quod B. Edmundus Lector in Theologia Oxonialis (*And afterwards Archbiſhop of* Canterbury) ei dicere conſuevit. Oh Sewale (*which was the Name of this Archbiſhop of* York) Martyr ab hoc ſeculo tranſmigrabis, ferro, vel ſaltem gravibus, & inſuperabilibus in mundo tribulationibus impetitus & trucidatus, *Ibid. ad an.* 1257, 1258.

(*o*) In amaritudine animæ ſcripſit Papæ exemplo Roberti Lincolnienſis Epiſcopi provocatus, dolens inconſolabiliter, quod tam multiformiter ipſum fatigàrat, eo quod inexpertos, & linguæ Anglicanæ ignaros renuit acceptare, nunc ſuſpendendo, nunc ab Eccleſia eliminando, nunc crucem adferendo, &c. (*the Pope had forbid his firſt Almoner to carry the Croſs before him, as was the Cuſtom*) Conqueſtus eſt inſuper graviter, quod impetus quorundam Clericorum authoritate papali protervientium ægrè ſuſtinuerat, ſed patienter, ut probra Patris, non ut Cham revelando derideret, ſed ut Sem abſconderet & velaret. Humiliter ergò in ſcripto ſuo & inſtanter petiit, ut conſuetas tyrannides temperaret, humilitatem ſanctorum Prædeceſſorum ſuorum ſequendo. Dixit Dominus Petro, paſce oves meas, non tonde, non excoria, non eviſcera, vel devorando conſume: *That is, Feed my Sheep, and not ſheer them, not tear out their Bowels nor devour them.*

As ſome Biſhops have done, of whom nothing is to be obtain'd, but for ready Money.

Obſervation, That in Spight of all the Reſiſtance and Defence made by the Princes and Biſhops againſt the Attacks of the Church of *Rome*, She has never loſt Courage in the ſharpeſt Conflicts, or betray'd the leaſt Thought of deſiſting from her Pretenſions.

On the Contrary, purſuant to theſe, in the Year 1266, *Clement* IV. form'd the Project, which would have put him or his Succeſſors into the abſolute Poſſeſſion of all the Collations of Benefices throughout the Chriſtian World; and withal have freed him from the Servitude of inventing inceſſantly new Shifts and Fineſſes, to draw the Collations to *Rome*.

This Pope, therefore, begun with a Bull, which concluded no farther, than what concern'd the Reſervation of Benefices *vacantes in Curia*; the Collation of which, he ſaith, is reſerv'd to the Pope, by ancient Cuſtom; which, conſequently, he approves, and that it is his Pleaſure it ſhould be obſerv'd: But tho' he concludes no more than this, he had ſupply'd it with a Preface of the ſtrongeſt Suppoſitions, in theſe Terms: "Altho' the intire Diſpo- "ſition of all Benefices belong ſo juſtly to the "Pope, that he might not only confer them when "vacant, but alſo grant a Right of acquiring, or "of Prevention, before they are vacant: Never- "theleſs, ancient Cuſtom hath more particularly "reſerv'd thoſe *vacantes in Curia*: Therefore We "approve this Cuſtom (*p*)."

If

(*p*) Licet Eccleſiarum, perſonatuum, dignitatum aliorumq; beneficiorum Eccleſiaſticorum plenaria diſpoſitio ad Romanum noſcatur Pontificem pertinere ita quod non ſolum ipſa cum vacant, poteſt de jure conferre verum etiam jus in ipſis tribuere vacaturis: collationem tamen Eccleſiarum, dignitatum, & beneficiorum apud ſedem Apoſtolicam vacantium,

If the Decree had concluded ſuitably to his Inclinations, of declaring that the Diſpoſition of all Benefices belong'd to him, an univerſal Outcry muſt have follow'd, and he have drawn all Orders of Men, Eccleſiaſticks as well as Princes, and other Lay Patrons upon him; all would have been alarm'd, and have ſtood to their Arms, with Manifeſtos and Publications of their Reaſons, too loud to be born: Whereas a Propoſition, ſtated upon a Suppoſition, without ſeeming to make any Concluſion, paſs'd the more eaſily upon the Generality of Men, who were not ſenſible how much it imported, and in Effect it implied.

However, two Years after, in the Year 1268, St. *Lewis*, King of *France*, without having any Regard to this Bull of *Clement* IV. ſeeing the Regulations made by the Queen Regent his Mother, during his Minority, and Abſence in the Holy-Land, were not of Efficacy to remedy the Abuſes crept in by the Diſpenſations of Benefices, made his famous *Pragmatick* *; wherein he commands, that the Cathedrals

cantium, ſpecialius ceteris antiqua conſuetudo Romanis Pontifibus reſervavit.

Nos itaq; laudabilem reputantes hujuſmodi conſuetudinem, & eam authoritate Apoſtolica approbantes, ac nihilominus volentes ipſam inviolabiliter obſervari, eadem authoritate ſtatuimus, ut beneficia quæ apud ſedem ipſam deinceps vacare contigerit, aliquis præter Romanum Pontificem conferre alicui, ſeu aliquibus non præſumat. *Sexti Decret. lib.* 3. *tit. de Præbendis, cap.* 2.

* It is much doubted, if this *Pragmatick* were made by St. *Lewis* or no, the Writers of that Time making no Mention of it. Beſides that, it no where appears, that the Pope who reign'd then, had any Difference with this King, which had been unavoidable, if this *Pragmatick* had been his.

The Cardinal *de Bourdeille*, who refuted it in the Time of *Lewis* XI. in a ſmall Treatiſe, entitled, *Defenſorum Concordatorum inter ſedem Apoſtolicam, & Regem Franciæ Ludov. II.* ſeems

Cathedrals and Monaſteries ſhould enjoy their Elects free and uncontroul'd, that all the other Benefices ſhould be diſpos'd as the Law directed; and that no Impoſitions of the Court of *Rome* ſhould be levied upon the Benefices, without the King's Conſent, and that of the *Gallican* Church (*q*).

But the Expedition of this pious Prince into *Africk* againſt the *Moors*, and his Death, which happen'd in the Year 1270. the Intereſt which the

ſeems to ſay, that it was not made by St. *Lewis* in theſe Terms:

Quod autem eidem aſcribitur feciſſe Pragmaticam per quam quidem juſtificare nituntur Pragmaticam per ſereniſſimum Principem Carolum Regem [VII.] domini noſtri Ludovici genitorem editam, & per eundem Dominum noſtrum Ludovicum, catholice nuper abrogatam, nihil proderit eis, neq; prodeſſe poteſt, ſi attendantur ſingula verba ejuſdem ſancti ſub tenore hujus aſcriptæ ſibi Pragmaticæ contenta, quæ talis ab aliquibus aſſeritur. Ludovicus Dei gratia Francorum Rex ad perpetuam rei memoriam, &c.

Our Kings having never uſed this Form, which is ſacred only to the Popes Bulls.

(*q*) Statuimus & ordinamus primo ut Eccleſiarum regni noſtri Prælati, Patroni, & beneficiorum collatores ordinarii jus ſuum plenarie habeant, & uniquiq; ſua juriſdictio ſervetur --- Item promotiones, collationes, proviſiones, & diſpoſitiones Prælaturarum, dignitatum, & aliorum quorum cunq; beneficiorum, & officiorum Eccleſiaſticorum Regni noſtri, ſecundum diſpoſitionem, ordinationem & determinationem juris communis, ſacrorum conciliorum Eccleſiæ Dei, & inſtitutorum antiquorum ſanctorum Patrum, fieri, volumus, & ordinamus.

Item exactiones & onera graviſſima pecuniarum per curiam Romanam Eccleſiæ regni noſtri impoſita, vel impoſitas, quibus miſerabiliter regnum noſtrum depauperatum extitit: Sive etiam imponendas, vel imponenda, levari aut colligi nullatenus volumus, niſi duntaxat pro rationabili, pia & urgentiſſima cauſa vel inevitabili neceſſitate, & de Spontaneo, & expreſſo conſenſu noſtro & ipſius Eccleſiæ regni noſtri.

Nicholas Gilles, in the Life of St. *Lewis*, and the Compiler of the Proofs of the Liberties of the *Gallican* Church, aſſures us, that this Act is found in the Regiſter of the Parliamant. See the Preface of Mr. *Pinſon* upon this *Pragmatick*, *pag.* 30. *num.* 61. and the following ones.

Houſe

Houſe of *Anjou* had in preſerving the Pope's Favour, to eſtabliſh the Poſſeſſion of the Kingdom of *Naples*, and to recover that of *Sicily*; together with the Permiſſion the Pope had granted the King, to gather Tythes in his Dominions, under the Pretext of carrying on the War in the Holy-Land, were all powerful Concurrents to facilitate the Authority the Pope had loſt. And Pope *Boniface* VIII. made it ample Reparation, who in the Year 1298. inſerted the Conſtitution of *Clement* in the Decretals, only with ſome Ammendment, in making that now the principal Sentence, which was before mention'd only as it were occaſionally, and by way of *Hypotheſis*. And to give more Force to this Bull by the Uncertainty, he ſent it out under the Name of *Clement* only, without expreſſing whether it were the Fourth or Third *Clement*: And that Doubt we find continu'd to this Day, in the different Copies extant; in ſome of which he is call'd the Third, and in others the Fourth *.

Then it was that this Propoſition firſt began to be be admitted for Truth, That the abſolute Diſpoſition of all Benefices belong to the Pope; which they pretended to underſtand in a Senſe not altogether abſurd; which is, That the Pope hath a plenary Power, but under the Regulations of Laws and Reaſon (*r*).

But *Clement* V. explain'd himſelf in a Manner ſo clear, as to leave no Room for any favourable Interpretations, declaring, That the Pope hath not only full Power of diſpoſing all Benefices, but alſo

* In the Edition of *Lions*, the Subſcription of the Title *de Præbendis*, is *Clemens* III. alias IV.

(*r*) Quod Papa omnia poteſt, præmiſſa clavi diſcretionis ante clavem poteſtatis. *cap. quanto, de jurejurando.*

an

an intire Liberty in the Manner of diſpoſing them (*ſ*). By which Liberty the Canoniſts underſtand, That he is exempted from Obedience either to Laws or Reaſon itſelf; and that he hath a Privilege of diſpoſing Benefices in what Manner ſoever, even againſt Reaſon, the Intereſt of any particular Church, or of any Lay Patron whatſoever.

This Doctrine is aſſerted on all Occaſions in the Bulls, and there is no Canoniſt, who holds it not even as an Article of his Faith, That in the Collation of all Benefices whatſoever, the Pope can concur with the ordinary Collator, and even prevent him; and may grant the Power of concurring with the Collator, and even of conferring Benefices by Prevention, to whomſoever, and when he pleaſeth: Which is a Power ſince granted by the Popes to their Legates, by a general Conſtitution.

In all the Conſideration of this whole Matter of Benefices, nothing is more ſurprizing, than that which hath been all along maintain'd by the Canoniſts to this Day, without any Regard to a Truth ſo notorious, either out of Animoſity, or becauſe they think it is a Wrong to their Profeſſion, to pretend to know any thing that is not drawn out of the Decretals, That heretofore the Pope conferr'd all Biſhopricks and other Benefices, and that ſince, he hath granted away, out of meer Grace, the Election to the Chapters, and the Collation to the Biſhops: Tho' the Light at Noon-day is not clearer, than that the Election of Eccleſiaſtical Miniſters was firſt in the People; that afterwards it came into the Princes Hands, when they had receiv'd the Chri-

(*ſ*) Salva in omnibus Rom. Pontificis poteſtate, ad quam Eccleſiarum, perſonatuum, dignitatum aliorumq; beneficiorum eccleſiaſticorum plena, & libera diſpoſitio, ex ſuæ poteſtatis plenitudine noſcitur pertinere. *Clementin, lib. 2. tit. 5. cap. 1.*

ſtian

ſtian Faith, and had taken the Affairs of the Church into their Care: And laſtly, that the Elections reſted in the Clergy only, after the Seculars had been excluded by the Artifices of *Gregory* VI. and his Succeſſors: Every Dioceſs ſtill retaining its own Right of electing and, of collating its own Benefices; which the Popes have, by Degrees, inſenſibly aſſum'd to themſelves, by ſuch Methods as have been already ſhew'd, and ſuch as will appear in the following Diſcourſe.

In the mean time, there is no Doubt to be made, but that this Aſſertion of the Canoniſts will one Day come to be rank'd among the Articles of our Faith, in order to introduce into the Church a Doctrine, ſo diametrically oppoſite to that which was preach'd in thoſe Times. For *Anſelm* Biſhop of *Lucca*, who in the Year 1080, wrote three Books againſt *Gilbert* the Antepope *, in Favour of *Gregory* VII. which are yet extant, proves throughout the ſecond of thoſe Books, that by the Authority of the Popes, the holy Fathers, the General Councils, and by the conſtant Uſage obſerved from the Times of the Apoſtles, down to the Times wherein he wrote, That the Election of the Biſhops, which he calls *Pontifices* †, belong'd to the Clergy, and People of the particular Dioceſs: And that the Emperors *Conſtantine*, *Conſtans*, *Valentinian*, *Theodoſius*, *Honorius*, *Charlemaign*, *Lewis the Debonair*, with divers others excelling in Piety and Faith, have never violated this Uſage, ſince the Times of the Apoſtles: And citing withal, a Conſtitution of the

* Or *Wibert* called *Clement* III. formerly Archb. of *Ravenna*, of whom is ſpoken in the Notes of the 23d Article.

† Not to call them *Papæ* in the plural, which, he ſaith, is as improper and impious, applied here, as to the Name of God. *See in the End of the* 18*th Article.*

Capitular

Capitular of *Charles* and *Lewis*, in which it is declar'd, That Biſhops ſhall be choſen by the Clergy and People of the Dioceſs, according to the Canons (*t*), he ſaith, That this is a Conſtitution intirely conformable to that of the holy Fathers; and that the Holy Spirit ſpoke no leſs by the Mouths of theſe Emperors, than if it had been pronounced by the Council of *Nice*, or any other general Synod.

By which it is evident, That in order to draw the Right of Election out of the Hands of the Princes, they have held for Tradition the direct contrary to that which they would have us this Day believe, and which the Canoniſts teach: So that neceſſarily either the Canoniſts muſt err, or thoſe Authorities quotted by the Biſhop of *Lucca*. And if the electing their own Biſhops were a Liberty which Jesus Christ had bequeath'd to every Church and Dioceſs, conſonant to the Doctrine of the Fathers and Councils, they are not ſo much in the Wrong who ſay, That the Court of *Rome* hath put all the Churches in Chains and Bondage, under the Colour of defending their Liberties *.

(*t*) Sacrorum Canonum non ignari, ut in Dei nomine ſancta Eccleſia ſuo liberius potiretur honore, adſenſum ordini Eccleſiaſtico præbuimus, ut ſcil. Epiſcopi per electionem Cleri & populi, ſecund. ſtatuta Canonum de propria Dioſceſi, remota perſonarum & munerum acceptione ob vitæ meritum, & ſapientiæ donum, eligantur, ut exemplo & verbo ſibi ſubjectis, uſq; quaq; prodeſſe valeant. *Capitular*, *lib.* 1. *cap.* 78. *See the page* 2. *of Article* 15.

* See Article 7.

CHAP.

CHAP. XXXVI.

HAving set forth the various Methods whereby the Church has acquir'd her Riches, our Subject requires, that we should now be as particular in the Methods taken to preserve them. In order to which, in direct Opposition to all the Practice of the Primitive Church, all sort of Alienations are forbid. For tho' the Churches, after they were made capable by the Laws to acquire Estates, retain'd both these which were given in Present or bequeath'd, the Bishop had still the Liberty, not only to make use of the Revenues, but even to sell the very Estates for the Maintenance of the Ministers of the Altar, and Relief of the Poor *; and to bestow in Charities, according to the Exigencies of the Times: And this Power of Dispensation extended itself not only to the growing Rents, as in these Days, but to the Estates themselves, and every Branch of Revenue. Which at first was administer'd with great Fairness and Integrity, and without any inconvenient Consequences, and continued to be so while the Churches were poor, and the Bishops had but a little to manage, and were of small Authority, which afforded them no Opportunities of great Transgressions. But when the Churches grew rich and powerful, a Fulness of Fortune, and the Reputation and Interest waiting on those Circumstances, brought the Bishops into the Temptation of employing some Part of the Revenues at their own Pleasure, and inspir'd them with a Boldness to attempt things, which would

* Vide Can. 23, 24, & 26. Caus. 12. q. 1.

not

not ordinarily have been permitted; then they began to exceed all Bounds of Modesty, and then Dispensations of Charity grew into Dissipation and Profusion.

This made it necessary to provide against this Evil, but the Remedy was to come not from the Ecclesiasticks, but from the Seculars, who indeed had born all the Loss: As for any Diminution of the Estates of the Church, the Poor, who had the last Part *, only felt it, and not the Clergy, who had the two first Parts.

As the Churches of *Rome* and *Constantinople* were the two principal and most considerable, it was proper to begin the Cure there. Accordingly *Leo* the Emperor, by an Edict (1), in the Year 470. forbad all sort of Alienations in the Church of *Constantinople*. And in the Year 483, *Basilius Cecina Præfectus Prætorio*, Captain of the Guards to *Odoacer* King of *Rome*, by a Decree made in the Church during the Vacancy of the See, upon the Death of Pope *Simplicius* (2), order'd, that the Estates of the Church should not be alienated: And to the three succeeding Popes (3) nothing appear'd extraordinary in all this. But *Odoacer* being extinct, and all his Greatness with him, Pope *Simmacus* in the Year 502, assembled (4) a Council of all *Italy*, in which he represented as a great Absurdity, That a Lay-man

* See the Articles or Chapters 7 and 9.

(1) This is Cod. 14. *de sacro-sanctis Ecclesiis*, which is the Law of *Leo* and *Antemius*.

(2) *Odoacer*, saith *Machiavel*, having possess'd himself of the Empire, kill'd *Orestis*, and put to Flight his Son *Augustulus*, quitted the Title of Emperor, and made himself be call'd King of *Rome*: That *Rome* might change its Tittle, as well as its Prince. *lib.* 1. *Hist. of* Florence.

(3) *Felix* II. according to others the III. *Gelasius* I. and *Anastasius* II.

(4) At *Ravenna*.

ſhould make Conſtitutions in the Church; and with the Advice of that Council, declar'd them invalid: But to avoid the Suſpicion of his deſigning to foment any farther Diſorders, it was decreed in the ſame Council, That neither the *Roman* Pontiff, nor any other Miniſters of that Church, could alienate any of her Eſtates (5), withal declaring, that this Decree was not intended to bind any other Church than that of *Rome* only.

Succeeding times made it evident, that the ſame Law was as neceſſary in all the other Churches: And therefore *Anaſtaſius* extended the Law of *Leo* to all the Churches ſubject to the Patriarchat of *Conſtantinople*, prohibiting them alſo to alienate (6).

But in the Year 535, *Juſtinian* made a general Edict, which comprehending all the Churches of the Eaſt, the Weſt, of *Africk*, and even all Religious Places, which forbad all Alienations to any Purpoſe whatſoever, unleſs in the Caſe of ſuſtaining the Poor in the time of ſome extraordinary Famine, or for redeeming Captives (7); in which two Caſes, Alienations were not only allow'd, conformable to ancient Cuſtom, but St. *Ambroſe* maketh mention, that the Eſtates of the Church, and even the conſecrated Veſſels (*a*), might be ſold.

(5) This Canon is reported by *Gratian*, *Cauſ.* 12. *q.* 2. *Canon. Non liceat*, 20.

(6) It is the 17th Law, *Cod. de ſacro-ſanctis Eccleſiis.*

(7) It is the Novel 7th, *cap.* 1. *tit.* 1. *coll.* 2.

(*a*) Pro redemption. Captivorum, *ſaith St.* Thomas, & aliis neceſſitatibus pauperum, vaſa cultui divino dicata diſtrahuntur, ut Ambroſius dicit 2a. 2æ. quæſt. 185. art. 7. in reſp. ad 3. Videtur, *ſaith* Cajetan, Ibid. quod in caſu neceſſitatis pauperum poſſet portio Eccleſiæ fabricæ debita pro pauperibus diſpenſari --- Nam principalis intentio juris ad fabricas vivas refertur.

This

This Law of *Juſtinian* was obſerv'd in the Weſtern Empire(8), whilſt *Rome* remain'd ſubject to the Emperors of the Eaſt; and there are many Letters extant of St. *Gregory*, which make mention of Goods alienated for the Redemption of Chriſtian Slaves: And for the Space of 200 Years, from *Pelagius* II. to *Hadrian* I. (9), the *Roman* Church was at an incredible Expence to redeem themſelves from the Ravages of the *Lumbards*, to ſave their Towns that were beſieg'd, and to purchaſe Safeguards for the Country: And the ſame Pope *Gregory* gives a clear and ſatisfactory Teſtimony of this Matter in his Time.

The currant Doctrine which is advanc'd at this Day, that the Goods and Eſtates of the Church are exempt from the publick Taxes, found no Countenance in thoſe Days; but on the contrary, thoſe Eſtates were the firſt that were employ'd, before any Contributions were laid on private Families. And it never yet came into Diſpute, whether Princes have Authority to make Laws, which beſides the Force of Cuſtom and Preſcription, is founded on the ſtrongeſt Foundation, if we conſider theſe Goods as the Goods of the Church; that is, that they belong'd to the whole Body or Community of Believers (11), and conſequently, that it was

(8) This Law was confirm'd by *Charlemaign*, as to the Churches, which were *ſub ditione Romana.* lib. 2. Capitular cap. 29.

(9) *Pelagius* was choſen in 579. and *Hadrian* in 772.

(10) See *chap.* 9. of the Conſtitutions of *Emanuel Comnenius*, who began to exempt the Churches of the Eaſt from theſe Payments; and the *Law* 1. of the *Theodoſian* Code, *de annona & tributis, & ibi Gothofred*, as alſo the *Canons* 21, & 22. *Cauſ.* 23. *q.* 8.

(11) For in the firſt Ages of Chriſtianity, the Name of the Church was common to all the Congregation of the Faithful, as well as the temporal Eſtates of the Church.

incumbent on the Prince, to provide for their Preſervation.

After the Empire was eſtabliſh'd in *Charlemaign*, and the *Roman* Laws had loſt their Force, the Abuſe crept in again; which occaſion'd ſeveral Prohibitions in ſeveral Councils (12), chiefly in *France*, where the Diſſipations of the Church Eſtates were moſt extravagant (13). But after the Popes had inſinuated

(12) The Councils of *Meaux* and *Beavois*, held in 845. *Can.* 17 and 18. of the firſt, *Can.* 3, and 4 of the 2d. *Concil. Agathenſe anni* 506. *ſub Clodoveo*, *Can.* 7. Caſellas vel mancipiola Eccleſiæ Epiſcopi, ſicut priſca canonum præcepit authoritas, vel vaſa miniſterii, quaſi commendata fideli propoſito, integro Eccleſiæ jure, poſſideant, id eſt, ut neq; vendant, neq; per quoſcunq; contractus, res, unde pauperes vivunt, alienare præſumant. Quod ſi neceſſitas certa compulerit, ut pro Eccleſiæ aut neceſſitate, aut utilitate vel in uſufructu, vel in directa venditione, aliquid diſtrahatur, apud duos vel tres Comprovinciales, vel vicinos Epiſcopos, cauſa qua neceſſe ſit, vendi, primitus, comprobetur, & habita diſcuſſione ſacerdotali, eorum ſubſcriptione, quæ facta fuerit venditio roboretur. Aliter facta venditio, vel tranſactio non valebit.

(13) If the Biſhops of *France* did not make Waſte of the Church Eſtates, it was not for the Reaſon *Fra. Paul* gives, that the *Roman* Laws were no longer in Force there; but becauſe neither the Conſtitution of *Leo* in 470, nor that of *Anaſtaſius*, nor of *Juſtinian*, were comprehended in the *Theodoſian* Code, which had been publiſh'd in 438. which was 32 Years before the Edict of *Leo*. For the *Gallican* Church acknowledg'd no other Laws, than thoſe of this Code.

Ut omnis Ordo, *ſaith the Capitular of* Lewis the Debonair, ſecundum legem Romanam vivat. *tom.* 1. *pag.* 690.

Hoc etiam volumus, ut qualiſcunq; Francus Ripuarius ſervum ſuum pro remedio animæ ſuæ ſecund. legem Romanam liberum facere voluerit, ut in Eccleſia coram presbyteris, diaconis, ſeu cuncto Clero, & plebe in manu Epiſcopi ſervum cum tabulis tradat, & Epiſcopus Archiadecano jubeat, ut ei tabulas ſecundum legem Romanam qua Eccleſiæ vivunt, ſcribere faciat. *Regino. lib.* 1. *de Eccleſiaſtic. diſciplinus, cap.* 405. *Janus a Coſta ad tit. Extra de ſervis non ordinandis, pag.* 116. So that it is no wonder if *Charlemaign* permitted the Biſhops to diſpoſe the Eſtates of the Church, *Capitulari* 3. *incerti anni, cap.* 3. *tom.* 1. *column* 527. Nor if in the *German* Laws, *tit.* 20. the Alienations of theſe Goods be forbid to none but the Prieſts, *tom.* 1. *Capitular. col.* 62.

inſinuated themſelves into the greateſt Share of the Government of other Churches, finding the general Prohibition to prevent Diſſipations, render'd in a great Meaſure ineffectual by the Biſhops, who found Pretexts to except all particular Caſes out of the general Law, they made divers Ordinances *, from from the Year 1000, until 1250, in which were preſcrib'd certain little Forms of Solemnity and Ceremony, which the Biſhops were oblig'd to obſerve, and which ſerv'd as ſome Reſtraint and Check to this Profuſion †. And *Gregory* X. § in the Council of *Lyons*, held in the Year 1274, order'd, that beſides theſe Forms, Alienations ſhould not be good without Licenſe from the Pope; which hath been, and is obſerv'd to this Day; no Alienation being ever allow'd, unleſs the Utility of it be evident.

But this Utility hath not fail'd to be particularly remark'd and cenſur'd as a real Injuſtice. For tho' the End of all Contracts is to make Things equal, an Advantage on one Side turning to the Detriment of the other, yet the Canoniſts have ventur'd to determine the Utility which the Church ought to receive in alienating; ſome of them having been pleas'd to ſay, that it ought to be a 3d Part of the Value, others, a 4th: Which hath intirely put an End to the Cuſtom of ſelling Eſtates to maintain the Poor in an extraordinary Famine, or to redeem Slaves; ſince in their Conſtruction, this muſt have

* See the Canon, Alienations Cauſ. 12. q. 2. ann. 1123.

† See the Chap. 1. de rebus Eccleſiæ non alienandis in Sexto.

§ Chap. 2. de rebus Eccleſiæ non alienandis in ſexto.

turned to the Loſs, and not the Advantage of the Church.

And thus Things ſeem to be inverted: To ſell and give to the Poor (*b*), which in former Times was the higheſt Chriſtian Perfection, would, at this Day, incur great Cenſures: And it now conſiſts in retaining the Poſſeſſions of the Church, without a Power even of making any Exchanges, or changing the Property of them on any Occaſion whatſoever, unleſs upon an evident Advantage: And the Laws againſt Alienations, which were begun in Favour of the Laity againſt the Church-men, are now turn'd in their Favour, againſt the Laity.

(*b*) Omnes, qui credebant, poſſeſſiones & ſubſtantias vendebant, & dividebant illa omnibus, prout cuiq; opus erat, *Act. Apoſt.* 2.

Vendite quæ poſſidetis, & date Eleemoſynam, *Lucæ* 12.

Si vis perfectus eſſe, vende quæ habes, & da pauperibus, *Matth.* 19.

Si neceſſitas immineat pauperibus erogandi, *ſaith St.* Thomas, ſuperflua cura eſt, & inordinata, ut aliquis in futurum conſervet (bona Eccleſiæ) quod Dominus prohibet. *Matth.* 6. Dicens, nolite ſoliciti eſſe in Craſtinum. *2a. 2æ. quæſt.* 185. *art* 7. *in fine.*

CHAP.

CHAP. XXXVII.

BUT to return to the Declaration of *Clement* IV. and *Clement* V. and the avow'd Doctrine of thoſe Times, which gives the Pope the Right of concurring with all Collators of Benefices, and even of preventing them: This prov'd of no great Advantage, except from the vacant Benefices in the neighbouring Places to *Rome*, where the Vacancy would ſoon be known. As for thoſe which happen'd in Places remote, the Power of concurring or of preventing was of no Service to the Court, becauſe the Ordinary would have diſpos'd, before the other could have Notice of the Vacancy.

This put the Court upon an Expedient, which made an univerſal Change as to the Benefices, and intirely deſtroy'd the ancient Inſtitution throughout the whole Catholick Church. This was the Reſervation, a Decree, whereby the Pope declares before a Benefice be vacant, That no Perſon ſhall take upon him to confer it when it ſhall be vacant; and that if any Collation ſhall be made, it ſhall be void.

And becauſe this Matter was ſo odious in the World, (as all the Comments that are made upon it confeſs) that it was to be uſed very ſparingly, and great Management was requir'd in preparing and making it to be receiv'd, the abſolute Reſervation which *Clement* IV. had made of all Benefices, *vacantes in Curia*, appear'd too ſevere: Therefore *Gre-*

gory X. (1), restrain'd it to a Month only; at the End of which he allow'd the Collators to make the ordinary Provisions.

Clement V. (2) added to this, the Reservation of the Benefices of the Cathedral Church, and of the Monastery of St. *Cross* of *Bourdeaux* for one Time, or Presentation only (3).

(1) Statutum Clementis Papæ prædec nostri de dignitatibus, & beneficiis in Curia romana vacantibus, nequaquam per alium quam per Rom. Pontificem conferendis decernimus taliter moderandum: ut ij ad quos eorundem beneficiorum spectat collatio, statuto prædicto non obstante demum post mensem a die quo beneficia ipsa vacaverint, numerandum ea conferre valeant, 6 *Decretal* 3. *tit. de præbendis, cap.* 3. Nos tot malis occurrere cupientes, omnes & singulas dispensationes sub receptione, aut retentione plurium dignitatum quibus cura animarum sit annexa--- cuicunq; personæ concessas (Cardinalibus tamen S. R. E. qui circa nos universali Ecclesiæ serviendo, singularum Ecclesiarum comoditatibus se impendunt, ac Regum filiis duntaxat exceptis) [*for at* Rome *the Cardinals* Regibus æquiparantur.] duximus taliter moderandas, quod per moderamen nostrum effrenatam talium beneficiorum multitudinem refrenemus, ipsique impetrantes fructu dispensationum hujusmodi totaliter non frustrentur. Statuimusitaq; quod obtinentes nunc ex dispensatione legitima pluralitatem hujusmodi beneficiorum ---- unum tantum ex beneficiis, quibus cura imminet animarum cum dignitate, vel beneficio sine cura quod habere maluerint, possint licite retinere. *And one Page after,* Quæ omnia & singula beneficia vacatura, vel dimissa, nostræ, & sedis Apost. dispositioni reservamus: Inhibentes ne quis, præter Rom. Pontificem de hujusmodi beneficiis disponere, vel circa illa per viam permutationis, vel alias, innovare quoquomodo præsumat. *Extravag. tit. de præb. cap. Execrabilis.*

(2) Who succeeded next to him.

(3) Specialiter Burdegalensem Ecclesiam, & monasterium sanctæ Crucis Burdegalensis, ordinis St. Benedicti --- & generaliter Patriarchales, Archiepiscopales, Episcopales ecclesias, Monasteria, Prioratus, nec non Canonicatus Præbendas ecclesias cum cura vel sine cura, & alia quælibet beneficia ecclesiastica, quæ apud sedem Apostolicam vacare noscuntur ad præsens, & quæ toto nostri Pontificatus tempore vacare contigerit in futurum, provisioni, collationi, ac dispositioni nostræ, & sedis ejusdem, hac vice, authoritate Apostolica reservamus. *Extrav. Commun. 3. tit. de præbendis, cap.* 3.

Pope

Pope *John* XXII. his Successor, made a little larger Step, in a Constitution he made to reform the Plurality of Benefices, which prohibits the holding more than one Benefice with Cure of Souls, and the holding more than one without it, but with Dispensation: And with Exception to the Cardinals, to which this was not to extend: Commanding farther, that those who had more Benefices should resign them; and that for the future, whoever took a Benefice, who was possess'd of one already, should resign the first; which resign'd Benefices were to remain all at the Pope's Disposal. The Pretence for this Bull, which was to take away the Plurality of Benefices, was very specious: And tho' the Reservation it contain'd had no other End than advancing the Interest of the Church of *Rome*, however this was made to pass only as an accessory Advantage, and not the chief Design; and which at the first View seem'd to be without Consequence, because the End to which it tended, did not then discover itself.

The many profitable Examples this Pope hath left to his Successors of heaping up Wealth by the Collation of Benefices, make it necessary to dwell a little longer upon this Head. Many Bishopricks he divided (4), and when a rich Benefice was vacant, he gave it commonly to one who possess'd a

(4) Adeo rebus novis studuit, *saith* Platina *in his Life*, ut & simplices Episcopatus bifariam diviserit, ac divisos in unum redegerit, & Abbatias in Episcopatus, & Episcopatus in Abbatias viciſſim transtulerit. Novas quoq; dignitates nova Collegia in Ecclesiis constituit, &c.

He divided that of *Toulouse* into five, erecting it into an Archbishoprick, and making Suffragans the four Cities which he dismembred from its Dioceſs, *viz. Montauban, Lavaur, Rieux,* and *Lombez*. He likewise assign'd *Pamiez* to it, which *Boniface* VIII. had placed under *Narbon,*

a leſſer Benefice already, that this might be given to another: And he manag'd ſo well, that he made one Vacancy ſometimes produce ſix Preſentations; removing always from a leſſer Benefice to a greater, and filling the leaſt Benefice with a new Beneficiary; ſo that Money was drawn from every one of them, and every one contented.

Narbon, of which laſt, *Alet* and St. *Pons de Tomiers* were made Suffragans by a new Erection. He diſmembred *Caſtres* from the Biſhoprick of *Albi*, St. *Flour* from the Church of *Clermont*, *Vabres* from that of *Rhodes*, and *Tulles* from that of *Limoges*, and placed them under the Archbiſhoprick of *Bourges*.

CHAP. XXXVIII.

THIS Pope invented likewiſe the *Annates* (1), an Impoſition upon Benefices never before heard of, and which for ſome Time, occaſion'd great Scandals.

When the Emperors or Kings conferr'd any Benefice, if thoſe who were Candidates made any Preſent, or agreed to pay out any part of the Revenues as a Conſideration for obtaining it, the Popes inveigh'd ſharply againſt it, alledging that Paſſage in

(1) It is not certain whether *John* XXII. invented the *Annates* or not, *Platina* aſcribes them to *Boniface* IX. Tum vero Bonifacius, *ſaith* Platina *in his Life*, ſive vicè comitum potentiam veritus, ſive augendæ ditionis Eccleſiaſticæ cupidus, Annatarum uſum beneficiis Eccleſiaſticis primus impoſuit, hac conditione, ut qui beneficium conſequeretur dimidium annui proventus fiſco Apoſtolico perſolveret. Sunt tamen, qui hoc inventum Joanni XXII. aſcribant. See *Guimier ad tit. de Annatis in pragmat. ſanct. verbo, Annatarum, pag.* 468. *Edit. Franc. Pinſon.*

the

the Goſpel, *Gratis accepiſtis, gratis date*, Matth. 10. calling ſuch a Contract Simonaical, and a ſetting to Sale Spiritual Things; And ſome Popes went ſo far as to call it Hereſy. Others again there were, who refining upon it, made great Diſtinction betwixt the Miniſtery of Jesus Christ, which conſiſted in Binding and Looſing, and the temporal Poſſeſſions annexed to Benefices; and that there was no Inconveniency in Princes aſſigning ſome Part of theſe Temporalities to the Service of the State (2); of which Matter there was a ſolemn and publick Diſcuſſion.

But this Reaſoning did not ſatisfy learn'd and pious People, for tho' the Revenues of Benefices are certainly Temporalities, yet the Right or Title by Virtue of which they are enjoy'd, is a Spirituality. And ſo far it was generally then allow'd, as it is at this Day, that the Popes had Reaſon to condemn this Practice, and call it Simony. And it was the firſt Occaſion taken by them, to deprive Princes of the Collations of Benefices.

But after the Popes had aſſum'd a great Part of the Power to themſelves, of which they had ſtripped the Emperors, *John* XXII. in the Year 1316. made a Decree, That for three Years, whoever obtain'd a Benefice of more than 24 Ducats of yearly Rent, ſhould pay one Year's Value for Expedition of his Bulls*: Which at the Expiration of the three

(2) Thoſe who had the Power of preſenting, ſays the Author of the Council of *Trent*, *lib.* 6. ſeeing, that beſides a ſpiritual Power, they convey'd temporalities withal, *viz.* the Revenue of the Benefice, they thought they had a Right to ſome temporal Conſideration, and therefore thoſe who obtain'd a Benefice were oblig'd to comply with the Condition of the Collator.

* See the Chapter *Cum nonnullæ* 11. *tit.* 2. *de præbendis & dignitat. in Extravag. Communi.* And the Decretal of *Clem.* VII. *chap.* 2. *de Annatis in* 7. *Decretal.*

Years

Years came to be renew'd again, as well as continu'd by his Succeſſors, tho' in divers Places it met with Oppoſition: Some Places coming to an Agreement to pay only the half of the *Annat*, others to pay only for ſome particular ſort of Benefices, and that the reſt ſhould be exempted.

This Tax was reckon'd very heavy upon private Families; for the *Annate* being paid out of their own Fortune, the Incumbent run the Hazard of dying before he reimburſed himſelf(3). Princes likewiſe found it a mighty Grievance, by its draining their Countries of ſo much Treaſure, without making any ſort of Return: Beſides, that this Exaction being attended by a Train of other Expences in Bulls, Diſpenſations, and other preparative Preſents, the Money which is the Sinews of Power, was irretrievably ſunk, contrary to the Courſe of other Trafficks.

When firſt the Pope introduced this Novelty, the Generality of People were not capable of diſcerning the Difference betwixt this Payment and that which had been ſo much decried, when Princes conferr'd the Benefices: But all the Learn'd Men of thoſe times univerſally condemn'd it as Simoniacal (*a*), from its firſt Eſtabliſhment. In Proceſs of Time,

(3) It was for this Reaſon that *Bernard del Bene* Biſhop of *Niſmes*, ſaid to the Council of *Trent*, That he could not approve the *Annates*, neither as to the Proportion, ſeeing a 20th Part of the Income he thought ſufficient, nor as to the Time of Payment; it not ſeeming reaſonable that any Payment ſhould be made before the End of the Year, *Fra. Paolo. lib.* 8, *Conc. Trent.*

(*a*) Sæpe quæſitum eſt, *ſaith a great Lawyer*, an jure poſſit exigi, & hæc fere Theologoſum eſt opinio juriſq; Pontificii conſultorum Roman. Pontificem lege Simoniaci ambitus ut cæteros Epiſcopos teneri, ſi pro ſacris miniſteriis pecuniam accipiat. *Not. in cap.* 1. *de Simon.* Nam

Time, ſome of the Doctors ſet themſelves on Work to defend it: So they grew divided in their Opinions; ſome cenſuring it as unlawful, ſimonaical, and prohibited both by Laws Divine and Human; others defending it as a Thing allowable, and as a Right belonging to the Pope; even to the maintaining, that the Pope might of Right demand not only the *Annate*, but more if he thought fit, as being the abſolute Patron or Maſter of all the Fruits without Exception: And laſtly, others, to give the finiſhing Stroke, went ſo far, as indeed they could go no farther, and declar'd, That whatever Contract the Pope ſhould make in the Collation of Benefices, he could not be guilty of Simony (*b*). Which if it were true, that all the Goods of the Church were his, were an undeniable Conſequence, ſeeing every Man may make what Contracts he pleaſes in the Management of his own Eſtate, without

Nam præter Canones qui pecuniam omnino exigi vetant, hoc genus vectigalis a ſynodo Baſilienſi damnatum eſt, & pæna ambitus adverſus eos, qui hac via ad ſacra miniſteria Eccleſiæ graſſantur, & adeo adverſus ipſum Pontificem ſtatuta, *Seſſ.* 21 Nec ſatis perſpicio ut ſe excuſare poſſint hoc modo promoti a Pontifice quominus in Canonum pœnam incurrant, & tanquam vitio creati, ut veteres loquobantur, dignitatem honoremq; Eccleſiaſticum amittant, ſi quis ad priſcæ Inſtitutionis Normam potius, quam receptæ conſuetudinis, hæc exigere velit. Nam quoquo ſe vertant Pontifices, quibuſcunq; decretis, conſtitutionibus, pactiſq; hanc exactionem tueantur divinum oraculum ſemper iis opponemus, gratis accepiſtis, gratis datis. *Gloſſ. prag. tit. de Annatis Duar. de benef. lib.* 6. *cap.* 3.

Vide Nic. de Clemangis de Annatis non ſolvendis.

(*b*) St. *Thomas* contradicts this in expreſs Terms: Papa, *ſaith he*, poteſt incurrere vitium Simoniæ, ſicut & quilibet alius homo, quamvis enim res Eccleſiæ ſint ejus ut principalis Diſpenſatoris, non tamen ſunt ejus ut Domini & poſſeſſoris. Et ideo ſi reciperet pro aliqua re ſpirituali pecuniam de reditibus Eccleſiæ alicujus, non careret vitio Simoniæ, 2*da.* 2*dæ. queſtio* 100. *art.* 1.

Injury

Injury to any other. But in this Case there seems to be a considerable Objection, which is, That neither GOD nor Man have seem'd to give their Consent to it.

In Fine, *John* XXII. was so intent upon making the most of every thing, that in the Space of 20 Years he heap'd up an immense Treasure: And tho' he put no more Restraint upon his Expences or his Bounties, than his Predecessors, yet he left 25 Millions at his Death. *John Villars* saith, that in an Inventory of this Pope's Estate which his Brother made by Order of the sacred College, he found 18 Millions of coined Money, and 7 Millions valued in Plate and Ingots (4).

The

(4) *Platina* hath Reason to say, at the End of his Life, that no Pope never left so much: And it is observable what *Platina* relates in the Beginning of his Life, that this Pope declar'd all those for Hereticks, who affirm'd that Jesus Christ and his Disciples had no Property in any Goods.

Eos, *saith he*, declaravit pertinaces & hæreticos, qui affirmaverunt Christum, & ejus discipulos nil privati vel proprii habuisse; quod certe, *adds he very pertinently*, non multum cum sacra scriptura convenit quæ multis in locis testatur Christum ejusq; discipulos nil proprii habuisse, ut illud Evangelii: Qui non vendiderit omnia quæ habet, & pauperibus dederit non potest meus esse discipulus. [*the express Words of the Gospel are;* Omnis ex vobis qui non renunciat omnibus quæ possidet non potest esse meus discipulus, *Lucæ* 14.] It is certain, that *John* XXII. knew better, but as a good Canonist he pretended to be of this Opinion, the better to establish that which made him absolute Master of all the Goods of the Church: Whereas he is really no more than the principal Disposer of them; as St. *Thomas* sheweth in the Article I just now quotted.

To this Reflection I will add another, which is, That the *Gallican* Church hath never been more burden'd, nor more injur'd in its Rights, as to the Collation of Benefices, than by the *French* Popes: Witness the Bulls of *Clement* IV. V. and *John* XXII. reported by the Author; and what *Mezeray* saith of *Clement* VII. Pope of *Avignon*:

The *Annates* at the Time of its Institution, were only paid for the Expedition of Bulls for Benefices, as they were fill'd up. But afterwards it was laid on all such Benefices, to be paid every 15 Years (*c*), as by being annex'd to Monasteries and Hospitals, were never vacant; from whence this Tax had the Name of *Quindennium* *. *Paul* II. laid it (5) only on the Benefices united by the Popes, since the Year 1417. But *Paul* IV. extended it to all Benefices united before that time: And *Sixtus* V. took in not only those which had been united by the Apostolick See, but all such as should be united by Legates, Nuncio's, Bishops and any others.

But to return to the Original of *Annates*, Those who oppos'd this Invention of *John* XXII. with a Zeal to hinder its spreading farther, did not obtain their Ends; but on the contrary, contributed to the Defence of them, and to furnish the Popes with an Occasion of extending the Imposition yet farther: Just as the Opposition, made also in those Days, to the Reservations, produc'd the same Effect;

Avignon: [All the Exactions and Violences, saith he, in the Life of *Charles* VI. cannot be related without Indignation, which were committed upon the Clergy. The 36 Cardinals of *Avignon* were so many Tyrants, they had every where their Officers with expectative Graces, which swept away all the Benefices; the Offices of the Cloyster [*les offices Claustreux* in the *French*] the Commanderies retain'd the best of these, and sold the other or let them to Farm: *Clement* himself, besides possessing himself of all the Spoils of the Bishops, and of all the Abbots that dy'd, and his taking one Year's Rent of all Benefices on every change of the Titulary, whether it happen'd by Vacancy, Resignation, or Exchange, ravaged the *Gallican* Church by an Infinity of Violences and extraordinary Taxes.

(*c*) Propterea quod beneficia unita hujusmodi amplius vacare non speraretur, & exinde Camera & Officiates sedis Apost. detrimentum non modicum pateretur.

* See Chaptert 4, and 5. *de Annatis in 7. Decretal.*

(5) Near the Year 1470.

fect; the Court of *Rome* never failing to get any Abuſes juſtify'd by ſuitable Doctrines.

And therefore *Benedict* XXII. (6), Succeſſor to *John* XXII. under the Affectation of more Care in providing proper Perſons, and ſuch as were every way fitted for their Charge, reſerv'd to himſelf, but for his own Life only, the Diſpoſal of all the Benefices vacant *in Curia*, as had been formerly practis'd, as likewiſe of all vacant by Deprivation, or Tranſlation to other Benefices; of all ſuch as were reſign'd into the Pope's Hands, of all that belong'd to Cardinals, Legates, Nuncio's, Officers of the Court, Treaſurers of the Church Eſtates, and to ſuch as were carried to *Rome* upon Buſineſs, and happen'd to dye either going or coming, about 40 Miles diſtant from the Court; and laſtly, of all Benefices vacant by the Incumbents having taken another (*d*).

Theſe

(6) *James Tournier*, Monk of the Order of Native of the Dioceſs of *Pamiez* in *Languedoc*, choſen *Decemb.* 20. 1334.

(*d*) Gerimus in noſtris deſideriis, ut debemus, quod per noſtræ diligentiæ ſtudium ad quarum libet Eccleſiarum & Monaſteriorum regimina & alia beneficia Eccleſiaſtica viri aſſumantur idonei, qui præſint, & proſint --- Omnes Patriarchales Archiepiſ. & Epiſcopi Eccleſias, & etiam Monaſteria, prioratus, dignitates perſonatus, nec non Canonicatus & præbendas, cæteraq; beneficia Eccleſiaſtica cum cura vel ſine cura, &c. Nunc apud ſedem Apoſtolicam quocunq; modo vacantia, & in poſterum vacatura, nec non per depoſitionem, vel privationem, ſeu tranſlationem, aut muneris conſecrationis ſuſpenſionem per fel. rec. Joannem Papam XXII. ſeu ejus auctoritate factas, & per nos, ſeu authoritate noſtra faciandas ubilibet: Nec non ſi --- renunciationem admitti per nos, vel authoritate noſtra contingeret apud ſedem prædictam. Ac etiam per obitum Cardinalium & Officialium dictæ ſedis --- & quorumcunq; legætorum, ſive nunciorum, ac in terris Eccleſiæ Romanæ rectorum & theſaurariorum --- nunc vacantia & in antea vacatura, ubicunq; dictos legatos vel nuncios, ſeu rectores aut theſaurarios, antequam ad Rom. curiam redierint, ſeu venerint, rebus eximi contigerit ad humanis. Nec non quorumlibet pro quibuſcunq; negotiis ad Rom. curiam venientium, ſeu etiam recedentium ab eadem, ſi in locis a dicta curia ultra duas diætas legales non diſtantibus, *viz.* [*in places not diſtant more than two good Days Journies from* Rome] jam forſan obierint, vel eos in antea tranſire contigerit de hac luce --- Nec non etiam, quæ per eſſecutionem quorumcunq; prioratuum, dignitatum, & aliorum beneficiorum collatorum, & conferendorum in poſterum, nunc vacantia, & in antea vacatura, diſpoſitioni & proviſioni noſtræ, donec miſerationis divinæ clementia nos univerſalis Eccleſiæ regimini præſidere conceſſerit, reſervamus, &c. *This Decree is in* January, 1335.

Theſe Reſervations ſo comprehenſive, and which ſo much reſtrain'd the Authority of the Ordinaries, and brought ſo many Benefices into the Hands of Foreigners, yet being declar'd to take Place only during the Life of this Pope, were let paſs and admitted. But it was not to be imagin'd that any thing once eſtabliſh'd, by him that has the Power, a Prince ſo much for his Intereſt (*e*), tho' for ſo ſhort a Period, would ever be limited within its firſt Bounds.

Clement VI. (7) Succeſſor of *Benedict* XII. made the ſame Reſervations. This induc'd *Edward* III. King of *England*, who ſaw all the Benefices of the Kingdom falling into the Hands of Foreigners, by means of Reſervations and expectative Graces, to forbid, on Pain of Death, any proviſional Benefices made by the Pope, to be receiv'd within his Kingdom. The Pope wrote with great Concern to the King, deſiring him to revoke his Orders. The King, in Anſwer, beſeech'd him to make a Refor-

(*e*) Quæ gravia ac intollerandа ſed neceſſitate armorum excuſata etiam in pace manſere, *ſaith* Tacitus, Hiſt. 2. *that is to ſay*, The Exactions were excus'd as neceſſary, during the War, yet they ceas'd not in Peace. When a Right is once eſtabliſh'd, 'tis no longer in the Power of Subjects to hinder its being perpetuated, and even encreas'd.

(7) *Peter Roger* Archbiſhop of *Roüen*, Son of the Lord of *Roſe* in *Limoſin*.

mation in Things which were an apparent Dishonour to the Church, and a Scandal to the People: That the Princes, his Ancestors, had enrich'd the Churches of *England*, which were now fill'd with Strangers and unworthy Persons, contrary to the Will of the Testators: That his Kingdom was sensibly impair'd every Day, by the Impositions of the Court of *Rome*: That the Popes were certainly design'd to feed, and not to fleece the Sheep: That the Kings, who had heretofore dispos'd all the Benefices, had since granted the Election to the Clergy at the Popes Request; and now they would set those Elections aside, tho' introduced by themselves, and usurp the Disposition to themselves: That, finally, there was a Necessity of returning to the old Usage, which was, That the Princes should confer the Benefices themselves (*f*).

This Difference, which lasted during the Life of this Pope, however brought his Successor *Innocent* VI. (8), to revoke all his Reservations (*g*), by a

(*f*) Cui Papæ Rex Angliæ de concilio Cleri, & populi Anglici rescripsit, quod in concessiones hujus, quas ipse Papa faceret, præsertim advenis, qui thesauros Ecclesiæ deferrent, & in provisiones Prælaturarum nullatenus consentiret, quia cum olim Reges Angliæ Ecclesiarum Patroni de consensu sedis Apostolicæ Capitulis concesserint electionem, si Papa pacta hujusmodi non servaret, res in pristinam reverteretur naturam. Albertus Argentinensis *in Chronico. anno* 1342.

(8) *Stephen* of *Albert*, of the County of *Limosin*, Bishop of *Clermont*.

(*g*) Mortuo Clemente Papa infra 14 dies electus est concorditer Stephanus de Prinu, Claremontensis Francus, qui fuerat summus Pœnitentiarius Clementis, & Ostiensis Episcopus, & vocatus est Innocentius VI. qui in die Epiphaniæ Domini postmodum coronatus statim revocat omnes Reservationes factas per Papam Clementem, exceptis majoribus prælaturis, & in omnibus ostendit se rigidum etiam erga Cardinales. In eodem Chronico, *Anno* 1352. *Nauclerus ad anno* 1352. *vol.* 2. *generatione* 46.

Bull,

Bull, which begun with the Word *Pastoralis*: Of this Bull many famous Canonists make mention, tho', at this Day it is not extant, any more than many others, whereby those Abuses and Usurpations would have been laid open: As by the same Arts, the Glosses or Interpretations have been robbed of every thing that made not for the Pretensions of the Court of *Rome*. But the *Indices Expurgatorii* (9), carry yet a much worse Face, which were made

(9) The Churchmen, saith our Author, in his Treatise of the Inquisition, have castrated all the valuable Books, and suppress'd every thing which might serve for Defence of the temporal Authority.

In the Year 1607. a Book was printed at *Rome*, call'd *Index Expurgatorius*, in which all the guilty Places were mark'd and condemn'd, as deserving to be cut out of certain Authors: Which make it discernable at the Instant, which are the Passages which have been changed or suppress'd in several Authors of good Reputation, that had the Misfortune to maintain the Authority given by God to Princes.

So that it is not possible at this Day to know the Sense of one of these Authors by reading his Book, there being no other Edition to be found, than that which hath been so corrected by the Court of *Rome*. But that which appears of all the most incredible, if it were not to be seen in Print is, the Decree made by *Clem.* VIII. in the Catalogue of forbidden Books, of the Edition of the Year 1595. that all the Books of Catholick Authors, wrote since the Year 1515. should be corrected, not only by retrenching what was not conformable to the Doctrine of the Church, but also by adding what should be judged proper. [In libris Catholicorum recentiorum qui post annum Christianæ salutis 1515. conscripti sint, si id quod corrigendum occurrit paucis demptis, aut additis emendari posse videatur, id correctores faciendum curent, sin minus, omnino deleatur. [*De correctione librorum*, § 3.] And tho' it is but six Years, saith he, since this Precept hath been publish'd, yet it hath constantly been put in Practice for these 70 Years. If therefore the true Doctrine concerning the Authority of Princes, be no longer to be met with in Books, but another altogether in Favour of the Church-men, we know who hath taken away the one, and substituted the other in its Room. Finally, we may rest satisfy'd, that we have no

made by the Doctors of the Church, subservient to that Church, of all Books; in order to accomodate them to its own Interests, before they were suffer'd to go abroad.

Some few Years after, the Reservations coming again to be reviv'd, and to gather Strength, the same King *Edward*, in the Year 1373. sent an Ambassador to Pope *Gregory* XI. then at *Avignon*, to press him to annul the Reservations intirely: Which at length,

Book left on this Subject, genuin, and conformable to the Original.

And in the §. 2. it is said, That all Propositions which are against Immunities, and Ecclesiastical Jurisdiction, or which give Authority to that tyrannical Policy, which the Seculars fasly call Reason of State. *Expurgandæ sunt propositiones quæ sunt contra libertatem, immunitatem, & jurisdictionem Ecclesiasticam.* Under Colour of correcting or suppressing these Propositions, they expunge every thing that makes for the Interest of Princes. *Item quæ tyranicam Politiam fovent, & quam falso vocant rationem status deleantur.*

By this way of reasoning, all Princes are Tyrants; for however just and religious they are, there can be no Government without a Reason of State, by which they act, and without which no Princes could maintain themselves in their just Rights. Thus *Fra. Paolo* hath good Reason to say, in *lib.* 6. *Conc. Trent*, [That the Court of *Rome* never found a more valuable Secret to make Mankind degenerate into Brutes, than to deprive them of the Knowledge which is necessary to defend them from its Usurpations.]

What therefore must be the Consequence, if our Magistrates continue to allow the Churchmen to suppress good Books? The Doctor who hath placed the History of the Council of *Trent* in the Catalogue of prohibited Books, in the Year 1685. may, perhaps, have acted out of great Zeal; but some of the most able Men of the Kingdom have been of Opinion, his Learning was not suitable to his Zeal: And some have not scrupled to say, That in doing a great Service to the Court of *Rome*, he has done a great Disservice to the Crown of *France*.

* See *Nauclerus* in *Chronico vol.* 2. *gener.* 36 & 47. *Albert Krantz in hist. Saxon. lib.* 10. *cap.* 4. *& in hist. Vandal, lib.* 9. *cap.* 6. *& Gaguin, lib.* 9. *cap.* 2. *in Carolo* V.

after

after two Years in Agitation, were, in the Year 1375. totally abolish'd by this Pope.

But a great Schism arising in the Church upon his Death, which happen'd in the Year 1378. and produced two Popes, and consequently two Courts, the necessary Expences to support them were also doubled, to which must be reckon'd the extraordinary Occasions for prosecuting the War with Rigour against each other. Thus all Inventions for raising Money, and fleecing the People, were set on Work with fresh Vigour (*b*): Simony appear'd no where so barefaced, the two Courts holding an open Market for Benefices (*i*); and every Essay was made, that was possible, to strip the ordinary Collators of the Right of presenting.

Hitherto the Court of *Rome* had not taken off the Mask, nor had so avowedly own'd that Passion she had for Money, and that it was the ultimate End of all her Actions. She had hitherto condescended to give Reasons for what she did, that carried a

(*b*) Hæc revera de Romano Pontificatu altercatio multis incommodis, tum alias nationes, tum gentem Gallicam vexavit. Nam Cardinales 30 Clementis causam secuti exploratores per Franciam constituerant, qui Ecclesiarum opulentiores proventus inquirerent quas Rectoribus vacuas mox sibi a Clemente obtinebant. Tulit quoq; Clemens de vacaturis Ecclesiis legem quam expectativam gratiam appellabant, qua ad adipiscendas morte possessorum Ecclesias fas jusq; expectanti per Pontificem designato erat, solis ex hac lege Cardinalibus & potentioribus viris Ecclesiæ contingebant. Exigebantur præterea a Clero decimæ, & de majoribus Ecclesiis dum Pastore orbatæ erant, primi anni proventus legebantur. Id annatam vocant, quam Cameræ Apostolicæ deberi Romani contendunt. *Gaguin, lib.* 9. *cap.* 3. *in Carolo VI. Vide Nic. de Clemangis de corrupto Ecclesiæ statu. cap.* 27. *Juvenal, de Ursinis*, in the Life of *Charles* VI. *anno.* 1381. *Allen Chartier* and *Nicholas Gilles anno* 1385.

(*i*) Tempore ejus (Bonif. IX.) valde infamis curia habebatur de labe Simoniaca, ut beneficia non tam meritis quam pecuniam offerentibus darentur. *Naucler. in Chronio, vol.* 2. *gener.* 47. *anno* 1389.

good Appearance to the World, either on Pretence of providing better for the Benefices than the Ordinaries uſually did, or of prefering ſome Perſon of particular Merit (*k*).

But *Urban* VI. left it no longer to conjecture, why he concern'd himſelf with the Collation of Benefices, when he declar'd, That no Preſentation ſhould be good, where the Value (*l*) was not expreſſed.

Heretofore Benefices were given chiefly for ſpiritual Purpoſes, the temporal Part was an acceſſary and an accidental Circumſtance of Convenience only, and not of the firſt Conſideration: But afterwards the ſpiritual Part was no more ſpoken of, nor the Office or Duty any longer regarded, but the Profits.

(*k*) Etſi, *ſaith* Clement V. in temporalium diſpoſitione bonorum habenda ſit diſcretionis cautela, præcipue eſt ut ea dignè & laudabiliter diſponatur in Eccleſiaſticis tamen rebus multo fortiùs inviligare noſtra debet intentio, ut juxta perſonarum conditiones & ſtatus ad divini nominis laudem & ipſarum utilitatem provideatur ex merito Eccleſiaſticis perſonis: Cum juxta canonicas ſanctiones nil ſit quod Eccleſiæ Dei magis officiat, quam quod indigni aſſumantur ad regimen animarum. *Extravag. Comm. l.* 3. *tit. de Præbendis, cap.* 3.

(*l*) Item vo'uit quod in gratiis quas quibuſvis perſonis de beneficiis vacantibus, ſeu certo modo vocaturis, fieri contigerit, illorum & aliorum quorumcunq; beneficiorum, quæ dictæ perſonæ tunc obtinuerint, ſeu de quibus his fuerit proviſum vel conceſſum, vel mandatum providere verus annuus valor per Marcas argenti, aut Sterlingorum, vel libras turonenſium parvorum, ſeu florinos auri, aut ducatos, vel uncias auri, ſeu aliam monetam ſecundum communem æſtimationem exprimatur, niſi perſonæ prædictæ beneficia, quæ tunc obtinuerint, aut in quibus, vel ad quæ jus eis competit, juxta ipſarum obligationes, aut aliàs dimittere teneantur, alioquin gratiæ prædictæ ſunt nullæ. *This Decretal of* Urban *is become a Rule in Chancery, and is the* 55*th of the Rules or Orders of the Apoſtolick Chancery, publiſhed by* Innocent XIX. Vide Rebuff. ad Rubric. de Annatis in Concordatis, & Felin ad caput ad aures 8. num. 4. Extra de Reſcriptis.

Thus

Thus it ſtands at this Day, inſomuch that when Power is given to the Nuncio's to confer ſmall Benefices, the Importance of the Cure, that is, whether they ſhall be reputed great or little, is determin'd only by the Value of the Income: And in the Reſervations of the Monaſteries, the Spirituals go for nothing; but all the Benefices above the Value of 200 Crowns are reſerv'd, the reſt are left at Liberty.

By theſe Methods the Apoſtolick Chamber came to a juſter Knowledge of the value of the *Annates* (10), for if two Perſons happen to obtain the ſame Benefice, the Bulls in Favour of him who values it higheſt, ſtand good, the others are made void. Some are apt to call this a ſetting the Benefices to publick Outcry, and taking the beſt Chapman: Others ſay, that it is only to prevent the Chamber being defrauded of its Right. But as this is a Conſideration more proper for the *Annates*, we ſhall return to the unhappy Times of the Schiſm we mention'd, which made ſo large a Rent in the Church.

(10) This is alſo done, to oblige thoſe who have not expreſs'd the Value to take out ſecond Proviſions or Grants, dearer than the firſt, in order to aſſure themſelves of the Benefice.

What would that holy Biſhop of *Tournay* ſay in theſe Days? who asking Money of one of his Friends to buy Lead to cover his Church, writ to him in theſe Terms:

Rogamus & petimus ut aliquid de benivola & benefica liberalitate veſtra nobis mittatis, quò plumbum emamus, non Romanum, ſed Anglicum, quoniam Anglico plumbo teguntur Eccleſiæ, nudantur Romano. *Steph. Tornacenſis, ep.* 147. *ad Valdemarum.*

CHAP. XXXIX.

NO Man denies, but that the Diſorders were notorious in the *Roman* Courts on this Occaſion. And that which encreaſed them was, that ſome Kingdoms and Countries were ſo ſcandaliz'd with the Variety of Tricks and Shifts they ſaw practis'd, that they came at laſt to acknowledge neither of the Competitors for Pope (1). This put them upon the Neceſſity of an Expedient, not very endearing to the Subjects, which was, to raiſe and levy as much upon thoſe who continued ſtill in their Obedience, as they could have expected from all their Subjects together, had there been no Defection.

Germany refus'd to ſubmit to the Reſervations and Expectative Graces, and the Ordinaries conſtantly preſented, without any Regard to the *Roman* Bulls.

On the other Side, *Innocent* VII. in the Year 1359. ſent a Legate into *Germany*, to grant new Bulls for certain Sums, to ſuch as had come in by Epiſcopal Collation; and alſo to compound for the Fruits already

(1) If all the Chriſtian Princes had done the ſame, without making themſelves of either Party, the Schiſm which laſted 50 Years, would not have laſted 50 Weeks: For thoſe Popes would not have perſiſted in maintaining a Dignity, whereby they reaped neither Honour nor Profit. Every Body knows the good Effect which the Letters of Subſtraction had (which is a Declaration of withdrawing from Obedience, *&c.*) which the King of *France* publiſh'd in the Year 1408.

already receiv'd (*a*), which were quitted and releaſed to the Incumbents, on condition of reſtoring a certain part to the Apoſtolick Chamber. But as this would have carried great Sums out of *Germany*, the Emperor *Charles* IV. forbad the levying them, ſaying, It was neceſſary to reform the Manners of the Clergy, not their Purſes.

But all theſe Confuſions receiv'd a conſiderable Increaſe, by the Addition of a third Pope (1), in the Year 1409. to whom tho' *France* paid Obedience, yet ſhe ſtood firm in maintaining the King's Edict (2), made three Years before *; by which all Reſervations, *Annates*, and other Exactions of the Court of *Rome* were forbid, until they were ſettled by a lawful General Council.

(*a*) Miſit Innocentius Papa legatum ſuum Epiſcopum Calvacenſem pro ſubſidio, Cameræ, & dedit ei poteſtatem diſpenſandi cum Clericis ad beneficia curata, vel ſine cura ad dignitates aut officia quæ minus canonice haberent, aut fuiſſent adepti cum fructibus inde preceptis. Erant ibi etiam Saxoniæ & Bavariæ Duces, vocavitq; Imperator legatum, & audivit eundem ſuper comiſſis: Quo facto dixit Imperator, Domine Legate, Papa miſſit vos ad Germaniam in qua magnam pecuniam corraditis, ſed Clero nihil reformatis. *Naucle-rus in Chronico. vol. 2. generat.* 46. *anno* 1359. Adde Paralipomena rerum memorabilium Cratonis Milii *an.* 1375. & *Chronicon. Germani mutii. an.* 1360.

(1) *Alexander* V. choſen by the Cardinals, who were Creatures of the two other Popes, by Virtue of the Subſtraction ordain'd by the Council of *Piſa*, after the Example of that made in *France*.

(2) The Cardinal *de Thury* (ſaith *Monſtrelet*, a contemporary Author) came to *Paris*, and requeſted the Council and the Univerſity there, that they would raiſe two Tenths upon the *French* Church; which was not agreed to, becauſe the Univerſity oppos'd it in the Name of all the Church, and obtain'd a Royal Mandate, to all the King's Officers, commanding that whoever came [*és meſtes de leurs offices*] with ſuch and the like Requeſts, ſhould be expell'd the Kingdom. *Life of* Cha. VI. 1409.

* In the Year 1406.

This

This King being incapable of Government, all Edicts and Acts of State were issued in the Name, or by the Authority of *Lewis* Duke of *Orleans*, his Brother, who had the Government of him. But the Duke being kill'd (3), it was easy for Pope *John* XXIII. to recover the Collation of Benefices in *France*, by allowing, that the King, the Queen, the Dauphin (4), and all the House of *Burgundy* should have the Nomination of all those confer'd on their own Servants, on Condition the Pope should have all the rest. Yet the Court of *Rome* enjoy'd this Agreement but to the Death of this King; for *Charles* VII. his Son. renew'd the Edicts (*b*).

In several States and Governments of *Italy*, divers Regulations were also made, tending all to remedy these Abuses. *Baldus* tells us, that even the City of *Bologna*, among divers Provisions of this Kind, made an Order, That no more Benefices should be confer d on any but Natives of that City, and of the Territory belonging to it. Nor were the Popes in those Days much considered; a plain Instance of which appear'd at *Florence*, where *John* XXIII. residing at that Time with his Court, was depriv'd

(3) By Order of *John* Duke of *Burgundy*, his Cousin, *an.* 1407.

(4) The Archbishop of *Pisa* came to *Paris*, sent by Pope *John*, to treat about the Expectative Graces, and Promotions to Prelacies, the Royal Ordinances being then in Force, which plac'd the Disposition of them in the Ordinaries ---- The said Ordinances were annull'd; for the King, the Queen, the Dauphin, had the Nomination for their own Servants, as also the University. *Juvenal Ursinorum, in the Year*, 1414.

(*b*) Exactiones pecuniarum, quas ab aliquibus retroactis temporibus Curia Romana, seu Camera Apostolica, sub prætextu vacantium beneficiorum, aut alias quovis modo & colore præmissorum applicar. voluit, penitus cessabunt. *This Ordinance bears Date* April 13th, 1418. *and is reported in the Conference of Ordinances*, lib. 1. tit. 3. part 2. §. 3.

for

for five Years of the Collation of Benefices in that State, upon a Disorder occasion'd by that Pope's presenting to a Benefice (*c*).

It was to that Age the Court of *Rome* was beholding for Inventions, so refin'd and so serviceable to her, of Clauses inserted in Bulls which were perplexing and inextricable, distinguishing betwixt the Petitions or Requests sign'd *Concessum*, and the others sign'd *Fiat* (5): And betwixt those Bulls dispatch'd with the Clause *Motu proprio*, and those with the Clause *Anteferri* (6); which last gives the Preference, and makes the Condition more advantagious.

From

(*c*) Florentini propter unicum abusum a Papa commissum in conferendo unam Abbatiam sitam in eorum ditione privaverunt Joannem XXIII. Papam in eorum civitata tunc degentem, potestate conferendi beneficia in eorum ditione sita usq; ad quinquennium. *Molin. in notis ad Senatui-consultum contra abusus Pap.*

(5) The Difference betwixt the Petitions sign'd *Concessum*, and those wherein the Pope says, *fiat ut petitur*, is, That these latter always grant some Grace, and are sign'd with the first Letter of the Pope's Christian Name, and with his own Hand, betwixt the Petition and the Clauses; whereas the others are sign'd only by the Officer of the *Concessum*, in this Form, *Concessum ut petitur in præsentia Domini nostri Papæ*, with the first Letter of his Name, and his Surname betwixt the Petition and the Clauses: And the *Concessum* on the Sides of the Clauses, with the two capital Letters of his Names. See the 34th Rule of Chancery.

(6) All these Rubricks began under the Pontificates of *Boniface* IX. Pope at *Rome*, and of *Benedict* XI. Pope at *Avignon*.

Charles du Molin, in his Notes upon the Edict, set forth *anno* 1406. against the Exactions of the Court of *Rome*, saith, Benedictus XIII. multas valde anomalas & exorbitantes beneficiales & alias gratias, pecuniæ emungendæ gratia, faciebat, sequendo in hoc Bonifaciam IX. impium Corrivalem suum, qui adeo Simonem Magum imitatus est, ut morientibus Cardinalibus, qui Simoniam oderant summopere lætaretur, velut liberas habenas habere incipiens ad Simoniam publice exercendam. Plus offerenti indiscriminatim

From hence it follow'd, that many Bulls were obtain'd for the ſame Benefice, which, beſides the *Annates* being multiply'd by this means, produced Law-Suits, and theſe were to be carry'd on at *Rome*, to the great Advantage of that Court. To which was added another Improvement, which refin'd again extreamly upon theſe Inventions, this was, That if one of the Parties happen'd to die, another Litigant was ſubſtituted, that the Cauſe might not die with him; but that from his Death another *Annate* might ariſe, by which the Law-Suits were perpetuated, and in ſome ſort made immortal. Theſe gave Riſe again to the Clauſes *Si alteri, Si neutri, Si nulli*: By which, while the Benefice was given to a third Perſon, the Suit however went on, and was happily preſerv'd betwixt the two firſt.

To remedy therefore theſe Diſorders and Corruptions, and to put a Stop to theſe wretched Litigations among their Subjects, Princes were oblig'd to fix the Right of Poſſeſſion to Benefices, by reſtoring the Cognizance of the Beneficiary Rights to the Secular Power; a Right, which however clear in itſelf, the Eccleſiaſticks had uſurp'd (7) by the Connivance of the Princes themſelves.

But

minatim vendebat prioritates datarum. Et hæc Mercimonia palam in Curia multis annis exercuit. Et adhuc priores Mercatores eludebat inventa Clauſula, Anteferri pro 25 florenis; & hos rurſus per prerogativum Antelationis pro 50 ducatis, fixis etiam multis regulis Cancellariæ quas pretio refigeret, ut late ſcribit Theodoricus à Niem, qui illis præſens adfuit, *lib.* 2. *cap.* 5. *& ſeq.*

(7) The Parliament of *Paris*, which was in part compos'd of Counſellors that were Clergymen [*Counceillers Cleres*] contributed much to the Diminution of the Authority of the Eccleſiaſtical Judges.

Item Juriſdictio temporalis per ſpiritualem non debet impedire, & ſi contra fiat, Curia præſens conſuevit compellere ſpiritualem ad removendum impedimenta talia per captionem ſuæ temporalitatis. Ita dictum fuit per Arreſtam Curiæ in Parliamento anni 1327. contra Epiſcopum Rhemenſem pro Capitulo dictæ Eccleſiæ. *Cap.* 29. *partis* 1. *Stili Curiæ Parliam.* §. 10.

But the Regulations made by them againſt all theſe Innovations in their Dominions, ſerv'd but to ſharpen the Induſtry of the Court of *Rome*, to find out other Expedients, which might have the ſame Effect, under other Pretexts; as well as to ſupply, by a Multiplication of new Rights, their Defect of Power in Matters, wherein the Interpoſition of Princes had reſtrain'd them.

CHAP. XL.

IT was in theſe Days that Reſignations alſo appear'd in the World, not ſuch as were juſtifiable, and made upon good Grounds, for ſuch indeed were of very great Antiquity, but others of a very different Nature, and which the World, at this Day, by no means approves. It never was allow'd to Church-men to quit the Cure that had been aſſign'd them, whenever they pleaſed: For it was highly reaſonable, that whoever had undertaken a Charge, and had receiv'd his Recompenſe for it, which is the Benefice, ſhould continue to perform it (1).

Nevertheleſs, ſeeing a Caſe might happen, in which it might be neceſſary, or at leaſt reaſonable

(1) Can. ſi qui vero. Can. ſi quis Presbiter. & Can. Epiſcopum 7. q. 1. Can. Clericus 21. q. 1. Can. Sanctorum 70. diſt. Et Yvolar. not. ep. 121.

and

and expedient for a Publick or a private Consideration, that a Man should quit his Benefice: From thence came the Practice, that a Man might, with the Permission of his Superiors (2), for some lawful Cause, renounce. The Causes that were then allow'd to be so, were Infirmities either of Mind or Body, old Age (3), or the Danger in residing in a Place, where a Man happen'd to have powerful Enemies.

Assoon as the Renunciation was receiv'd by the Bishop, the Benefice was esteem'd vacant (*a*), and the Collator, confer'd it in the same Forms as if it had been vacant by Death.

At last these Renunciations came to be practis'd for no such urgent Causes, but it grew to be a sufficient Cause, if the Renouncer had a Mind to resign it to one of his own Nomination (*b*). And as a

(2) Vide cap. 4. extra de renunciatione.

(3) Vide cap. 10. extra de renunciatione.

(*a*) De Presbytero, qui Ecclesiam quam regebat nulla cogente necessitate in manu tua refutavit, & per manum Laicorum cubile sponsæ, qua se indignum, vel quam se indignam, refutando judicavit, conatur ascendere, hoc fraternitati tuæ respondeo, quia justum est, ut in judicio, quod de se judicavit, permaneat, & sponsam, quam repudiavit, vivente fratre, qui ei legitimè incardinatus est, adulterare non præsumat, *Tho. Car. not. ep.* 131. *vide cap.* 3. *extra. de renunciat.*

(*b*) *Balsamon* on the 76 Canon [*des Apostres*] saith, that an ancient Bishop having a mind to resign his Bishoprick to one of his Friends, the Assembly of Bishops would not admit his Resignation. The Passage is here translated into *Latin* which *Janus à Costa* is very remarkable.

Tu autem die, quod etiamsi non ad suum cognatum Episcopus Episcopatum transmiserit, sed ad alienum, idem erit, Episcopos enim a Synodis fieri decretum est. Et ideo etiam vita functus ille urbis Philippi Metropolitanus maximus suæ Metropoli sub hac conditione renuncians, si ejus Oeconomum urbis Philippi Metropolitanum pro se ipso sancta Synodus constituëret, non est exauditus, sed exaudiit, quod si res quas post electionem ex Ecclesiæ reditibus acquiret, non potest dare, vel ad

a new Thing requir'd a new Name, it was call'd *Resignatio ad favorem*; because it was in his Favour only, to whom the Resignation was made, and in order to bring him into the Benefice. The Superior indeed is at Liberty to admit the Renunciation or not, but he cannot admit it, without giving the Benefice to the Person nam'd by the Renouncer.

This sort of Resignation, tho' it were a plain way to introduce hereditary Succession into Benefices, and therefore prejudicial to the Ecclesiastical Order, yet it turned to the Advantage of the Court of *Rome*, as it made Collations of Benefices more frequent, which produced more *Annates*. Avarice and other worldly Affections having wrought upon the Frailties of many Persons, to sollicit and take Benefices, not with Intention to keep them always, but only until a better fell, or upon the Credit of such Preferment, to treat with more Advantage upon some Marriage, or other important Change of Condition; or to keep it for some Child, who was not come to Age: A Practice, which among pious Men hath ever been held inexcusable. It is a receiv'd Opinion, that whoever takes a Benefice with Design to renounce it, cannot in Conscience receive the Fruits: Which some again of larger Consciences affirm not generally of all, but only of such as receive the Profits, tho' they design to quit the Ecclesiastical Orders. And seeing Resignations *ad favorem* redounded to his Profit, through whose Hands they were to pass, the Court of *Rome*, to engross them all, forbad the Bishops to receive any such Resignations, reserving this Right wholly to

ad quos vult transmittere, multo magis Episcopatum. *Vide Can.* 32. *Concil. Carthag.* & 23 *Antioch.* & *can.* 17. *caus.* 7. *q.* 1.

the

the Pope (4). But becauſe many Incumbents, when they drew near their Ends, took this Courſe of appointing themſelves a Succeſſor, a Rule was made in the *Roman* Chancery, That no Reſignation *ad favorem*, made by a ſick Incumbent, ſhould be valid, unleſs he liv'd 20 Days after the Reſignation had been accepted (*c*).

(4) According to the Canoniſts, there being none but he, who can exempt from Simony. See the Gloſſ. *ad cap.* 4. *extra de pactis verbo illicitæ ad cap.* 12. *de officio deleg. verbo, dimittere.*

(*c*) Item voluit quod ſi quis infirmitate conſtitutus reſignaverit aliquod beneficium ſive ſimpliciter, ſive ex cauſa permutationis, & poſtea infra viginti dies a die per ipſum reſignantem præſtandi conſenſus computandos, de ipſa infirmitate, ac ipſum beneficium conferatur per reſignationem factam, collatio hujuſmodi nulla ſit, ipſumq; beneficium per obitum vocare cenſeatur. *This Rule is the 19th of the* Roman *Chancery.* Vide du Molin ad hanc reg. num. 63.

CHAP. XLI.

WHILST the holy War laſted, or there were any Hopes of its reviving, the Pretence of ſo pious a Deſign was a large and conſtant Channel of Wealth to the Churchmen: But the Offerings of devout People ceaſed with theſe Hopes: And this Spring of Devotion being dried up, Indulgences, and Remiſſions of Sins were thought of in their Room; to be beſtow'd on thoſe, who ſhould contribute with their Purſes to ſome Work of Piety: And every Day new Works of this kind were ſet on Foot through every City; in Return to which, *Rome* granted her Indulgences, from whence great Profit redounded to the Clergy, and to this Court, who reap'd its Share. And this Matter was carried

carried ſo high, that every one knows the Changes (1) which were wrought by theſe Indulgences, in *Germany*, from the Year 1517.

In our Times Pope *Pius* V. made a Conſtitution, by which he annul'd all the Indulgences, granted with the Clauſe of *Manus adjutrices* (2): That is to ſay, with a Condition of paying Money. Yet this hath not been able to put a Stop to ſo gainful a Traffick as theſe Indulgencies afforded. For tho' they are now granted without any ſuch Condition, yet there are placed in the Entries of the Churches little Boxes, to provoke the People's Charity; the Sight of which is a tacite demanding, where they are perſuaded they cannot be ſaved without giving.

(1) The Schiſm of *Martin Luther.*

(2) Omnes & ſingulas indulgentias, etiam perpetuas ---- per quoſcunq; Romanos Pontifices prædeceſſores noſtros, ac etiam nos, ſub quibuſcunq; tenoribus, & formis, ac cum quibuſvis clauſulis & decretis, ac ex quibuſvis etiam urgentiſſimis cauſis, etiam cauſa redemptionis captivorum, & alias quomodolibet conceſſas; pro quibus conſequendis manus ſunt porrigendæ adjutrices, & quæ quæſtuandi facultatem quomodolibet continent - - authoritate Apoſtolica, tenore præſentium, perpetuò revocamus, caſſamus, irritamus, & annullamus, ac viribus vacuamus. 7 *Decretal. tit.* 15. *cap.* 1.

CHAP. XLII.

THE Times of Schiſm we mention'd, ſeem'd to put a Period alſo to any Hopes in the Churches of acquiring any more real Eſtates, or encreaſing their Revenues. The Monks had now no longer the Reputation of Holineſs and Strictneſs of Life, they had formerly maintain'd: And the fervent Zeal, which had appear'd ſo univerſal on Occaſions of the Croiſado's, was not only cool'd, but wholly extinguiſh'd. The Fryers-Mendicants only, who were all inſtituted ſince the Year 1200. had therefore ſome Credit left in the World, becauſe they had parted with their Capacity of acquiring real Eſtates, and were under a Vow of living upon Oblations and Alms only: So that the Belief was not ill grounded, that their Acquiſitions of real and fix'd Eſtates would have ended here.

But the Prerogative of the Apoſtolick See was a ſeaſonable Expedient at Hand, to aid them in this Exigence; by Virtue of which, a Power was granted to this Order, of acquiring real Eſtates; tho' both by their Vow and Inſtitution it was forbid: And as they had many Friends, who were greatly devoted to their Order, and had great Inclinations to enrich them, if it had been practicable, no ſooner ſaw this Way open to their Bounty, but the Convents of theſe Mendicants in *Italy*, *Spain*, and other Countries, became, in a ſhort time, very ſufficiently endow'd with real Eſtates.

France alone oppos'd this Innovation, ſaying, That ſeeing they came into that Kingdom under the Profeſſion of Poverty, they ought to perſevere in it: Neither have they hitherto ever been ſuffer'd to

to acquire Eſtates there (1): Whereas in other Places they had made very conſiderable Improvements, particularly in thoſe times of Schiſm, when all the reſt of the Clerical Order were very low in Eſteem.

In the Council of *Conſtance* the Schiſm was extinguiſh'd, by one of the Popes having renounc'd (2), and the two others having been depos'd (3): And in the Year 1417. *Martin* V. (4) was elected Pope by the general Council.

Great Hopes were entertain'd, that the Council and the Pope together, the two moſt powerful Concurrents upon Earth, would have gladly united in the Remedy of ſo many Abuſes as had crept into the Diſpenſation of Benefices. And in Effect the Council propos'd to the Pope the Reformation of a Train of Diſtempers, which would have employ'd the skilfulleſt Hands, namely, Reſervations, *Annates*, Expectative Graces, *Commendams*, and Collations. But the new Pope and his Court, whoſe Deſire of

(1) The Parliament of *Paris*, ſaith he, towards the End of his Council of *Trent*, did not approve the Decree which allowed Mendicants to poſſeſs real Eſtates, alledging that this Order having been receiv'd in *France*, under a very different Inſtitution, it was not juſt to allow them on other Terms; and that it was an Artifice in the Court of *Rome*, to draw to themſelves the Eſtates of the Laity: Firſt, in ſuffering the Monks to gain Credit in the World, by the ſpecious Vow of Poverty, which made them be regarded as People void of Intereſt, and who do every thing for Charity, and after they have got a Stock of Reputation, the Court diſpenſeth with their Vow, and puts it in their Power to enrich themſelves. See the Conference of Ordinances, *Liv.* 1. *tit.* 3. *partic.* 2. § 5.

(2) *John* XXIII. after he had fled from the Council, and been brought back again, and depos'd.

(3) *Gregory* XII. and *Benedict* XIII.

(4) *Otho Columna* created on St. *Martin*'s Eve, whence he took the Name.

being at *Rome* (5) was ſtronger than that of any Reformation; meeting with the ſame Impatience in all the Fathers of the Council, who were wearied with the long Abſence from their own Houſes, made Way for the Reſolution which was eaſily agreed to, of adjourning the Diſcuſſion of ſo knotty an Affair, and of ſo much Length to a future Council; which was intimated to be intended to be held at *Pavia*, five Years after, and ſo that Council broke up.

The *French* not being willing to ſtay ſo long as the next Council, a Decree was made in the Parliament of *Paris*, that no Obedience ſhould be paid to this Pope, unleſs he firſt admitted and acknowledg'd the King's Edict (6), which ſuppreſs'd the Reſervations, and the Exactions of Money in *France*. And when *Martin* ſent a Nuncio into *France*, to give the King notice of his Election, the King made anſwer, he would acknowledge the Pope on Condition, that the elective Benefices ſhould be conferr'd by Election, and the Reſervations and Expectatives be aboliſh'd.

The Pope agreed to it for that time, but having gain'd ſome Members of the Univerſity to his Party, in the Year 1422. he attempted to make the Reſervations be again receiv'd. However he fail'd in the Attempt, and they proceeded to Impriſonment of all his Adherents (7): And upon his putting the City of *Lyons* under Interdiction (8), the Parliament forbad Obedience to it.

(5) Both the Pope and his Court were equally apprehenſive, that the Council ſhould meddle too much in Affairs, and penetrate too far into the Secrets of the Papal Miniſtry. The Council was cloſed *April* 22. *anno* 1418. after having continued three Years and a half.

(6) Of *April* 13, 1418. See the Conference of Ordinances, *Lib.* 1. *tit.* 3. *part* 2. § 3 & 4.

(7) The Rector of the Univerſity, and divers others of the Members or Fellows.

Thus the Diſpute laſted till the Year 1424. when Matters were compromis'd betwixt them, and they came to an Agreement, That his Holineſs ſhould admit all the Collations made before the Agreement, for good; and all his Mandates for the future ſhould be receiv'd. But the Attorney and Advocat-Generals, with many of the great Men, oppos'd the Execution of it, and repreſented the Prejudice it would be to the Kingdom, ſo effectually, that the Agreement vaniſh'd.

(8) Becauſe that City obey'd the King's Edict.

CHAP. XLIII.

WHILE theſe things were acting, the Council of *Pavia* open'd (1), which was ſoon after remov'd to *Sienna* (2), and ſoon after that finiſh'd there (3) with great Expedition; no Affair of Moment having been tranſacted there, only great Expectations given, that the Council which was to be held at *Baſil* ſeven Years after that, ſhould make a thorough Reformation.

(1) Towards the End of the Year of 1423.

(2) Becauſe none were preſent at the firſt opening this Council, but the Pope's Nuncio's, and two Abbots, in all ſix Perſons.

(3) For he was under great Apprehenſions of being depos'd by a Council, as *John* XXIII. his Predeceſſor had been.

About the End of thoſe ſeven Years Pope *Martin* died, to whom ſucceeded *Eugene* IV. (4). During whoſe Reign, in the Year 1431. the Council of *Baſil* at laſt took in hand the Reformations, ſo neceſſary and ſo long wanted, of Abuſes in the Collation of Benefices. All Reſervations were prohibited, except of thoſe Benefices, which were vacant *in Curia*: And the Expectatives, the *Annates*, with all the Equipage of that Kind, and other Exactions peculiar to that Court aboliſh'd.

The Pope finding ſuch a Check given to his Power, and ſuch important Branches of his Revenue cut off, ſet himſelf to croſs the Meaſures of the Council; and firſt tried to get it remov'd to ſome other Place, where he might have the Prelates more at Command. But they were too powerful to let this Deſign take place, and after many ſharp Conteſts betwixt the Pope and the Council, which pious Men, by interpoſing Day after Day, had hitherto found ſome means of compromiſing. At laſt, there was no avoiding an irreconcilable Breach, the Council ſtood firm to the Reſolution of putting a final Stop to theſe Exactions, and the Pope to maintain his Authority and Revenues. The Pope diſolved the Council; the Council depriv'd the Pope (7),

(4) *Gabriel Condolmero*, Nephew and Creature of *Greg.* XII depos'd 1515.

(5) Open'd *July* 23, 1431.

(6) He would have had it at *Bologna*, a City in the Eccleſiaſtick State. In 1438. he remov'd it to *Ferrara*, and in 1439. to *Florence*.

(7) *Mezeray* ſaith, there never had been a perfect good Underſtanding betwixt the Pope and the Fathers of this holy Aſſembly, for if on their Side they made appear their Deſign, to put a Bridle on his Authority, by maintaining ſtrenuouſly the ancient Rule, that the Council is above the Pope: He ſhew'd himſelf no leſs concern'd to have them ſeparated. *In the Life of* Charles VII.

and

and choſe another (8). This bred another Schiſm in the Church. *France* and *Germany* receiv'd the Decrees of this Council: And in the Year 1438. the famous Pragmatick (9) was publiſh'd in *France*, which reſtor'd the Elections to the Chapters, the Collations to the Ordinaries, and aboliſh'd the Reſervations: In which it purſu'd the Steps of the Council of *Baſil*.

(8) *Amadeus* VIII. Duke of *Savoy*, who had reſign'd his Dominions to his Son, to turn Hermit, yet quitted his Hermitage again to be Pope. He was elected in the Year 1439. and owned by *France*, *Germany* and the greateſt Part of the Weſt, till the Death of *Eugene*.

After which the Princes taking part with *Nicholas* V. he was induced, part by Entreaties, part by Menaces, to conſent to the Re-union of the Church, and to renounce the Pontificate, which he accordingly did in the Year 1449. in the ſame Council, which he had remov'd from *Baſil* to *Lauſan* in *Switzerland*. After which, the Fathers confirm'd the Election of *Nicholas*, made two Years before, at *Rome*, by the Cardinals of *Eugene*'s Party. *Amadeus* had taken the Name of *Felix* V.

(9) *Mezeray* calls it the Bulwark of the *Gallican* Church.

CHAP. XLIV.

IN *Italy*, where this Council never was receiv'd, and the Adherence to the Pope was very general, the Reſervations had taken deeper Root. Every Pope renewing them with Eaſe, and introducing new Pretenſions and Impoſitions, and ſhewing no Inſtance of Mitigation in the Rigour of any of them, except where ſome Expedient had been found to work the ſame Effect an eaſier way.

But this Invention ſeem'd to be brought to its higheſt Perfection under the Popes *Julian* II. and

Leo X. who first introduced Mental Reservations, call'd also Reservations *in Pectore* (1); and who, under the Privilege of keeping their secret Thoughts to themselves, us'd not to declare them in the ordinary Course of other Reservations, nor were they ever known till the Ordinary came to confer a Benefice, or some Candidate to ask it; when it was answer'd by the Datary, that the Pope had reserv'd it mentally (2): So gross a Delusion lasted some Years, however it fell after into Disuse (3), having prov'd useless and inconvenient even to those who first contriv'd it (4).

Other Methods were also strain'd, and carry'd to the utmost Pitch they would bear. For to the Resignations *in Favorem*, which were already so well establish'd, another Abuse was added, which was to resign only the Title of the Benefice, and to reserve all the Profits to the Resigner. By which means the Benefice really remain'd in the same Hands as before, the Resignation having no other Effect, but to appoint a Successor, who in Truth was only the Titular, but had nothing to receive out of the Benefice, until the Death of the Resigner. And that the Titular might not come into Possession of any thing by the Pretence of gathering the Profits himself, and paying them again

(1) That is to say, known only to himself.

(2) *John Swarez*, Bishop of *Coimbria* in *Portugal*, arguing in the Council of *Trent* upon the Mental Reservations, call'd them Robberies, and said it was better to leave the Collation of all Benefices to the Pope, than to suffer him to set his own Price upon his own Thought not communicated, not publish'd, which might therefore be reasonably imagin'd, not to have been born till the Vacancy happen'd. *Fra. Paolo Hist. of Counc. of* Trent, *lib.* 8.

(3) The Reservations were forbid by the Council of *Trent*, *Chap.* 19. of the Reformation of the Session 24.

(4) Who had to bear with all the Repulses and Oppositions from the ordinary Collators.

to

to the Resinger, it was provided, that not only all the Profits should be reserv'd to the Resigner, but a Power to him likewise to levy them by his own Authority.

Thus the Resigner differ'd in nothing still from being as much the Incumbent and Owner of the Benefice as before, except in case the Titular died before him; and then tho' he remain'd in Possession of all the Profits, yet he had no Right to appoint himself a Successor: So that the Collator might confer the Title on whom he thought fit should succeed to the Benefice, after the Death of the Resigner. But the Court of *Rome* fail'd not also to find an excellent Expedient for this, which was, the Regress (5).

(5) That is to say, The Return.

CHAP. XLV.

IN the primitive Times of the Church, there was a pious and laudable Custom, that whoever had one Cure assign'd him, never quitted his Charge for a richer (*a*) or more honourable: Every Man presuming, that to perform his Duty as he ought, would take up all his Faculties.

(*a*) Siquis Episcopus, *saith St.* Leon, civitatis suæ mediocritate despecta, administrationem loci celebrioris ambierit, & ad majorem se plebem transtulerit, a Cathreda quidem pelletur aliena sed carebit & propria, ut nec illis præsideat, quos per avaritiam concupivit, nec istis quos per superbiam sprevit. Suis igitur terminis contentus sit quisq; nec supra mensuram juris sui affectet augeri. *Ep.* 12. *ad Anast. Thessalon. Ep. cap.* 8. *vide Can.* 31, 32, & 43. *Caus.* 7. *q.* 1.

But

But ſometimes the Superior, when ſome great Charge was vacant, for want of a Perſon equal to it, would find a Neceſſity of tranſlating ſome Man of Merit, who was employ'd in a leſs *: And this was a Tranſlation (1) became afterwards ſo ſought after, either for the Convenience or the Profit, that as unuſual as it had been, it became very frequent. Then the Ambition and Sollicitude of riſing higher grew ſo prevalent, that oftentimes a Man would quit a Benefice he had in Poſſeſſion, to ſollicite for another, and conſequently loſt them both, when the Grant of the laſt prov'd faulty.

To remedy which inconvenience, a Cuſtom prevail'd, which grew to have the Force of a Law, that if the ſecond Grant ſhould not ſtand good, the Man that was ſo unfortunate, might without Ceremony, return to his firſt (*b*): And this was call'd the Regreſs.

In Imitation of this Example, the Reſigner had a Power granted, in Caſe the appointed Succeſſor died, or renounc'd again his Title, of returning to his reſign'd Benefice, and by his own Authority take Poſſeſſion a-new, without any Ceremony, as if he had never reſign'd it. And in caſe he had reſign'd before he had been in Poſſeſſion (in which Caſe the Regreſs could take no place) he was impower'd to take Poſſeſſion by Acceſs and Ingreſs (2); and this by his own Authority likewiſe, and without any Recourſe to the Magiſtrate: This was call'd the Regreſs. Yet the Pope hath always reſerv'd to himſelf the ſole Power, without ever allowing any Share of it to any other, of receiving and admitting Reſignations made on theſe Conditions, and of giving the Title to the Reſignee, with Obligation to perform them.

As this Invention was generally condemn'd by all the Writers, particularly by the Univerſities of *France*, and actually prohibited by the Parliament of *Paris*, that there could not be found any ſpecious Pretexts in all Antiquity to juſtify it; ſo there were thoſe, who were both aſham'd, and made a Scruple of Conſcience to make uſe of it: For whoſe Satisfaction another Expedient was found, which took its Riſe from great Antiquity, but according to Cuſtom adapted to the preſent Occaſions. This was the Coadjutorſhip.

* See the Canon, *Mutationes* 34, and the Canon, *Seres* 35. *Cauſ.* 7. *q.* 1.

(1) It began to be frequent under Pope *Urban* III. *See cap.* 3 & 7. *extra de rerum permutationi.*

(*b*) Intelleximus G. Canonico referente quod cum ipſe & L. Clericus de permutatione Præbendarum ſuarum inter ſe tractare cæpiſſent tandem idem L. Præbenda ejuſdem G. cuidam conſanguineo aſſignata præbendam ſuam ei ſicut promiſerat noluit reſignare. Cum igitur deceptis, & non decipentibus jura ſuccurrunt, licet ipſi de jure non poſſent Eccleſiaſtica beneficia permutare, ut tamen ſimplicitati venia tribuatur, mandamus quatenus ſi conſtiterit prætaxatum G. taliter fuiſſe deceptum, amoto a præbenda, ſua conſanguineo ipſius L. vel quolibet alio illi cito detentore, eam reſtitui faciatis eidem. *Cap.* 8, *extra de rerum permut.*

(2) That is to ſay, As entring the firſt time into the Benefice.

CHAP. XLVI.

THERE was a very ancient and excellent Practice in the Churches, That when a Prelate, or other Minister of the Church, was become incapable through Age, Infirmity of Mind or Body, or other Impediment, to execute his Charge, himself chose an Assistant; or the Superior appointed him one, to share the Burden of the Employment. But the Coajutor had nothing to do with the Office or Benefice, any longer than during the Life of the Incumbent (*a*); at whose Death a new titular Incumbent was made. This was a Method always approv'd, and to which there never was any Opposition.

Afterwards it coming to be consider'd, that if the Coajutor were made to succeed, it would have the Consequence of making him more diligent in

(*a*) By the *Canon* 18. *cauſ.* 7. *q.* 1. of Pope *Pelagius*, towards the Year 559. it appears, that these Coajutors were only Hirelings.

Frater & Coepiscopus Joannes ob hoc quod se in gerenda patrimonii gubernandi cura, vel in disciplina Ecclesiastica conservanda minimè fatetur idoneum, constituti presbyteri ad hæc explenda sibi exposcit adhiberi personam, ut ea quæ sunt necessaria competenti disponente sollicitudine fiant ---- ideoq; præsenti vobis jussione præcipimus, ut servata primo in loco Episcopo memorato reverentia, quam vos convenit inculpabiliter cohibere, præbeatis obedientiam constituto competentem, in nullo dispositionibus ejus spiritu contumaci resultantes; imo competenti vigilantiæ vestræ studio, quæ pro Ecclesiastica utilitate, gerenda constitutus monuerit adimplentes; ut his ita dispositis, & consueta vobis stipendia ministrentur; & quæcunq; in præ fatæ Ecclesiæ patrimonio, vel de rebus ad eam pertinentibus repetendis sunt necessaria compleantur.

Nevertheless the Popes sometimes permitted the Bishops to appoint their Coajutors for their Successors: And in the Eighth Century this Favour was very rarely granted. *See the Canon* 17. *D. Cauſ.* 7. *q.* 1.

the Exercise of a Charge, which was to be his own; and which would also recommend him to the Inhabitants of the Place, when they regarded him not as a Stranger, they settled the Succession on the Coajutor.

This met with a different Reception in the World, and accordingly was defended or censur'd. On one hand it was said, That all settled Successions in Benefices was pernicious, as a Temptation either to procure, or however to desire the Death of another.

On the other hand was alledg'd, the famous Precedent of St. *Augustine*, who was chosen by *Valerius* to be his Coajutor, and also declar'd his Successor. But this Instance carries no great Weight, since St. *Augustine* himself condemns it afterwards, and would neither imitate it, nor was asham'd to impute it as a Sin of Ignorance (*b*), both in himself and his Predecessor.

But in these Times Coadjutors with Succession in Reversion, were appointed not only to Prelates and other Ministers, who had Business belonging to their Office, but also to simple Benefices, or Sine-cures, where there was nothing to do. So that the Coadjutor had only a Name, without any thing essential, but that of Succession in Reversion; a Thing which the Canonists have so much in Abhorrence.

(*b*) St. *Paulinus* particularly observes, that this sort of Coadjutorship was very extraordinary.

Non autem, *saith he*, tautum hoc scribimus gratulandum quod Episcopatum Augustinus acceperit, sed quod hanc Dei curam meruerint Africanæ Ecclesiæ, ut verba cælestia Augustini ore perciperent, qui ad majorem Dominici muneris gratiam novo more provectus, ita consecratus est, ut non succederet in Cathedra Episcopi, sed accederet. Nam iucolumi valerio Hipponemsis Ecclesiæ Coepiscopus Augustinus est. *Ep.* 17. *Num.* 2. & *Can.* 120. 7. *q.* 1.

In

In these Times likewise, every Beneficiary who desir'd to appoint his Successor, had the Liberty of choosing one of these Methods; either by the Coadjutorship with Succession in Reversion, or by the Resignation *in Favorem*; reserving to himself the Profits, with the Power of Regress: But the authorizing these Sorts of Dispensations, was reserved to the Pope alone, and to no other Person whatsoever.

In *Germany*, where the Council of *Basil* was by some admitted, by others not, there was great Diversity in the Decisions concerning beneficiary Causes. To provide against, and reconcile these Differences, *Nicholas* V. and the Emperor *Frederick* III. in the Year 1448. made a Concordat (1) of the following Tenor.

That the Benefices vacant in Court should be reserv'd to the Pope, and that the rest of the elective Benefices should go by Election. As for the other vacant Benefices, they should remain for six Months in the Pope's Disposal, and six Months in the ordinary Collators: With this Proviso added, That if the Pope fail'd in the Term of three Months to fill up the Benefices, the Collation should devolve to the Ordinaries (2).

This

(1) Concluded in the Pope's Name, by the Cardinal *John Carvajal*, call'd St. *Angelo*, Legate *à Latere* in *Germany*.

(2) An Extract of the Concordat will here be of use for a Comment on the Words of *Fr. Paolo*.

'We reserve, saith *Nicholas* V. 'to our own Ordination, Dis-'position and Provision, all 'the Churches Patriarchal, 'Archiepiscopal, and Episco-'pal; as also Monasteries, Pri-'ories, Chanonries, and all o-'ther Benefices Ecclesiastical 'whatsoever, with Cure of 'Souls, and without Seculars 'and Regulars, which are or 'shall be vacant; also those va-'cant by Deposition, Depriva-'tion or Translation, by us 'formerly 'formerly made, or which 'shall be made, in what Place 'soever.

'Likewise Benefices vacant 'by the Decease of Cardinals 'and Officers of the holy See, 'while they shall hold the said 'Offices; *Exemp. gr.* of Vice-'Chancellor, of Chamber ain, 'of Notaries, Auditors, Comp-'trollers, Abbreviators, and 'the Benefices which are, or 'shall be vacant, by the Death 'of our Commensals, Collect-'ors, and Treasurers, deputed, 'or which shall be dequted in 'whatsoever Place they hap-'pen to die: Moreover, the 'Benefices of all those who 'coming to, or returning from 'Rome, on any Occasion what-'soever, shall happen to die 'but two Days Journey from 'the City; provided that the 'Place of their Death be not 'the Place of their ordinary 'Residence: Also all Benefices 'secular and regular, which 'they possess'd at the Time of 'their Promotion, whom we 'have promoted to Dignities 'Patriarchal, Archiepiscopal, 'and Episcopal, now vacant, 'or which shall be hereafter 'vacant.

'In Churches Metrapoliti-'cal and Cathedral, not sub-'ject immediately to the holy 'See, and in the Monasteries 'which are immediately sub-'ject to it, Elections shall be 'free, and then be brought to 'the said See, who shall con-'firm them, if they be cano-'nical.

'In Monasteries which are 'not immediately subject, and 'in other regular Benefices, 'for which it is not customary 'to have Recourse to the holy 'See, the Elected shall not be 'oblig'd to come to *Rome* for 'their Confirmation or Provi-'sion; besides, that these Be-'nefices are not to be rank'd 'among the Expectatives, nor 'the Benefices *des Miniales non 'exemptis*, in the Disposition 'of the Pope. 'As

This Agreement was not receiv'd thorough all *Germany*, and some Dioceses since in the Year 1518. observ'd the Council of *Basil*; which abolish'd all the Reservations: But in Process of Time, even those who had receiv'd the Concordat in the Beginning, ceas'd to observe it, and excus'd themselves in saying, that it had not been universally receiv'd: So that it lost its Force by being disus'd; and not only in Places where the Bishops and Chapters have seperated from the *Roman* Church, but even where they still remain under its Obedience.

In

In the Year 1534. *Clement* VII. ſet forth a ſevere Bull concerning it, but it ſcarce had any Effect: *Gregory* XIII.* ſet forth anorher in the Year 1576. which had as little Effect. And Cardinal *Mandrucci* (3), Legate of *Clement* VIII. in 1594. made a heavy Complaint about it, in the Name of the Pope, at the Diet of *Ratisbon*, but to as little Purpoſe as the other.

The

'As for the other Benefices, 'Seculars and Regulars, not 'comprehended in the Reſer-'vations expreſs'd above, we 'freely allow they be provided 'for by the ordinary Collators, 'when they ſhall fall vacant, in 'the Months of *February*, *April*, '*June*, *Auguſt*, *October* and '*December*; the Months of '*January*, *March*, *May*, *July*, '*September*, and *November* ſhall 'be reſerv'd to the Pope: But 'if it happen that the Benefices 'which ſhall be vacant in theſe 'Months, have not been con-'ferr'd by the Pope in three 'Months, reckoning from the 'Day of the Vacancy known in 'the Place where the Benefice 'lies, the Collation ſhall return 'to the Ordinary, or to any 'other to whom the Diſpoſal 'ſhall belong."

But this laſt Conceſſion having been the Occaſion of many Law-ſuits, daily ariſing betwixt thoſe whom the Pope had preſented before the three Months were expir'd, and thoſe who had obtain'd the Collations of the Ordinaries, who conferr'd the Benefices from the Day of the Expiration of the three Months, to prevent the Proviſions which the Pope might have made, about the End of the Term, *Greg.* XIII. made a Bull, dated *Nov.* 1, 1576. by which he declar'd, 'That the Conceſ-'ſion of Pope *Nicholas* V. gave 'no room to the Ordinaries, 'nor the other Collators, to 'diſpoſe after the Expiration 'of three Months, any Bene-'fices comprehended hereto-'fore under this pretended 'Conceſſion: But alſo that for 'the future, thoſe whom the 'Pope ſhall have provided 'with theſe Benefices, ſhall 'be oblig'd either to ſignify 'their Impetration, or obtain-'ing the Benefice, to the Col-'lators, within three Months, 'reckoning from the Day of 'the Vacancy known in the 'Place where the Benefice lies, 'or to publiſh it in what Man-'ner ſoever it be thought fit 'in the ſaid Place: Declaring 'null, and of no effect, all the 'Diſpoſitions and Proviſions 'made by the ſaid Collators 'after ſuch Publication: And 'ſuſpending from the Collation of

The ſame Diverſity and Confuſions remain ſtill to this Day; for which the Court of *Rome* hath but two Remedies: One is, that the Jeſuits turn all their Skill to work upon the Conſciences of the Beneficiaries at their Confeſſions, to perſuade them to take Bulls from *Rome* for Benefices, tho' provided for by the Ordinaries; and ſome accordingly are prevail'd with. The other is, That when an Election or Collation is made that claſhes with the Concordat, the Court of *Rome* annuls it, but then confers the Benefice on the ſame Perſon: An Expedient heretofore much uſed on other Occaſions, as it is at this Day in the Caſe of Benefices of great Importance, and where the Perſons are in ſome meaſure dependant on them. Not that it is of Service at the Time it is practis'd, but becauſe the Writings are carefully kept, and ſerve as Regiſters of theſe Matters, to prove in After-times, that ſuch and ſuch Places have paid Obedience: As alſo many Conſtitutions and Decretals, which have never had their Effect, are skilfully inſerted in the Books of Decretals, to make more Precedents, and draw more Conſequences to their Advantage.

'of all Benefices and Offices, 'all Collators, who ſhall pre-'ſume to infringe this Decla-'ration.

This Bull of *Gregory* XIII. ſheweth, that whatever Concordats and Accomodations the Popes made with Princes, they always pretended to have a Right of annulling them, as made by way of Proviſion only, with regard to the Neceſſity of the Times, and until a proper Seaſon offer, to exert their Right in its utmoſt Rigour.

* The *French* Tranſlation ſaith *Gregory* XIII. for *Gregory* VIII. in the *Italian*.

(3) *Lewis*, Nephew of *Chriſtopher Madrucci*, Cardinal and Biſhop of *Trent*, and his Succeſſor in this Biſhoprick.

CHAP. XLVII.

IN *France* the Pragmatick-ſanction was vigorouſly attack'd by *Pius* II. (1), but defended with great Conſtancy by the Clergy of *France*, and the Univerſity of *Paris*. Upon which the Pope repreſented to King *Lewis* XI. That it would ill become him to ſuffer the Decrees of the Council of *Baſil* to be obſerv'd in his Kingdom; for the Diſſolution of which himſelf had taken Arms, and had receiv'd Money from Pope *Eugenius* IV. for that Purpoſe, when he was Dauphin, and had left his Father's Court in Diſcontent. Theſe Reaſons wrought upon the King to revoke the Pragmatick (2): But the Oppoſition made by the Univerſity, and the Remonſtrances by Parliament, which are ſtill found upon the Journals, where the Grievances of the Kingdom, and of the Clergy or Eccleſiaſtical Orders are repreſented, ſetting forth, That upon a ſtrict Obſervation, in three Years time there had gone to *Rome* four Millions for Beneficiary Affairs, prevail'd with the King to re-eſtabliſh it at the End of three Years (3). *Sixtus* IV. to ward this Blow, and to fruſtrate the Re-eſtabliſhment, made a Concordat of his own,

(1) He cried, *Guerra, Guerra uſq; ad capillos.*

(2) In 1461. in the 4th Month of his Reign.

(3) *Paul* II. Succeſſor to *Pius*, ſent *John Joſredi*, Cardinal-Biſhop of *Albi*, to perſuade him to confirm the Revocation of the Pragmatick: But after the Revocation had paſs'd at the Chaſtelet, the Cardinal met with a formal Oppoſition in Parliament, from *John de St. Roman*, Attorney-General, and at his Return to his Houſe, the Univerſity ſignify'd to him their Appeal to a general Council, and then went to regiſter it at the Caſtelet. *See the Ordinancee of* Lewis XI. Sept. 10. 1464. *in the Conference of Ordinances*, lib. 1. Tit. 3. part 2. §. 4.

which

which is extant at this Day, but never was receiv'd; and the Pragmatick remain'd in Force. *Innocent* VIII. *Alexander* VI. and *Julius* II. ſet all their Strength to aboliſh it, but in vain (4).

(4) They were in terrible Frights, leſt the reſt of the Chriſtian Princes ſhould take the Example of *France*, and make Pragmaticks of the ſame Nature, to bridle the Papal Power.

CHAP. XLVIII.

AT Length *Leo* X. fram'd a Concordat with King *Francis* I. of *France*: Of which the chief Articles were:

That the Pragmatick ſhould be aboliſh'd: And the Election of Biſhops and Abbots ſhould be taken from the Cathedral and Collegiate Churches, and given to the King, who was to name a fit Perſon, and the Pope to confer the Benefice: It was farther concluded, that the Pope could not give Expectatives, nor make any Reſervations general or ſpecial: But that the Benefices which ſhould be vacant in four certain Months in the Year to be ſpecify'd, ſhould be confer'd by the Ordinaries on the Graduates of the Univerſities: And that thoſe vacant in the other eight Months, ſhould be confer'd by the Ordinaries, *ad Libitum*, on whom they pleas'd: Only that every Pope might oblige every Collator who ſhould have from 10 to 50 Benefices in his Diſpoſal, to confer one as his Holineſs ſhould di-

rect; and even two, if the Collators ſhould have 50 or more (1) Benefices in his Collation.

Tho' there were great Difficulties to encounter in making this Concordat be receiv'd, and that the Univerſity appeal'd to a general Council, lawfully conven'd; yet the King's Authority and Intereſt prevailing, it was publiſh'd and put in Execution throughout all *France* (2).

Thus after ſo many Popes had, betwixt the Years 1076. and 1150. thunder'd out ſo many Excommunications (3), and ſet on work ſo many Conſpiracies and Rebellions, with the Loſs of many Millions of Lives, in order to wreſt from Princes the Collation of Biſhopricks, and to give the Election to the Chapters; on the contrary the Quarrel ſeems now inverted, and *Pius* II. and five of his Succeſ-

(1) Cardinal of *Lorrain* debating in the Council of *Trent* on the Article of Election of Biſhops, ſaith, That St. *Leo* X. and *Francis* I. had divided betwixt them the Collations of Benefices of the Kingdom, as the Hunters do their Prey. *End of the 7th Book of the Hiſt. of the Council.*

But that which *Mezeray* ſaith of the Concordat is worthy of Obſervation, *Leo* X. ſaith he, made the Concordate with *Francis* I. by which he obtain'd an Abolition of the Pragmatick, and aſſur'd to himſelf the Annates, payable at every Change of Biſhops and Abbots. This Compromiſe in Reality encreaſeth the Revenues of the Popes, but extreamly ſullies their Reputation in ſo fantaſtick an Exchange. The Pope, who is a ſpiritual Power, takes the temporal Power to himſelf, and parts with the ſpiritual; that is, the Nomination of Biſhops, to a temporal Prince.

(2) the Clergy of *France*, ſaith the ſame Author in another place, the Univerſities, the Parliaments, and all good Men, put up Complaints, Remonſtrances, Proteſtations, and Appeals to a general Council. Nevertheleſs, at the End of two Years, abſolute Power was to be obey'd, and the Concordat was regiſtred in Parliament.

(3) From the Time of *Gregory* VII. to *Innocent* IV. which contains 200 Years, there were ſeven Emperors excommunicated, *viz.* *Henry* IV. *Henry* V. *Frederic* I. *Philip* I. *Otho* IV. *Frederick* II. and *Conrad* I.

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ſors (4) have with the ſame Zeal and Conſtancy been ſtruggling to take the Election from the Chapters, and give it to the King, which *Leo* X. at laſt accompliſh'd. So true it is, that a Change in Intereſts draws along with it, both a Change and even a Contradiction in Doctrines.

Thinking and ſpeculative Men, ſuch as were apt to inquire into the Reaſons of this great Change in the Popes, have aſcrib'd it to the Diſlike they had to the Elections of the Clergy, which keep too much in Memory the ancient venerable Form and Figure of the Church in this Practice and univerſal Doctrine of Elections; of which we find at this Day ſo faint a Reſemblance left: Others found other Reaſons, As that it would be eaſier to get the Collations out of the Hands of a Prince, if he happen'd to be a weak one, or to ſtand in need of the Pope's Friendſhip, than out of the Hands of the Biſhops and Clergy.

Francis I. again made many Laws to regulate the Right of Poſſeſſion of Benefices, and obſerv'd the Concordat with great Exactneſs. But *Henry* II. his Son, ſuſpended the Execution of it, during the Time he was at Wars with Pope *Julius* III. in the Duke of *Parma*'s Quarrel (5). For in the Year 1551. he forbad all Kinds of Proviſions of Benefices to be receiv'd from *Rome*, and commanded that they

(4) *Paul* II. *Sixtus* IV. *Innocent* VIII. *Alexander* VI. and *Julius* II.

(5) The Duke of *Parma* put himſelf under the Protection of *France*, to defend himſelf againſt the Emperor his Father-in-Law, who would have ſeiz'd *Parma* as he had done *Placentia*. The Pope ſummon'd the Duke to appear at *Rome*, and for not appearing declar'd him Rebel: The Emperor who had kindled the Flame, took the Pope's Part, and the King of *France* the Duke's.

ſhould all be confer'd by the Ordinaries (6): But when the Peace was concluded, the Concordat was again eſtabliſh'd.

In the Year 1561. the Eſtates held at *Orleans*, during the Minority of *Charles* IX. reform'd the Collation of Benefices in ſeveral Particulars, and took away many things contain'd in the Concordat (7). But great Confuſions and Wars following in that Kingdom, at a Time when the Cardinal of *Ferrara* (8) came Legat into *France*, he obtain'd a Suſpenſion of the Ordinances made at *Orleans* (9); on Condition that the Pope ſhould forthwith put a Stop to theſe Corruptions, which had given Occaſion to that Remedy; But nothing of this being put in Execution, the Concordat ſtill remains in Force. And thus Affairs paſs'd in *Germany* and *France*.

(6) That Edict ſet forth, That it was not juſt, that *France* ſhould furniſh the Pope with Money to make War with the *French* Nation; and therefore forbad abſolutely, that any Silver or Gold ſhould be carried to *Rome*, or into any other Place under the Pope's Obedience, for Benefices, Diſpenſations, or other Graces, under Pain of Confiſcation to Eccleſiaſticks, and of corporal Puniſhment to Seculars; giving the third of the Confiſcation to thoſe who ſhould inform.

And the Procurator-general, when he made the Edict be verify'd in Parliament, ſaid, It would be a notorious Folly in the *French* Nation, to find the Court of *Rome* with Money, to make War againſt their own Prince. And beſides, that they could eaſily live without the Papal Diſpenſations, which however were not of Force to acquit our Conſciences before God.

(7) In the Convention of thoſe Eſtates, the Deputies of the Clergy declare, that they had obſerv'd, that the Hereſy of *Luther* was born in the ſame Year with the Concordat.

(8) *Hippolitus* of *Eſte*, of the Houſe of the Dukes of *Ferrara*, Grandſon of Pope *Alex.* VI.

(9) One of which was to forbid paying the *Annates*, and ſending any Money to *Rome* for Benefices, or Diſpenſations.

CHAP.

CHAP. XLIX.

BUT the Face of Affairs in *Italy*, ſince we laſt deſcrib'd them, hath in a great Meaſure been chang'd by the holding the Council of *Trent*, who made many Decrees againſt the Abuſes then reigning in the Matter of Benefices.

And tho' from the firſt opening of that Council, which was in the Year 1547. it began to ſet itſelf in Earneſt about a Reformation, yet none of the Decrees it made being put in Execution, till after its Concluſion, which was in the Year 1563. they muſt all be reckon'd to take their Riſe from that Time.

Three Things this Council chiefly had in View to remedy, *Firſt*, Plurality of Benefices; *Secondly*, Hereditary Succeſſion; and *Thirdly*, Non-reſidence.

To take away Pluralities, it was decreed, That no Perſon, not even a Cardinal, ſhould hold more than one Benefice; and if that were not ſufficient for the Support of the Incumbent, he might have one more without Cure of Souls (1). *Commendams* for Life

(1) Quoniam multi ea quæ bene conſtituta ſunt, variis artibus eludere, & plura ſimul beneficia obtinere non erubeſcunt, ſancta Synodus præſenti decreto, quod in quibuſcunq; perſonis, quocunq; titulo, etiam ſi Cardinalatus honore fulgeant [the Cardinals are here expreſly nam'd, which the *Spaniſh* Biſhops could not obtain in 1547. when they remonſtrated the Neceſſity of naming them, ſeeing, according to the Canoniſts, they are never comprehended under general Terms] mandat obſervari, ſtatuit, ut in poſterum unum tantum beneficium Eccleſiaſticum conferatur: Quod quidem ſi ad vitam ejus cui confertur, honeſte ſuſtentandum non ſufficiat, liceat nihilominus aliud ſimplex, ſufficiens, dummodo utrumq; perſonalem reſiden-

Life were forbid to be enjoy'd with Benefices that had Cures, as being a Cover for holding two (2). It was alſo decreed, That for the Future no Monaſteries ſhould be turned into *Commendams*, and that thoſe which were, ſhould be turn'd again into Titles, as they became vacant (3). It prohibited alſo Unions for Life, which was another Pretext of giving ſeveral Benefices under one Name (4).

To aboliſh Hereditary Succeſſion, it abſolutely prohibited the Regreſs and Acceſs; as alſo Coadjutorſhips, with Succeſſion in Reverſion, except in Cathedrals and Monaſteries: And it took the Liberty to exhort the Pope to grant none, but for juſt

reſidentiam non requirat, eidem conferri. Hocq; non modo ad Cathedrales Eccleſias, ſed etiam ad alia omnia beneficia quacunq; etiam commendata pertineant, cujuſcunq; tituli ac qualitatis exiſtant, *Chap.* 17. *of the Decree of the Reformation, of Seſſion* 24. Where it is worthy of Obſervation, that this Chapter ſerves for an Explanation of the 2d Chapter of Seſſion 7. which ſpeaks only of Cathedral Churches, and makes no mention of Cardinals, but in theſe general Terms [*quæcunq; etiam dignitate aut præeminentia præfulgens*] by which the Cardinals, according to the Rule of the Canoniſts juſt now alledg'd, might retain ſeveral Biſhopricks.

(2) Quicumq; plura beneficia curata ſive per viam unionis ad vitam, ſeu commendæ perpetuæ recipere, ac ſimul retinere præſumpſerit, beneficiis ipſis, præſentis canonis vigore, privatus exiſtat, *Chap.* 4. of the Reformation of *Seſſion* 7.

(3) Confidit (ſancta ſynodus) ſanctiſſ. Rom. Pontificem, pro ſua pietate, & prudentia, curaturum, ut monaſteriis, quæ nunc commendata reperiuntur, quæ ſuos conventus habent, regulares perſonæ ejuſdem ordinis præficiantur. Quæ vero in poſterum vacabunt, non niſi regularibus conferantur. *Chap.* 21. of Reformation of Regulars, *Seſſion* 25.

(4) *See the laſt Note but one, to which the Chap.* 17. *of the Reformation of Seſſion* 24. *addeth,* Illi vero, qui in præſenti plures parochiales Eccleſias obtinent cogantur omnino, quibuſcunq; diſpenſationibus ac unionibus ad vitam non obſtantibus, una tantum parochiali retenta, alias infra ſpatium ſex. menſium dimittere, &c.

and

and evident Cauſes (5). But this Prohibition has prov'd without any Effect.

In the fourteen laſt Months of this Council (6), the Point of Reſidence was debated with ſome Warmth: For, upon a Queſtion mov'd by the Doctors, Whether Reſidence of Biſhops and Curates at their Churches were of Divine Right, or a Right only founded on the Canon-Law, the Council was ſo divided, that in the Month of *April*, in 1562. coming to a Scrutiny, there were found 67 Votes for the *Jus Divinum*, 33 for the *Jus poſitivum*, and 30 for coming to no Concluſion at all, without firſt conſulting the Pope.

Theſe of the firſt Opinion were thoſe of the *Tramountains* and northern Nations, and other diſcontented Biſhops: Of the ſecond and third Opi-

(5) Cum in Beneficiis Eccleſiaſticis ea, quæ hæreditariæ ſucceſſionis imaginem referunt, ſacris conſtitutionibus ſint odioſa, & Patrum decretis contraria, nemini in poſterum acceſſus, aut regreſſus etiam de conſenſu, ad beneficium Eccleſiaſticum cujuſcunq; qualitatis concedatur --- hocq; decretum in quibuſcunq; beneficiis Eccleſiaſticis ac in quibuſcunq; perſonis, etiam Cardinalatus honore fulgentibus, locum habeat. In Coadjutoriis quoq; cum futura ſucceſſione idem poſt hac obſervetur, ut nemini in quibuſcunq; beneficiis Eccleſiaſticis permittantur. Quod ſi quando Eccleſiæ Cathedralis, aut Monaſterii urgens neceſſitas, aut evidens utilitas, poſtulet Prælato dari Coadjutorem, is non alias cum futura ſucceſſione detur, quam hæc cauſa prius diligenter à ſanctiſſ. Rom. Pontifice ſit cognita --- alias conceſſiones ſuper his factæ ſurreptitiæ eſſe cenſeantur. *Chap.* 7. of the general Reformation of the *Seſſion* 25.

(6) This Matter was the firſt time handled in the Year 1546. The firſt who began to awaken Mens Thoughts in this Matter, were two *Spaniſh Jacobins*, *Bartholmew Caranca*, and *Dominiq; Soto*, who urged vehemently, that Reſidence was of Divine Right: Which Opinion Cardinal *Cajetan*, who was of the ſame Order, had maintain'd ſome Years before, but was ſaid to have changed his Opinion, when he came to be a Biſhop, becauſe he never reſided at his Biſhoprick.

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nion were those who adher'd to the Court of *Rome* (7).

If Residence had been declar'd of Divine Right, it must have follow'd, that the Pope could not dispense with it; and that the Authority of the Bishops must have been of Divine Right, and that consequently no human Power could restrain it (8). All which had a dangerous Tendency to the Diminution of the Papal Power.

Thus the two Parties maintain'd the Dispute with great Warmth and Freedom, till at length from debating they fell into Factions and Cabals: And at

(7) In the sixth Book of his Council of *Trent* he saith, That the Legates got a Writing to be read in a general Congregation, by which the Fathers were desir'd to declare their Opinions, whether Residence were of Divine Right or no, by the single Expression of *Placet*, or, *non Placet*. And that the Votes being taken, 68 were found *Placet*, 33 *non Placet*, and 13 *Placet, consulto prius sanctissimo Domino nostro*, and 17 *non Placet, nisi prius consulto S. D. n.* He adds, That the 13 differ'd from the 17, in that they were for the Divine Right being declar'd, whereas the 17 were in Effect not for it, but consented in case the Pope gave his Consent: And tho' these Distinctions were Metaphysical enough, yet the 13 and 17 were equally agreed in making their Court to the Pope.

(8) *Paul Jovius* Bishop of *Nocera*, debating on the Point of Residence in the Council, said, That as the *Jus Divinum*, if once it were admitted, was a Thing could never be disclaim'd again, so it would serve as a Buckler to all rebellious Bishops against that Pope, whenever he cited them to *Rome*, to give an Account of their Actions or Doctrine; as the Archbishop of *Cologne* had done against *Paul* III. That he much fear'd some Bishops would, under Covert of the *Jus Divinum*, withdraw themselves from the Obedience of the Pope, on which depended the Union of the Church: But he would venture to tell them, this would be a fair Encouragement to the Curates to shake off the Episcopal Authority; because, being the immediate Pastors, they would pretend that their Flock was nearer to them than to the Bishop; by which the Hierarchy of the Church would degenerate into Anarchy. *Hist. Conc. Trent. lib.* 6. & 7.

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the End of 14 Months, Residence was determin'd and enjoin'd, but without declaring by what Right Men were oblig'd to it. Only Penalties were laid on such as did not reside (9). And for the rest, all things were left in their former Estate.

In the mean time those who were present at this Council, and who have since left any Writings behind them, especially of Divinity, have not scrupled to assert, That Residence is of Divine Right, and that to affirm the contrary, was to deny the sacred Scriptures, all Antiquity, and even natural Reason itself (10). But then, not to draw the In-

(9) Ne ea quæ de Residentia sancte & utiliter jam antea sub felicis recordat. Paulo III. sancita fuere in sensus à sacro-sanctæ Synodi mente alienos trahantur ---- declarat sacrô-sancta Synodus omnes Patriarchalibus, Primatialibus, Metropolitanis, ac Cathredalibus Ecclesiis quibuscunq; præfectos etiamsi S. R. E. Cardinales sint, obligari ad personalem in sua Ecclesia, vel Dioceſi residentiam, ubi injuncto sibi officio defungi teneantur, neq; abesse posse ---- Nisi Christiana charitas, urgens necessitas, debita obedientia, ac evidens Ecclesiæ vel Reipublicæ utilitas postulent, & exigant.

And one Page after,

Si quis autem contra hujus decreti dispositionem abfuerit, statuit sacro-sancta Synodus præter alias pœnas adversus non residentes sub *Paulo* III. impositas, & mortalis peccati reatum; quem incurrit, eum fructus suos tuta conscientia retinere non posse, sed teneri illos fabricæ Ecclesiarum, aut pauperibus loci erogare, prohibita quacunq; conditione, vel compositione, quæ pro fructibus male perceptis appellatur, &c. *And as for Curates,*

Liberum esse vult Ordinariis per censuras Ecclesiasticas, & substractionem fructuum, aliaq; juris remedia etiam usq; ad privationem compellere. *Cap.* 1. of the Reformation of *Sess.* 23.

(10) The *Jacobin* Fryar *Bartholomew Caranca*, scrupled not to say, in Presence of all the Fathers of the Council, That it was a diabolical Doctrine. It were to be wish'd, that the Bishops of the Court were so persuaded; they would not then stay till the Prince, weary of seeing their Faces, sends them to reside in their Bishopricks; or at least, that when they are commanded thither, they would not think themselves going into Banishment.

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dignation of the Court of *Rome* too much upon themselves, they found out some Exceptions, by which the Pope had a fair Way left open to Dispensations.

As for the Reservations, tho' a Point so essential, and now grown to exceed all Bounds, the Council let them pass unobserv'd, because, indeed, they concern'd the Pope's own Person; so they continued as they were, and by continuing, they have since encreas'd *.

* See the three last Pages of the following Chapter.

CHAP. L.

IT was imagin'd, with great Appearance of Probability, that the Abolition of the Unions, *Commendams* for Life, the Regress, and Coadjutorships would have proved a sovereign Remedy, at least to the greatest Part of these Corruptions. But an Expedient was quickly found on this, as on other Occasions, to elude the Efficacy of the best Medicines; an Expedient, which had not only the same laudable Effect with the four Inventions which were suppress'd, of religiously preserving all the Abuses, but even a greater: This was, the Pension.

It hath been an Observation of pious and devout Persons, That the Court of *Rome*, as if it had been a standing Order in those Times, never suffer'd a gainful Abuse to be corrected or abolish'd, but she had a higher to put in the Room of it, more notorious and more profitable: Which is sufficiently verify'd

verify'd in this of the Pension. Yet it is not to be understood, as if the charging Benefices with Pensions were an Invention of our Times, but only the Manner, and the frequent Practice of it, which is new and peculiar.

When all the Ecclesiastical Goods were in Common, the Name of Pension was a Thing unheard of: And when they came to be set out and divided into Benefices, the universal Practice, without any contrary Instance, was to confer them intire, and without Diminution. But afterwards, when the Clergy had learn'd to litigate their Rights, and those Rights were doubtful, it was a natural Compromise for one of the Parties to yield up his Pretensions, upon his having on Part of the Revenues allotted to him, under the Name of Pension*. Likewise if two Incumbents, for some good Cause, agreed to exchange Benefices, with the Consent of the Bishop, he who quitted the better Benefice had it made up to him in a Pension †. And again, when any one resign'd with the consent of the Prelate, a Pension was assign'd him for his Maintenance *.

Of these three sorts of Pensions, the Decretals of the Popes towards the Year 1200. make Mention: *France* admits them still as legitimate † and authen-

* See the Chap. *Nisi essent* 21. *extra, de Præbendis*; which is the Foundation of Pensions, according to the Gloss, which saith upon this Decretal, that *Occasione hujusmodi provisionis assumunt quandoq; aliqui causam male faciendi.* Gloss. in verb. ex jussione, in fine.

† Cap. 6. extra de rerum permutatione.

* Vide Cap. ex parte 12. extra, de officio Judicis de leg. & ibi Felin. Num. 1. Felin. ad Cap. ad audientiam. Num. 2. extra de rescriptis.

† Vide Rebuff. tract. de pacifis, Num. 110. Duaren de benefic. Lib. 6. cap. 4. Coras Sacerdot. paraph. 1. cap. 4. Num. 12. & Joan. Davezan de pensionib. benefic. pag. 88.

¶ Cap. per tuas, extra, de donationibus.

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tick, whereas she rejects a Train of others as deserving, and of great Variety; namely, such as are given to one for his Livelihood only, and for no other Consideration; or for having merited well of the Apostolick See; or for having serv'd such a Church or such a Prelate; for being learn'd or for Probity of Manners *: Or only for being in the Pope's good Graces: And lastly, such as are given to Children, because they are of promising Parts.

All these are justifiable Motives, according to the Canonists, for granting Pensions; to which they scruple not to add, that the Pope may charge any Benefice whatsoever with a Pension, and give one to whomsoever he pleaseth, without any of the Causes allowed; and that its being the Pope's Will, is sufficient to secure the Conscience of him that receiveth it.

So that, whereas formerly it was usual to hold two Benefices with Cure of Souls, the one in Title, the other in *Commendam*, or else the two united Benefices for Life, with Obligation to allow a Stipend to the Priest who officiated in one of them: At present the Benefice is given in Title to another, and the Revenue of it, by way of Pension, to himself; which turns all to the same, and even answers better all the Ends it was design'd for: Before, the Beneficiary was answerable for the Faults of his Substitute, and therefore was oblig'd to have an Eye over his Behaviour; but this way he hath the same Advantage, freed from all the Care.

Likewise, whoever took a Coadjutor to assist him, or resign'd with a Condition of Regress, had still some Care of the Benefice remaining on him, where-

* Cap. de multa, in fine extra, de præbendis. Davezan de Pensionibus. p. 89.

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in he had some Interest, by the Power he had of re-entring. But on the contrary, he who resigns, reserving to himself a Pension, delivers himself at once from any Care or Duty incumbent on him from the Benefice: And whether the Resignee die or resign, is wholly unconcern'd, his Pension being secured and paid without any Trouble.

Sundry other Considerations make a Pension more eligible than a Benefice. Many Benefices require entring into holy Orders, and consequently a certain Age to qualify him for the receiving them: The first Tonsure, and the Age of seven Years qualify for a Pension.

Pensions are also given even to Laymen; as to the Knights of St. *Peter*, who were instituted by *Leo* X. To the Knights of St. *Paul*, who were instituted by Pope *Paul* III. To those call'd the pious Knights instituted by Pope *Pius* IV. and to those of *Loretto* by Pope *Sixtus* V. Every one of which may have from 150 to 200 Crowns in Pensions, and to whomsoever the Pope pleaseth besides.

When Men held more than one Benefice at a Time, there was always a Complaint of something wanting, something to be mended, for which a Dispensation was necessary, which cost Money. And yet for all this, the Casuists have been so incurable in their Scruples, as to Doubt, whether even Dispensations can set the Conscience clear in this Case: But for Pensions, they may be held without Scruple, and without Number, no Pensions being incompatible.

Another Advantage in a Pension is, That it may be given with a Power of assigning it to another at Pleasure, which cannot be done in the Case of Benefices, without passing through the Forms of Resignation: And whereas Resignations are not valid, if the Resigner live not 20 Days after, a Pen-

sion

ſion may be transfer'd and aſſign'd at the Point of Death.

But the Conſideration which recommends it beyond all others is, that a Penſion may be extinguiſh'd, or to ſpeak more intelligibly, may be turned into ready Money; tho' every Contract made where a Benefice is, the Conſideration is reputed ſimoniacal.

By extinguiſhing a Penſion, is only meant to receive a Sum of Money from the Beneficiary or Incumbent, which diſchargeth him from paying the Penſion: Which Sum is determined by the Age of the Penſionary.

Before our Days, when there lay no way open of making Money of Benefices, it would have paſs'd for an infinite Offence both againſt GOD and Men: Now it is done avowedly, in theſe Terms, *I have a Benefice of* 200 *Crowns value, I reſign it to* John *or* Thomas, *for a Penſion of* 100 *Crowns: And afterwards I extinguiſh the Penſion for* 700 *Crowns paid down: Thus I have made* 700 *Crowns of my Benefice without Sin.* All which Circuit of Words to People of groſs Underſtandings and little Penetration, ſeems to amount only to this, *That I had ſold my Benefice for* 700 *Crowns.*

There are beſides many more Conveniencies belonging to a Penſion, according to the Practice at this Day, than to Unions, *Commendams*, Coadjutorſhips, or Regreſſes. Some People, who extolling the many fruitful Ways the Pope hath of raiſing Money for the Occaſions of the Apoſtolick See, have affirm'd, That if he ſhould ſet open the Door of the Regreſs only, he might raiſe all he had occaſion for, extreamly betray their Ignorance in theſe Beneficiary Matters; for the Regreſs would not now bring in one Farthing (1): The Penſion is, by many Degrees more preferable for Profit and Convenience: It was therefore the eaſier to execute [*il Concilio le Concile*] as it turn'd more to Advantage.

This ſeems neither intelligible in the *Italian* nor *French*.

But the taking away *Commendams* (2) from the Monaſteries, which the Council likewiſe enjoin'd, hath been without Effect (3) to this Day, and even many Monaſteries, which were in Title only, have been ſince turned into *Commendams*, for want of ſome Contrivance to make Advantage of their Suppreſſion: And ſince the Penſion can be impos'd by none but the Pope, the Court of *Rome* draws great Advantage from that Privilege.

Theſe were the Changes introduced in *Italy* by the Council of *Trent*, which, by not having taken any Notice of the Reſervations, have given an Opportunity of multiplying them to that Degree, that the Pope hath five Parts in ſix of the Benefices in his Diſpoſal; with very reaſonable Hopes, that the Sixth which remains, will go the ſame way.

By the Rules of Chancery, all ſuch Benefices are reſerv'd to the Pope, as *John* XXII. and *Benedict* XII. reſerv'd to themſelves *; and alſo all ſuch as were

(1) Seeing thoſe who obtain'd them would not be able to make any uſe of them, becauſe of the Oppoſition from the Biſhops and Magiſtrates, eſpecially in *France*, where the Parliament of *Paris* hath hinder'd their being receiv'd.

(2) In the Chap. 21. of the Reformation of Regulars, of the Seſſion 25. quoted in the Notes of the precedent Chapter.

(3) For the Court of *Rome*, always ſubtle in Diſtinctions, thought fit to declare, after the cloſing the Council, that the Benefices which had accuſtom'd to be in *Commendam*, might reaſonably remain ſo. Now ſeeing for more than 100 Years the Popes had put almoſt all the regular Benefices in *Commendam*, there were very few left, which had not had two or three Commendatories, and conſequently Cuſtom was always adjudged to be on their Side, for being in *Commendam*.

* See the Rules in Chancery, *tempore* Innocent. X. *Rule* 1.

obtain'd by any Perſon who had been an Officer in the Court, tho' he had quitted the Office. To him alſo are reſerv'd all Patriarchats, Archbiſhopricks, Biſhopricks, and Religious-Houſes of Men, which exceed the Value of 200 Florins of Gold †; likewiſe all Benefices becoming vacant by the Ceſſion, Deprivation, or Death of the Collator, whoever he be, until his Succeſſor have obtain'd peaceable Succeſſion: All the chief Dignities in Cathedral and Collegiate Churches, Priories, Provoſtſhips, and other conventual Dignities and Preceptories of all the Orders, except the Military: Benefices held by any Domeſtick of the Pope or Cardinals, tho' he were no longer in their Service, and tho' he had quitted it, or tho' his Maſter were dead: All Benefices held by Collectors and Sub-collectors; All held by *Roman* Courtiers, who happen to die in in the Journey, when the Courts travels: All held by Chamberlains, and Criers or Serjeants *. Beſides all theſe Reſervations, which in Reality comprehended all the principal Benefices, and a great part of the reſt, the Pope generally reſerves to himſelf all thoſe which ſhould become vacant in eight Months of the Year ¶, leaving only four Months of Diſpoſal to others: And yet this is only for ſuch Benefices as are not of the Number we have recited. Laſtly, a Conſtitution of *Pius* V. reſerves all Benefices vacant for Hereſy (4), or for *Confidentia*

† Rule 2. ¶ Rule 4.
* Rule 5, 6, 7.
† Rule 9.

(4) Omnia & ſingula beneficia Eccleſiaſtica, cum cura, & ſine cura ſecularia, & quorumvis Ordinum etiam S. Joannis Hieroſolymitani, & aliarum quarumvis militiarum regularia, quæcunq; & qualiacunq; ſint, etiam ſi ſecularia, canonicatus & prebendæ, dignitates & perſonatus, adminiſtrationes, vel officia in Cathedralibus etiam Metrapolitanis, vel Collegiatis, & dignitates ipſæ in Cathredalibus

dentia *(5), and all that ſhall not be conferr'd according to the Decree of the Council of *Trent* (6). So

thredalibus etiam Metrapolitanis poſt pontificatus majores, ſeu Collegiatis Eccleſiis hujuſmodi principales Regularia vero beneficia hujuſmodi, monaſteria etiam conſiſtorialia, prioratus, præpoſituræ, præpoſitatus dignitates etiam conventuales, vel officia etiam clauſtralia, ac hoſpitalia, & præceptoriæ, ordinationi & diſpenſationi noſtræ & ſedis Apoſtol. hac perpetuo valitura conſtitutione, authoritate apoſtolica, tenore præſentium reſervamus Declarantes omnes & quaſcunq; impetrationes de beneficiis quomodocunq; qualificatis, in futurum faciendas, & obtinendas, beneficia hujuſmodi propter hæreſim vacantia, & in futurum vacatura, non comprehendere, niſi ſpecialiter vacationis modus propter crimen hæreſis expreſſus fuit. *Decret. lib. 7. tit. 11. cap. 4.* This Conſtitution is in *January*, 1566.

* Which is keeping a Benefice in private Truſt for another.

(5) Ad aures noſtras pervenit, ut nonnulli non veneantur ——— beneficia ſecularia, & regularia in Confidentiam, quam Simoniacam pravitatem ſapere non ignorant, acceptare, ac retinere. Nos —— ne abuſus, vel potius delictum hujuſmodi ulterius progrediatur, celeri remedio providere volentes, præmiſſorum omnium cognitionem nobis, & ſucceſſoribus noſtris Rom. Pontificibus reſervantes, omnes & ſingulas confidentiarum hujuſmodi cauſas, per nos ſummarie, ſimpliciter, & de plano, audiendas, cognoſcendas, decidendas, & totaliter exequendas, ad nos avocamus, deciſioniq; & terminationi per nos ſuper illis faciendæ ſtandum, acquieſcendum, & omnino parendum & obediendum fore, ſtatuimus & ordinamus. *Decret. 7. tit. 10. cap. 10.*

(6) Nos ad quorum notiam pervenit, nonnullos ex venerand. fratribus noſtris Archiepiſcopis, & Epiſcopis, excurrente vacatione parochialium Eccleſiarum, eas nullo aut minus rite ſervato examine, præſertim illo quod per concurſum fieri debet ex concilio Tridentino, vel etiam rite ſervato examine perſonis minus dignis, carnalitatis, aut alium humanæ paſſionis affectum, non rationis Judicium ſequentes, contuliſſe, volentes hujuſmodi, ac etiam futuris periculis occurrere, authoritate Apoſtolica, tenore præſentium, omnes & ſingulas collationes, proviſiones, inſtitutiones, & quaſvis diſpoſitiones parochialium Eccleſiarum ab eiſdem Epiſcopis, & Archiepiſcopis, ac quibuſvis aliis collatoribus, præter & contra formam ab eodem Concilio Tridentino præſcriptam, factas, aut in futurum faciendas, nullas, irritas, ac nullius roboris fore & eſſe, decernimus & declaramus eaſq; omnes, ſic vacantes, noſtræ & ſedis Apoſtolicæ diſpoſitioni reſervamus. *Ibid. Cap. 2.*

that whoever ſhall put all theſe Reſervations together, will be found to have done the Pope no Wrong in the Calculation, and that he hath at leaſt five times as many Collations as all the other Collators put together.

To give every one their Due, we ought not to paſs over in Silence the vigilant Care expreſs'd by the Popes, that the Biſhops themſelves and the other Collators ſhould have no Door left open to practiſe any Abuſes. And therefore they have never been allow'd to uniteBenefices for Life, nor to put them in *Commendam* for Life; nor to diſpenſe with the Plurality of Benefices which are incompatible; nor to grant Regreſſes or Coadjutorſhips with Succeſſion in Reverſion: And now the Popes ſhew the ſame Vigilance at this Day, in prohibiting the Prelates to charge any Benefice with the leaſt Penſion, or to receive Reſignations *in Favorem:* And even as to abſolute Reſignations, which have been of ſo ancient Uſage in the Church, *Pius* V. in 1568. prohibited all the Ordinaries, who receiv'd any Reſignations, under the moſt grievous Penalties, from conferring the Benefice reſign'd, to any of the Parents, Allies, or Domeſticks of the Reſigner; enjoining too, that neither by Word, Geſture, nor any other Sign, the Perſon ſhould have any Intimation to whom the Reſigner deſir'd the Benefice ſhould be given (7).

CHAP.

(7) Caveant Epiſcopi, itemq; omnes Electores, præſentatores & patroni tum Eccleſiaſtici, quam Laici, ne verbo quidem aut nutu, aut ſigno futuri in hujuſmodi beneficiis ſucceſſores ab ipſis reſignantibus, aut aliiſq; eorum ſignificatione, vel hortatu deſignentur, aut de his aſſumendis promiſſio inter eos, vel etiam intentio qualiſcunq; intercedat. Ceterum præcipimus atq; interdicimus, ne ipſi Epiſcopi, aut alii collatores de beneficiis, & officiis reſignandis, aut ſuis, aut admittentium conſanguineis, ſanquineis, affinibus, vel familiaribus etiam per fallacem circuitum multiplicatarum in extraneos collationum, audeant providere —— Qui contra fecerint, a beneficiorum, & officiorum collatione, nec non electione, præſentatione, & inſtitutione, tam diu ſuſpenſi remaneant, donec remiſſionem à Rom. Pontifice meruerint obtinere; & qui talia beneficia ſeu officia receperint, eos prædictis pœnis volumus ſubjicere, *Decretal lib.* 7. *Tit.* 14. *cap.* 3. This Decretal is dated *April* 1, 1568.

CHAP. LI.

IT is conſtantly maintain'd by all the Canoniſts and Caſuiſts, that all Compacts or Bargains in which Benefices are concern'd, are ſimoniacal, when it is done without the Pope's Concurrence, but that being obtain'd, gives a Sanction to every Thing; founded on this univerſal Propoſition, That the Pope cannot commit Simony in beneficiary Matters.

This being a Doctrine with which the World is not much edify'd, ſome Canoniſts more modeſt than the reſt, diſtinguiſh betwixt a Simony forbid by the Laws of G O D, and one forbid by human Laws only (1): Adding withal, that the Pope alone is not capable of committing Simony of the latter Sort: But this Diſtinction ſeems to clear no Difficulty; for that which is not evil in its own Nature, nor forbid by G O D, deſerves not the Name of Simony: Beſides that it is Labour loſt to make a Law, and not to have it obſerv'd. But whoever

(1) This is the Diſtinction upon the Gloſs, upon the Chapter, *Cum pridem* 4. *verbo* [*illicitæ*] *extra de pactis:* Which is followed by all the *Tramontains.* See *Felin ad cap. ex parte* 12. *Num.* 1. *extra de officio Judicis delegati.*

reflects thoroughly on this Point, without seeking a Subterfuge or Evasion by Words, will see that both the one and the other Simony is prohibited by GOD.

Certainly it is a Justice which cannot be denied the Pope, that he hath held the Bishops so strictly to their Duty, that he hath nothing to answer for in that regard. And it is a signal Instance of the Divine Favour, which hath enabled the Popes to preserve the rest of the Church so untainted from the Corruption of Simony, since they have not been able to defend themselves, nor their Court from the Infection.

And as we may have leave to hope (2), that one Day will produce some Pope of so much Vertue, as to make a Reformation in his Court; there cannot surely be a plainer Road than is already mark'd out to him, to accomplish it, in putting himself under the Obedience and Discipline of those Laws, which have been practis'd with so much Rigour on the other Bishops. Then we should soon see the happy Effect, if it were not defeated by Flattery and Insinuations very improper for great Reformations; such as, that the Popes who are, throughout all *Italy* and in some other Places, in Possession of a Privilege so valuable, as not to be subjected to any Rule, have not Reason to divest themselves of the Right (3); and do a manifest Prejudice to the

(2) Chiefly at this Day, when God hath given the Church a Pope irreprehensible, and who having so constantly renounced the Flesh, and the Inclinations of Blood, may say with St. *Paul*, *Mihi mundus crucifixus est, & ego mundo.* Galat. ultim.

(3) For the Court of *Rome* hath establish'd it as a fundamental Maxim, that the Pope hath not the Power of making any Alteration in the Papal Authority, and consequently cannot, for any Reason whatsoever, lawfully release any Right, nor would it be valid.

Apostolick

Apostolick See. Which is a Reasoning so directly contrary to the profess'd Doctrine which the ancient holy Popes and Fathers have taught.

But it is easy to determine, by what hath been said, that if the Pope have so absolute a Power over the Benefices and Ecclesiastical Goods, he is subject to no Rule himself in the Dispensation of them. For to reason justly, If the Church of every particular Place be absolute Mistress of the Goods she is possess'd of, because those who had the Property of them before, had transferr'd it to that Church with the Permission of the Prince, who, by Virtue of his Laws, had made it capable of acquiring Estates, it follows, that these Estates ought to be under the Management and Administration of those, to whose Care they are committed; *first*, according to the Law, *secondly*, according to the Conditions prescrib'd by the first Owner, *viz.* the Donor or Testator; and *finally*, according to the Directions of the Church to whom they belong; provided still, they contradict not the Disposition of those from whom she derives her Right.

This is so evident, and carries so much Conviction along with it, that whoever disputes it, seems either to be void of common Sense, or wilfully to renounce the Light of his own Reason.

The Church-men have the Administration of these Goods, by Virtue of the Laws, which have impowered Christian Communities to acquire immoveable Estates, by the Will of the Donors and Testators who have bequeath'd them, and by the Authority given by the Church, declar'd in the Canons. They are therefore oblig'd to govern and dispense these Goods according to the Laws, Conditions, and testamentary Dispositions, and withal, according to the Canons: And whatever is done

contrary to these, can be accounted no other than Injustice and Usurpation.

The Canonists say, That the Pope hath a Power so absolute over the Ecclesiastical Goods and Benefices, that he can unite, divide and bestow them in whatsoever Manner he pleaseth, confer them before they be vacant, erect new ones, impose Services, Burdens, and Pensions, in which no Bounds can be set him (4); and finally end in this decisive Conclusion, That in Beneficiary Matters, the Will of the Pope stands in place of Reason.

It is not easy to carry a Doctrine higher, than where Reason is declar'd useless, yet they stop not here, but add, That the Pope can change Dispositions of Wills (5); and apply the Legacies of Charity

(4) St. *Thomas* did not believe this, who speaks so plainly, declaring, That the Pope is only the principal Dispenser, and that Honesty and Fair-dealing is absolutely necessary to that Trust. He speaks of Bishops, among which he includes the Pope himself in these Terms, *Ecclesiasticorum bonorum sunt dispensatores vel procuratores ---- ad dispensatorem autem requiretur bona fides.* 2. 2. quest. 185. art. 7. Now Honesty and Fair-dealing are as incompatible with the Disposition *Ad Nutum*, as Liberty with Servitude. And consequently, if the Pope is subject to the same Infirmities with other Men, and to the same Passions, his *Ad Nutum* may sometimes occasion Evils, if Princes and Bishops always left him to himself.

(5) Saith the Author, towards the End of his 6th Book of the History of the Council of *Trent*, As Wills take their Force from the Civil Law, they cannot be changed, but by the Prince or Magistrate. And if any one say, that it is the Law of Nature which gives them Force, it is answer'd, That it is for that very Reason that the Ecclesiasticks ought still to have less Authority, since none but the Prince who can dispence with this Law, when there is Reason to do it. Now, according to St. *Paul*, the Ministers of Christ have no Administration but in Divine Matters. It is worthy of Observation, by the way, that the *Roman* Magistrates were so religious in Point of Wills, that even *Tiberius* could not obtain, that the Money

rity to other Purposes than they were given. And it cannot be denied, that this Practice has introduc'd all the Changes which the Church has undergone in her Institutions and Pollicies: The Question still remains, if it can admit of any Doubt, who hath err'd, the Ancients, or the Moderns.

Martin Navarr, with some others of the most moderate among the Canonists, restrain the Proposition of their high-flown Brethren to this, That the Pope may only alter Testaments, when there is a lawful Cause for it. Otherwise it would be to deprive a Man of what is his own, and of the Right which the Natural and Divine Law gives him over it: And then proceeding to instance in Particular, adds, That the Pope cannot, without good Cause, give to one Church what hath been left to another (6): How much less then can he do it to Persons not nam'd?

He saith withal, that this Assertion of the Canonists, That the Will of the Pope is of equal Authority with Reason itself in Beneficiary Matters, is to be understood only of such Things as are of positive Right, but not of such as cannot be put in Practice without violating both the Natural and Divine Law: And those who do not allow an unlimited Power to the Pope, should bring the Canons of the

Money left by Will to build a Theatre, should be employ'd to another Use. *Censente*, saith *Suetonius*, *ut Trebinis Legatam in opus novi Theatri pecuniam ad munitionem viæ transferre concederetur, obtinere non potuit, quin rata voluntas legatoris esset.* In Tib.

(6) Quamvis, *saith* Felinus ad cap. quæ in Ecclesiarum Num. 44. extra de constitutionib. respectu beneficiorum latissima sit potestas Papæ, tamen respectu bonorum ipsarum Ecclesiarum secus. Unde non potest auferre bona unius Ecclesiæ, & dare alteri, sine causa, ut notat Glossa. *Vide Archid. & Dominic. in can.* 1. *dist.* 10.

universal

universal Church within the same Limitations, to avoid falling into an Absurdity of so much Consequence, That the Church hath err'd in so important a Matter, while the Court of *Rome* hath acted uprightly.

Navarr adds farther, That in the *Clementine*, where the free Disposal of Benefices are said to belong to the Pope (7), is not meant by the Word *free* a Disposal absolute, and without Permission or Consent of any Person whatsoever; but only a Disposal without Prejudice to any Body else. Now, if we should admit a Construction that appears so reasonable, it would make strongly against Reservations, seeing they are prejudicial to the Bishops. The Popes could no longer give Benefices to Strangers, seeing that would be prejudicial to the Natives of the Place, in Favour of whom the Requests had been made: And it favours as little any Pretensions to a Power of altering Testamentary Dispositions, by being so injurious to the Memory of the Dead.

I know very well there are others who are ready to admit all this to be true, provided there be no lawful Cause to the Contrary. But the Question is, Who is to be Judge of the Reasonableness of the Cause? For if he, whose Authority it is design'd to restrain, be the only Judge, it is the same thing to give him the absolute Power, as to limite it by any Condition, if the Law is not superior.

What *Navarr* farther adds is very remarkable, That in our Age, the Opinion of the Lawyers, who enlarge so much on the Power of the Pope in Beneficiary Matters, is extreamly countenanc'd, because it gratifies the Avarice and Ambition of those

(7) Ad quem Ecclesiarum, dignitatum aliorumq; beneficiorum Ecclesiasticorum plena & libera dispositio nescitur pertinere. *Clement. lib.* 1. *tit.* 5. *cap.* 1.

who

who are in pursuit of many Benefices, and that he had heard a Divine and a Canonist, both famous in their Profession, publickly declare, that they would make no Scruple to accept all the Benefices in the Kingdom, if the Pope would so bestow them (8): But that on the contrary, *Pius* V. in Discourse one Day told him, That the Lawyers ordinarily attributed more Authority to the Pope than belong'd to him: To which *Navarr* answer'd, That there were some also, who would take a great deal from him of what belong'd to him; and therefore a middle Course was to be taken, in accommodating equitably betwixt Divine and Human Laws: Not following here in the Example of the modern Lawyers, who carry the Authority of Human Laws so high, that they decide in their Favour against the Divine (9).

However, tho' the Respect due to the Pope will not suffer me to contest an Opinion, which gives

(8) They are yet more scrupulous than an Abbot, whom I heard say, That he would make no Scruple to hold 3000 Abbies or Priories, if the King would give them him: A Declaration worthy of Man, who is neither of the Religion he professeth, nor of that which he quitted, in order to get Benefices: And who enjoyeth one at this time, among others, which he won of the Collator, at a Party at Picket.

(9) The Canonists are not contented to give the Pope an absolute Power over all Men, but have extended it even to the Angels. *Vide Felin.* upon the Chapter *Canonum Statuta. Num.* 6, *extra de constitut.* and *Decius* upon the same Chapter, *lect.* 2. *num.* 21. where he lays down for a Rule, That the Pope alone hath more Authority than all the Angels put together, *Major est*, saith he, *authoritas Papæ, quam sanctorum.*

To see on what Foundation the Pope's Pretension is founded, of his being Master and Lord of the whole Earth, there needs only to read the Commentary of *Innocent* IV. upon the *Chap.* 8. *extra de voto, & voti Redempt.* But this Pretension is well refuted by *Fernand Vasquez*, *lib.* 1. *Controvers. illustr. cap.* 21. and by *Grotius in Chap.* 3. of his *Mare Liberum.*

him

him ſo much Power, yet I cannot comprehend, how it can be made to conſiſt either with Divinity or Reaſon. I will therefore only propound ſome Difficulties, which are commonly ſtarted by thoſe, who have writ on this Subject; the Reſolution of which, would put the Matter in a very clear Light.

CHAP. LII.

QUESTON I.

THE firſt Queſtion is, If the Pope hath ſo large an Authority, who hath given it him? It is plain not JESUS CHRIST, ſeeing the Authority derived from him, extends only to ſpiritual Things; that is to ſay, to bind and looſe, to remit or retain Sins (*a*). As for Eccleſiaſtical Goods, we have already proved, that they are poſſeſs'd by Human and not by Divine Right *. The Pope therefore hath receiv'd no ſuch Power from GOD. And it is plain he hath receiv'd none from Princes, Teſtators, and Canons of the Church; becauſe all theſe have committed the Adminiſtration of the Goods and Benefices of every Church to the Eccleſiaſticks

(*a*) Tibi dabo, *ſaith* Jeſus Chriſt *to St.* Peter, Claves regni cœlorum. Et quodcunq; ligaveris ſuper terram erit ligatum & in cœlis, *Mat.* 16 & 18. Quorum remiſeritis peccata, remittuntur eis, & quorum *(my Kingdom is not temporal)* retinueritis retenta, *Joan.* 20. By the Keys of the Kingdom of Heaven, Jeſus Chriſt giveth St. *Peter* to underſtand, that he gives only a ſpiritual Juriſdiction, ſeeing his Kingdom is purely ſpiritual. *Regnum meum non eſt de hoc mundo.*

* Article 20. Queſt. 1.

cleſiaſticks of the Place, and under ſuch expreſs Conditions as cannot be alter'd. Seeing therefore no other Patrons or Owners can be found but theſe, and that there is no other Right but what flows from them; it remaineth to inquire by what other Channel this Authority could be convey'd to the Pope.

QUESTION II.

To this Queſtion may be added another as material, which is, that if he hath this Authority, whence comes it, that his Predeceſſors for more than 1000 Years have never exercis'd it? And that neither Councils, Fathers, Canons, nor ancient Hiſtories have ever mention'd it? They cannot aſcribe it to the different Circumſtances of Times in the Church, as requiring it more now, than in ſo many Ages paſt: For from the Year 800. until 1100. the Confuſions and Corruptions were ſo great, that ours are comparatively inconſiderable: Yet no Pope then ever concern'd himſelf in the Management of the Eſtates of other Churches, as much as they wanted Regulation: And even after the Popes had begun that Practice in ſome meaſure, none of them ever pretended to ſo abſolute a Power and Direction, before *Clement* IV. Nor even did that Pope venture to lay a direct Claim to ſuch a Power, touching it only in paſſing, and without the Appearance of any Deſign in mentioning it *. A way of ſpeaking which ſeldom uſeth to be convincing, ſeeing things that are occaſionally mention'd, and as it were by Accident, are commonly

* See *Chap.* 35. and the Decretal of Pope *Clement*, in the Notes.

expreſs'd in another Manner, than if they were direct Propoſitions to be examin'd and diſcuſs'd.

Nor can any good Effect it has produc'd be urg'd in Defence of this Authority, which hath open'd ſo wide a Door to all the Abuſes. From this Quarter have come Penſions, *Commendams*, Regreſſes, Unions, Reſignations, Expectatives, Reſervations, Annates, *Quindenniums*, and other Devices, which have broke in upon us, and which none pretends to approve, or excuſe, otherwiſe than by the general Corruptions of the Times.

QUESTION III.

There remains a third Difficulty upon this Point, no leſs conſiderable, which is, That ever ſince the Popes firſt began to exerciſe this abſolute Power, the Chriſtian Princes have conſtantly complain'd, and made Oppoſition, as we have above related, which hath obliged the Popes to reſtrain the Exerciſe of it.

But it hath not been ſuch a Reſtriction, as hath amounted to a voluntary Ceſſation of that Authority, but rather a ſort of Contract or Compromiſe, uſual in the Caſe of doubtful Rights, whereby it is ſtipulated and declared with Princes, how far their Pretenſions ſhall extend, which cannot be carried to the Prejudice of the Popes their Succeſſors, if the Authority of the Pontificate were not before reſtrain'd within any Bounds. *Leo* X. when he took away the Pragmatick, eſtabliſh'd the Concordat, and ſo he ſtiles it in the Bull. Now, whoever hath a full and abſolute Authority, cannot be ſaid to

to make any Agreement (1), but treats as a Superior with his Subjects, and by way of Conceſſions: And I lay not this Streſs alone upon the Word Concordat, but the ſame Argument holds in all the like Caſes. Not only *Leo* ſtiles it in his Bull *Concordia* (*b*), but farther explains himſelf in theſe Terms, *Illam veri contractus & obligationis inter nos, & ſedem Apoſtolicam ex una, & Franciſcum Regem ex altera partibus legitime uniti.*

If any one require here a farther Explanation, it is very obvious, The holy See is at Difference with the Kingdom of *France*: The Popes claim an abſolute Power over all Benefices, reſerving to themſelves the Diſpoſal of them, *&c.* *France* on the contrary maintains, That ſuch an Authority belongs to its own Biſhops: To put an End to this Difference, they come to a Declaration of their Rights, that ſets Bounds to their Pretenſions on both Sides. How then can theſe Pretenſions be ſaid to have any fix'd, indiſputable and natural Right?

If there be any better Anſwer or Solution to be made to theſe Difficulties, I profeſs my own Inability to find it, and muſt refer my ſelf to the Judgments of the Learn'd. I can only ſay, That if the Practice of the Church for more than 1000 Years had been yet preſerv'd, which was, That the Eſtates of every Dioceſs were managed by its own proper Miniſters, all theſe Grievances had been prevented, and the Revenues had doubtleſs been

(1) This is perhaps one of the Reaſons, why *Leo* would not ſuffer the Council of *Lateran* to call it the Concordat in the Decree, where it ſpeaks of the Suppreſſion of the Pragmatick, tho' the one hath as much relation to the other, as the *Acbat* is to the *Vente*.

(*b*) Concordiam cum Franciſco inviolabiliter obſervari deſideramus.

more

more uſefully and faithfully applied than they are at this Day, if we were capable of profiting by any Examples.

QUESTION IV.

Having in the three firſt Queſtions treated of the immoveable Eſtates of the Church, we come now to the fourth, which concerns the Fruits or Revenues ariſing from thoſe Eſtates.

All the Fathers who have writ before the Diviſion was made of the Goods of the Church into four Parts, have all agreed, that they belong'd to the Poor; and that the Eccleſiaſtick Miniſter had no other Right in them, but to manage, direct, and diſpenſe according to thoſe Neceſſities; treating as Robbers, and ſacrilegious Perſons thoſe Miniſters, who applied thoſe Eſtates to any other Purpoſes than the Deſign of their Inſtitution. Yet all the Eccleſiaſticks had not the Management of the Church Eſtates, tho' they were maintain'd out of them, as well as the Widows, the Poor, and other miſerable Objects: But this Care, after the Example left by the Apoſtles, was committed to the Deacons, Sub-deacons, and other Oeconomiſts (1), who gave Account

(1) The Church being become rich in Poſſeſſions, and the Deacons and Biſhops diſtracted with the Care of them, the Council of *Calcedon* order'd that the Biſhops ſhould appoint a Steward to look after the Revenues of the Churches.

Quoniam, *ſaith the Council, Can.* 26. in nonullis Eccleſiis Epiſcopi abſq; Oeconomis tractant res Eccleſiaſticas, placuit omnem Eccleſiam Epiſcopum habentem ex proprio Clero Oeconomum quoq; habere, qui ex Epiſcopi ſui ſententia res Eccleſiaſticas diſpenſet, ut nec ſine teſtibus ſit Eccleſiæ adminiſtratio, atq; adeo res ejus diſſipentur, & probrum ac dedecus ſacerdotio inuratur: Si autem hoc non fecerit eum divinis etiam Canonibus ſubjici. *Vide Can.* 11. *Concil. Nicæni* 2.

The Stewards were call'd *Vice-Domini*, as may be ſeen by the Canons *Volumus* 2. & *Diamonum* 3. *diſt.* 89. which are taken from St. *Gregory*. The *Vice-Domini* of the Biſhops, ſaith the *Perroniana*, were certain Lords, who were Vicars of the Biſhops in their Temporalities, but Lords of the Soil.

* Vide Momocan. Photii, tit. 10. cap. 1. & ibi Balzamon.

(2) They ſo call'd the College of Prieſts and Deacons. All Affairs laid before this College, who examin'd and reported them to the General Aſſembly of the Faithful.

Account to the Biſhop *, and in ſome Places to the Presbitery (2).

After that Benefices were inſtituted, it ſeems probable that the Biſhop, Prieſts, and other Clergy diſpos'd as freely of the Revenues of their Benefices as of their own Eſtates, and as of the Share which properly belong'd to them. Yet all Writers ſeem to agree, that the Prieſt ought not to take any more of the Revenue of his Benefice, than what was ſtrictly neceſſary, and that is obliged to employ the reſt in Works of Charity; and certainly with great Reaſon, for the Diviſion which was made of the Revenues could not change their Nature: For if an Eſtate which hath a Duty or Charge annex'd to it, comes to be divided, both the Parts are ſubject to the ſame Obligation.

Among thoſe Fathers who have writ ſince the Diviſion, St. *Gregory* who liv'd ſomething more than 100 Years after, and St. *Bernard* who liv'd about 800 Years after him, inveigh loudly againſt thoſe who make an ill Uſe of the Revenues of Benefices, as Uſurpers of the Publick Goods, and

Murderers of the Poor, whom they ought to feed (*a*).

This hath been the Language of all the Doctors and Writers on this Subject, until the Year 1250. when they began to refine upon it with more Subtlety: And as what the ancient Writers affirm'd was admitted, That every Clergyman sinned, who employ'd the Overplus of what was necessary for him, to ill Purposes, the Question was now stated, Whether those Beneficiaries who did not employ the Overplus to the Uses he ought, did not offend more than he who spends his own Estate to ill Purposes? Or, Whether they be not oblig'd to Restitution as much as if they had spent another Man's Estate?

If they really be the Proprietors of the Fruits of their Benefices, or, to speak in the Terms of the Civilians, *Usufructuarii*, they sin indeed in administring them ill, but they do Injury to none, and consequently are bound to no Restitution, since they have made an ill use of nothing but their own. But if they are only the Dispensers, with a Power of employing so much only to their own Use, as is necessary for them, and no more, which the Law calls *Usuarii* (*b*), they are obliged to make Restitution

(*a*) Cum nos, *saith St.* Gregory, lib. 3. *of his Pastoral*, Admonit. 22. necessaria indigentibus ministramus, sua illis reddimus, justitiæque potius debitum quam miserecordiæ opus implemus.

And to the same Purpose saith *Peter Cantor*, That the Charities given by Beneficiaries are not properly given to the Poor, but to Jesus Christ, whose Patrimony they have the Care of, as Dispensers and Executors of his Will; which if they do not faithfully perform, they are no better than so many Robbers.

(*b*) Cum usuarii tantum, non usufructuarii, sint, omnes Ecclesiæ proventus solo nudo usu excepto pauperibus, qui Ecclesiæ bonorum vero domini sunt dare vel potius reddere tenentur. *The President* du Ferrier *in one of his Harangues to the Council of* Trent.

tion to the Value of what they had dissipated: And which is more, whoever receives any Gift by the Will or Donation of such as have no Right to give, he also is oblig'd to make Restitution.

A real Scruple of Conscience first gave Rise to these Doubts, which after having been canvas'd for 350 Years (3) remain undecided at this Day, with an equal Number of Authors on both sides to support it: And it hath been lately reviv'd with much Heat and Wrangling betwixt *Martin Navarr*, a celebrated Canonist and Casuist, and *Francis Sarmiento* *: *Navarr* maintaining, that Beneficiaries are not the Proprietors, but meerly the Dispensers of those Revenues; so that they who sin are obliged to make Restitution.

Cardinal *Cajetan* holds a middle Opinion, saying, That Beneficiaries who have no more than what is strictly their own, or but a little exceeding, are truly Proprietors of their Benefices, because they hold no more than what is the Share that is due to them: But this cannot be said of the rich Bishops and Abbots, whose Revenues consisting both of the Church's (4) Share and the Poor's, oblige the Beneficiaries in Justice to bestow largely in Alms, and other pious Works, under Pain of Restitution, both in those who lay it out otherwise, and in those who

(3) To reckon from the Year 1250. when, he saith, this Question began to be set on Foot; which points at the time when *Fra. Paolo* wrote this Treatise, *viz.* in the Beginning of this Age.

* In his Treatise *de Reddit-bus Eccleſiaſticis* the Arguments of *Navarr* and *Sarmiento* are related by *Garcias*, in his Treatise *de Beneficiis*, *part.* 2. *cap.* 1.

(4) That is to say, of what belongs to the Frbrick, which they are entrusted to look after.

receive it (*c*). Nay he carries it ſo far, as to ſay, That whoever receiveth from the Pope any Preferments, or Eſtates belonging to the Church, in or-

(*c*) Redditus Epiſcopales aut ſunt tenues, ita quod ſufficiant pro ſubſidio Epiſcopi; aut ſunt mediocres, ita quod ſufficiunt, & parum abundant; aut ſunt abundantes notabiliter ſupra id quod neceſſarium eſt ad ſuſtentationem Epiſcopi. Et ſi primo aut ſecundo modo ſe habent, cum conſtet, quod principaliter ordinantur ad Epiſcopi ſuſtentationem, idem videtur de reditibus iſtis judicium, quod de præbendis Clericorum [*obſerve that he hath ſaid a little before, that the Revenue of the Biſhop is as it were his Prebend,* Conſtat autem quod reditus Epiſcopi eſt ſicut Præbenda illius] ita quod quia quod parum ſuperabundat, pro nihilo a jure computatur, propterea non obligantur tales Epiſcopi ad hujuſmodi diſtributionem (ſcilicet in pauperes, & fabricam) ſi autem redditus ſunt pingues & abundantes, ita ut ſapientis animo cadere non poſſit, quod ſint Epiſcopo aſſignati pro ejus ſuſtentatione, tunc tenetur Epiſcopus duas quartas ad minus diſtribuere in pauperes, & eccleſiæ fabricam, ſeu ſupellectilem, & cetera. Et ratio eſt, quia ex hoc, quod clericihabent ſeorſum ſuam portionem, non eſt ſubtracta a jure pauperibus portio illis debita ex jure; & ſimiliter non eſt fabricæ ſubtracta à jure portio illi ex jure debita; ſed bona Epiſcopalia remanent affecta tali juris diſpoſitione antiqua & ſancta, ita quod quemadmodum, quando erant communia Eccleſiaſtica bona his quatuor ſcilicet Epiſcopo, Clero, Pauperibus, & Fabricæ commiſſa erant Epiſcopo cum vinculo, & debito talis diſtributionis, ita excluſo uno membro, ſcilicet Clero tali communitate, quia jam habet proprias præbendas loco ſuæ portionis, remanent bona Epiſcopalia communia reliquis tribus, ita quod pauperibus remaneat debita quarta portio. *Com. 2dæ. 2dæ. queſt.* 185. *art.* 7. *in reſp. ad queſt.* 1.

Si autem, *ſaith he, in the Anſwer to the ſecond Queſtion,* redditus Epiſcopi tantus eſt, ut rationabiliter appareat quod non quaſi præbenda ſibi reſpondeat, ſed quia pater eſt pauperum, igitur tanta bona ſuæ ſunt fidei commiſſa ut diſtribuenda —— ita quod Epiſcopus talis malè diſpenſans, & illi ad quos perveniunt, tenentur ad reſtitutionem omnium illorum, quæ pauperibus vel eccleſiæ debentur. Rationabile autem videtur, quod ſi abundantes redditus ex eccleſiaſticis decimis, aut poſſeſſionibus conſtant, commiſſa ſint Epiſcopis, ut patribus pauperum Epiſcopo creditæ ſunt. Ideo enim Epiſcopis datæ ſunt, quia occulta fide perſpiciebatur eos eſſe partes pauperum.

der

der to enrich and agrandize himſelf in the World, are alſo obliged to make Reſtitution: All Donations of the Goods of the Church, which have not a Motive of Piety or Charity, being no lawful Diſtribution, but an Injuſtice and a Diſſipation (*d*).

Without refining and ſubtilizing too much on this Subject, all the Difficulties that can ariſe upon it, methinks may eaſily be reſolv'd. And firſt as to the Revenues which are founded upon Wills, or ſome other original Right or Inſtitution, and dedicated to ſome pious Uſe, for any Man to convert them to his own, or to any other ſecular Uſe, is, in my Opinion, an Abuſe; which may plainly be call'd an Invaſion of another Man's Property.

And if a Beneficiary ſhould fail in performing any Truſt in the Manner committed to him, either in miſapplying the Revenues to himſelf or others, I cannot comprehend how he would be able, under any Bull of the Popes, or any other Pretence, to juſtify himſelf, unleſs he could prove himſelf not to be exactly in the ſame Situation with an Executor, who takes to his own Uſe what the Teſtator left

(*d*) Nec putes, *ſaith he,* propterea quod Papa habet plenitudinem poteſtatis eccleſiaſticæ, ob hoc poſſit de bonis Eccleſiæ diſponere; quoniam plenitudo poteſtatis Eccleſiaſticæ intelligitur in ſpiritualibus tantum —— Unde ita tenentur ad reſtitutionem, qui a Papa bona Eccleſiæ pro libito Papæ habuerunt, ut ditentur, exaltentur, & magnificentur. [This gives a deep Wound to the *Nepotiſm,* and condemns the Doctrine of the Canoniſts, who held, that the Pope can give Benefices *Ad Nutum,* and that in this Caſe his Will ſtands in place of Reaſon.] *He concludes,* omnis namq; donatio eccleſiaſticæ rei, pietate, vel neceſſitate, vacua, non diſtributio, ſed diſſipatio eſt. *Comment.* 2*dæ.* 2*dæ. ad artic.* 8. *quæſt.* 43. 12. *q.* 2. *Archid. poſt Hugonem in Can. non liceat Papæ, ſaith, that* Papa peccat mortaliter, ſi vult res eccleſiaſticas conſumere in turpes uſus, vel dare conſanguineis, ut eos divites præ aliis faciat, vel ut ipſi conſtruant palatia.

to others: And this is a Truth, which ſeems to carry ſuch a ſelf Conviction along with it, as I perſuade my ſelf no Man can doubt, who is not willing to cheat himſelf.

On the other ſide, common Juſtice requireth, that he whoſe Work it is, ſhould pay the Workmen their Wages; and it cannot be denied, but that the Choriſters, the Organiſt, and other Officers of the Churches are Judges of the Prices of their own Service.

Neither is there any thing unreaſonable in ſaying, That the Prieſts, and the other Clergy ought to be paid their Salaries for the Services they perform in the Church; and that they have the only Right to ſuch Revenues. And when a Benefice is inſtituted upon Conditions, which ſubject to ſuch and ſuch particular Services, ſuch as are many Canonries, Prebendaries, Theologales, Manſionaries (*e*), and other Benefices of that Kind, there is no Abſurdity in ſaying, that theſe are the Conſiderations for ſuch Services.

The Inſtitution of Benefices is ſo ancient, that the Memory of their Original is loſt, as well as whether they were held at firſt by the Tenures of any Services to the Church. But this a Man of ſcrupulous Conſcience can no longer doubt, when he compares the Revenues with the Service he rendereth to the Church; in putting one of theſe in the Scales againſt the other, he will eaſily be convinced that the Benefice is the Salary for his Service.

(*e*) Manſionarius, *ſaith* Onuperius *in his Explanation of Eccleſiaſtical Names*, dictus eſt Cuſtos, & Conſervator ædium eccleſiaſticarum, templorum, & altarium. Item familiaris, & domeſticus a manſione. Hodie in multis Eccleſiis extant, curamq; pſalmodiæ & altarium habent. *Thus the* Sacriſtary *comes neareſt to the* Manſionary.

But

But where the Revenues much exceed the Portion that is neceſſary for the Incumbent, who can be ſo weak to believe, that Revenues of that Size were ever intended to be left him to diſpoſe as he pleaſed, and not to know, that there is a Duty or Charge annex'd to the Benefice in its very Inſtitution, conſidering the little Probability that ſo large Revenues ſhould be deſign'd for one Man (*f*)?

Theſe controverted Points among the Caſuiſts, ſo full of Difficulties when they are propoſed in Generals, are eaſy to reſolve when they come to particular Caſes: And, Conſcience rightly conſulted, and in Perſons who have not ſtifled it with a wilful Ignorance (5), will eaſily clear theſe Doubts (*g*). For GOD leaves not the Mind of thoſe to wander under any Uncertainties of Importance, who tread in the Paths deſcrib'd in his Commandments (*h*).

(*f*) Iniqua, *ſaith* Cajetan, eſſet lex decimarum in novo teſtamento, ſi ultra honorabile ſtipendium miniſtrorum Dei, tanta rerum affluentia uni deputaretur, cum damno totius populi, niſi ut patri pauperum. *Comment. 2dæ. 2dæ. artic 7. queſt. 185. in reſp. ad queſt. 2.*

(5) Veritatem Dei in injuſtitia detinent, *Rom.* 1.

(*g*) Intellectus bonus omnibus facientibus eum, *Pſal.* 110.

(*h*) Deus enim illis manifeſtavit, *Rom.* 1.

CHAP. LIII.

As for any new Acquiſitions, every thinking Man, I believe, is ſenſible that they draw towards an End; or at leaſt, that they are like to encreaſe but by very ſlow Degrees. The Clergy, the Monks, and Military Orders have loſt their Friends. The Mendicants, who have reap'd ſo little Advantage hitherto from the Permiſſion granted to them by the Council of *Trent* to acquire Eſtates, have no Proſpect of much more from it for the future; In places indeed where they have already acquired any thing, and have not loſt their Intereſt, they have moſt Reaſon to hope for more Advantages, tho' with no Probability of happening in any conſiderable Degree.

The others, who would not be comprehended in this Privilege, I mean the Capuchines, preſerve their Reputation becauſe of their Poverty: And if they ſhould ſuffer the leaſt Change in their Inſtitution, they would acquire no immoveable Eſtates by it, but would loſe the Alms they now receive.

It ſeems therefore as if here an abſolute Period were put to all future Acquiſitions and Improvements, and that no more Advances could be made in this gainful Trade: For whoever would go about to inſtitute a new Order, with a Power of acquiring Eſtates, this Order would certainly find no Credit in the World: And if a Profeſſion of Poverty were Part of the Inſtitution, while that laſted, there could be no acquiring, nor Credit if they broke it.

Yet

Yet our Age can boaſt of a Production truly ſingular and original, and inferior to nothing of this Kind, which hath appear'd in any Age. This is the Inſtitution of the Jeſuits, who by a Mixture of Povery and Abundance, conciliate to themſelves the Eſteem and Affection of the World, rejecting with one Hand, what they receive and poſſeſs, as a Company and Society, with the other. For tho' their profeſs'd Houſes (1) are not capable, by their Inſtitution, of poſſeſſing immoveable Eſtates, yet their Colleges are capable of acquiring and poſſeſſing (2).

They ſay, and certainly with Reaſon, that no Government ſimple and unmix'd is perfect, but that Mixtures are found to have their Conveniencies, on all Occaſions: That the State of Evangelick Poverty embrac'd by the Mendicants hath this Defect, that it is only adapted to ſuch as are already well advanced in the Way to Godlineſs, whoſe Number therefore cannot be very great. But for their parts, their Deſigns in receiving Youth into their Colleges is, to inſtruct, and by an Acquiſition of all Vertues, to fit it for a Life of Evangelick Poverty; ſo that Poverty is indeed their Deſign and eſſential End, but they grow rich by Accident.

But the Facts we ſee are yet a ſtronger Degree of Evidence, than the Words we hear. They write themſelves, that they have at preſent 21 profeſs'd Houſes, and 293 Colleges: From this Diſproportion every Man may conclude which is the eſſential Part of their Inſtitution, and which their accidental. Upon the whole it is not to be denied, that

(1) In which the Society eſſentially conſiſts, as the General *Laines* ſaid to the Council.

(2) As being founded to the End to entertain great Numbers of Students.

they

they have acquir'd vaſt Riches, and that they are in the high Road to encreaſe them (3).

As all the Temporalities which the Church enjoyeth aroſe from Alms and Oblations, ſo in the Old Teſtament the Fabrick of the Sanctuary was ſupported the ſame Way (*a*). But when the Inſpectors of this Work ſaw the People continue their Oblations, tho' all was given already that was needful, they ſaid to *Moſes*, *The People give more than is needful*; and *Moſes* ſtraight publiſh'd an Order, That no more ſhould be offer'd for the uſe of the Sanctuary, becauſe more than ſufficient had been offer'd already (*b*). By which it is manifeſt, That GOD would have nothing ſuperfluous and ſuperabounding in his Temple. And if it were his declared Pleaſure in the Old Teſtament, which regarded only the Things of this World, that all the Goods of the Church ſhould not go to her Miniſters, it is leſs declared in the New.

(3) We may obſerve here, that *Fra. Paolo* had a true Hatred for the Jeſuits, as a good *Venetian* and Republican; for their Inſtitution, which is wholly Monarchical, ſeems incompatible with the Maxims of the *Venetian* Ariſttocracy. And it was one of the ſtrongeſt Reaſons which the Doge *Leonard Donato* urged to the Cardinal *de Joyeuſe*, who ſollicited their Re-eſtabliſhment with great Warmth. (*an.* 1607.)

To which add, that this Society hath more Wit and Penetration than a Government deſireth, that is ſo apt to take Umbrage, and where for Reaſons of State, the Prieſts, Monks, and the People are overrun with Libertinage and Ignorance.

(*a*) Obtulerunt mente promptiſſima atq; devota primitias Domino ad faciendum opus tabernaculi teſtimonii; quicquod ad cultum neceſſarium erat, viri cum muliebribus præbuerunt, *Exod.* 35.

(*b*) Quotidie manè vota populus offerebat: unde Artifices venire compulſi dixerunt Moyſi, plus offert populus quam neceſſarium eſt: Juſſit ergo Moyſes præconis voce cantari: Nec vir nec mulier quicquam offerat ultra in opere ſanctuarii —— eo quod oblata ſufficerent, & ſuperabundarent, *Exod.* 36.

But

But where will their Acquiſitions end? or what Bounds will be ſet to them? Who among them will ſay, *The People have given enough?* The Miniſters of the Temple, who made up the 13th Part of the People, were not capable of receiving or enjoying any more than the Tenths (*c*): Ours, who are ſcarce the hundredth Part of the People, poſſeſs at this Time perhaps more than the Fourth.

Is it impoſſible there could be any Inconvenience in Churchmen's acquiring *ad infinitum*, and if all the reſt of the World were reduced to hold every thing by Farm? Among Chriſtians, human Laws have no where ſet Bounds to any Man's Eſtate, becauſe he who encreaſeth it to Day, may alienate to Morrow. But there is in this Caſe a Circumſtance perhaps without Example, That an Order of Men perpetual, and which never dies, ſhould be always capable of acquiring, and never of alienating (4). In the Old Teſtament the Tenths were given to the *Levites*, becauſe it was the LORD's Part (*d*),

(*c*) Nil aliud poſſidebant, decimarum oblatione contenti, *Num.* 18. Oblationes Iſrael comedent, & nil aliud accipient de poſſeſſione fratrum ſuorum, *Deut.* 18.

(4) The Clergy being a Body which never dies, which daily receiveth Increaſe by new Donations, and can part with nothing again, a Writer of good Repute illuſtrates the Matter with ſaying, That as the Thighs and Arms grow lean when the Belly grows too big, ſo fares it with a Republick, whoſe Nobility and People being the Legs and Arms, grow lean, and pine in Proportion as the Clergy encreaſe. *Reflections ſur le traite de la Politique de France.*

(*d*) Accipies, *ſaith God to* Aaron, de his quæ ſanctificantur & oblata ſunt Domino —— omnis oblatio, & quicquid redditur mihi, & cedit in ſancta ſanctorum, tuum erit, & filiorum tuorum. *And ſome Lines after*, Omnes primitias ſanctuarii, quas offerunt filii Iſrael Domino, tibi dedi & filiis tuis jure perpetuo, *Num.* 18.

and

and therefore they were forbid to take any more (e): A Rule which they, who enjoy the Privileges of the *Levites*, ought to obſerve, in taking upon them all the Conditions requir'd of them, and not only ſuch as turn to their particular Advantage (5).

(e) In terra eorum nihil poſſidebitis, nec habebitis partem inter eos. *And God gives the Reaſon to* Aaron. Ego pars, & hæreditas tua. *Becauſe, ſaith he, I am my ſelf thy Part and thy Inheritance.* Ibid.

Non habebunt Levitæ partem & hæreditatem cum reliquo Iſrael. —— Dominus enim ipſe eſt hæreditas eorum, *Deut.* 18.

(5) The Senſe of the Author is, that if the Eccleſiaſticks will urge the Example of the *Levites*, who receiv'd the Tenths of the People of *Iſrael*, they ought like them alſo to renounce every thing elſe, and conſequently all ſort of Acquiſitions: It not being reaſonable to enjoy a Priviledge without obſerving the Conditions impoſed by him who granted it.

CHAP. LIV.

HAving given a large Account how the Church hath acquired her Poſſeſſions, and how they have been employ'd, it remains that we examine what became of the Fruits and Revenues which happen'd to be remaining and undiſpos'd at the Deaths of the Beneficiaries; how they were diſpos'd, and whether the dying Perſon might diſpoſe by Will; or if inteſtate, to whom theſe Profits accrued.

While the Goods of the Church were in Common, and under one general Adminiſtration, it is certain that all that was found in the Hands of the Miniſter, remain'd incorporated in the common Stock, and was manag'd in the ſame Method by his Succeſſor.

But

But when the Benefices were inſtituted, it was order'd at the ſame time by the Canons, That whatever Eſtate the Beneficiary ſhould leave at his Death, ſhould go to the Church: By the Church, if it were Collegiate, and had a common Table, was underſtood the whole Body of the Clergy: But if the Beneficiary had no Collegues or Brother-profeſſors, then by the Name of the Church the Succeſſor was intended, who was oblig'd to adminiſter theſe remaining Fruits in the ſame Methods as his Predeceſſor had been: And this Uſage continued until the Year 1300.

But as it often happen'd, that Beneficiaries had other Eſtates, to which they were either born, or which they had required by their own Induſtry, it was ſaid, that they might diſpoſe of theſe as abſolute Proprietors by Will; but not of the Profits of the Benefice, in caſe of Death (a). Whence it came, that the Clergy who had ſmall Benefices, and where the Revenue exceeded not the neceſſary Expence, diſpoſed by Will all their own Eſtate, and alſo what they had ſaved by their own Parcimony out of their Benefices, reckoning this as an acquired Eſtate. And there is a Cuſtom, which is the Conſequence of this, obſerv'd ſince in many Chriſtian Kingdoms, that the ſmall Beneficiaries have a Power of diſpoſing by Will, even the Fruits of their Benefices; and that where there was no Will, the next Friends inherit to the Profits, as in the

(a) Epiſcopi de rebus propriis vel acquiſitis, vel quicquid de proprio habent, hæredibus ſuis, ſi voluerint, derelinquant; quicquid vero de proviſione ſuæ eccleſiæ fuerit, ſive de agris, ſive de fructibus, ſive de oblationibus omnia in jure Eccleſiæ reſervare cenſuimus. *Can.* 19. 12. *q.* 1. *an.* 572. *vide Can.* 20. *Cauſa & q. cit. & cap.* 1. *extra de Teſtam. Blaſamon. & Zonaram ad Can.* 22. *Conc. Chalcedon.*

Caſe.

Caſe of an Inteſtate, and as if it were their own Patrimony.

But whatever the Biſhops left at their Deaths, belong'd to the Church (1) by the ancient Canons. Yet after this, in ſome Countries the Biſhops obtain'd a Right of paſſing by Will the Eccleſiaſtical Fruits: Inſomuch that about the Year 1300. there were three different Cuſtoms in Force in different Countries. The *firſt*, where no Clergyman could diſpoſe of the Fruits remaining of his Benefice: The *ſecond*, where theſe Fruits were under the ſame Laws and Direction as their own Patrimonies: The *third*, where the inferiour Clergy could diſpoſe, but not the Biſhops; to which laſt whatever was due went to the Church.

In ſucceeding Times, when the Occaſions for Money grew more frequent and urgent, the Popes ſent their Officers into all thoſe Kingdomes where the Church had a Cuſtom of inheriting to the Goods of deceas'd Beneficiaries, to apply them all to the Apoſtolick Chamber, before a Succeſſor was appointed; which was eaſily put in Execution, no Man being concern'd in Intereſt to oppoſe it, during a Vacancy, and the Succeſſor ſatisfying himſelf, as with a thing done before his Time.

(1) Or rather to the Succeſſor: For the Can. 22. of the Council of *Chalcedon*, forbids the Clergy to take Poſſeſſion of the Goods of the deceas'd Biſhop. By the Can. *non liceat* 12. *q.* 2. The Metropolitan himſelf cannot diſpoſe of any.

Non liceat alicui Metropolitano mortuo Epiſcopo, qui ſub eo eſt, aut res ejus, aut Eccleſiæ ſuæ ferre; ſed ſint ſub cuſtodia Cleri Eccleſiæ defuncti Epiſcopi, uſq; dum alius ordinetur Epiſcopus. Si vero Clerici in Eccleſia non fuerint, tunc Metropolitanus illibata omnia Epiſcopo, qui ibi ordinabitur, reddat. *See* Balzamon *and* Zonarus *upon theſe two Canons, and Can.* 48. *Cauſ.* 12. *q.* 2.

They

They then began to appoint ſuch Miniſters throughout all Places where they had Authority, who were call'd Collectors; and the Eſtates which the Beneficiaries dy'd poſſeſs'd of, had the Name of *Spolia* given them.

Tho' theſe Seizures were made with as little Noiſe as was poſſible, yet there being no Law or Ordinance to juſtify them, they could never be put in Execution without ſome Murmurs of the Heirs of the Deceas'd, as well as of others; for which the rigorous Exactations of the Collectors and Subcollectors gave Occaſion; who, under the Title of *Spolia* laid their Hands on the very Ornaments of the Church, and ſet up the moſt vexatious Inquiſitions into Titles, declaring which Eſtate was acquired by the Induſtry of the Deceas'd, and which was Patrimonial, ſtraining every Point, and improving every Doubt, that might tend to prove, that every thing they found was the Fruits of Benefices. And when at any time any Queſtion remain'd concerning the Nature and Quality of theſe Goods, the Apoſtolick Chamber, to which it was referr'd, ſtood ready with Cenſures and Excommunications to diſcharge upon thoſe who made Reſiſtance.

In *France* the Cuſtom hath obtain'd, that the *Spolia* of the Biſhops and Abbots ſhould go to the Popes: But in the Year 1385. *Charles* VI. made an Ordinance, that their Heirs ſhould ſucceed to the *Spolia*, as well as to the Patrimonial Eſtates (2).

Yet

(2) This Ordinance is to be ſeen at length, *part.* 3. *Stil. Parlam. tit.* 27. But becauſe of its great Length, it will be ſufficient to extract only ſo much as relates to the inſuportable Extorſions and Vexations mentioned by Bather *Paul.*

Quod importabile & irrationabile exiſtit, licet de jure, uſu & conſuetudine, & communi obſervantia notorie obſervatis, Epiſcopis

Yet in ſeveral Countries the Right or Pretenſions to the *Spolia* continued to our Times; wherein the Complaints againſt the Exactions of the Collectors grew ſo loud, that ſome had the Courage to oppoſe them openly, and to deny that the *Spolia* of the deceas'd Beneficiaries belong'd to the Apoſtolick Chamber.

This produc'd a Bull of Pope *Paul* III. in the Year 1541. which ſets forth, "That ſome Perſons "too buſy and inquiſitive (3), in order to invade "and uſurp the Rights of the Apoſtolick Cham-"ber, had rais'd a Doubt, Whether the Goods of "Prelates, and other Eccleſiaſticks, which are "call'd *Spolia*, belong'd to this Chamber, becauſe "there was no Apoſtolick Conſtitution for that "Purpoſe, tho' it is evident from the Inſtances of "Collectors ſent by his Predeceſſors into ſo many "ſeveral Parts to exact and recover them, that it

Epiſcopis regni noſtri teſtari liceat, & in ſuis teſtamentis executores ordinare: Qui prædicti Executores, aut ſaltem ipſorum Epiſcoporum heredes ad faciendum reparationes ædificiorum Epiſcopalium, dum caſus eveniunt, per Judices, & officiarios noſtros compelluntur, & compelli conſueverunt. Et cum ita fiat, ædificia & poſſeſſiones dictorum ædificiorum Epiſcopalium in ſtatu non deformi permanebunt omni ruina carentes. At nunc, cum Epiſcopum in regno noſtro ab hac luce migrare contingit, Collectores aut Sub-collectores ſummi Pontificis autoritate, bona mobilia, immobilia, ex deceſſu talium Epiſcoporum relicta, etiam illa, quæ per ſuam induſtriam quæſiverunt, quæ amplius ipſorum Epiſcoporum, neq; cenſentur, ſed ad ſuos heredes, aut eorum Executores ſpectant, capiunt ——— Notum igitur facimus, &c.

(3) Is not this a very juſtifiable Curioſity, when it relates to ſuch exceſſive Claims and pretentions.

The Court of *Rome* hath exacted ſo much, that at laſt the World hath been provok'd to ask by what Right: And the Attempts of the Popes have often obliged the Princes to employ their Arms, and the Learned their Pens, to juſtify thoſe Arms.

"hath

"hath always been the Intention of the Popes to "reſerve and appropriate them to the Chamber. "And therefore he willed and declared, That the "*Spolia* of the Clergymen deceas'd, or which ſhould "die hereafter, in all Kingdoms and Eſtates what-"ſoever, on this ſide, or beyond the Mountains or "Seas, even in Parts where no Collectors had ever "yet been appointed, ſhould belong to the Apoſto-"lick Chamber (4).

(4) Cum a nonnullis nimium curioſis, qui jura Cameræ Apoſtolicæ uſurpare, ac Cameram præfatam illis defraudere vellent, in dubium redigatur, an res & bona, ſpolia nuncupata, prælatorum, ceterarumq; perſonarum Eccleſiaſticarum, ſecularium & regularium, tempore obitus ipſorum remanentia, ex eo, quod Rom. Pontifici & Cameræ præfatæ reſervata fore, aliqua generali apoſtolica conſtitutione forſan non caveatur, ad Cameram prædictam jure legitimo ſpectare, & pertinere debeant.

Nos, etſi ſatis evident er conſtet & appareat, prædeceſſorum noſtrorum Rom. Pontificum, & noſtram indubiam intentionem, & voluntatem ſemper fuiſſe, ut ſpolia hujuſmodi ad dictam Cameram ſpectarent & pertinerent, & quod pro eadem Camera exigerentur, & recuperarentur, cum prædeceſſores præfati diverſos dictorum ſpoliorum, ut ad Cameram ſpectantium, & pertinentium, collectores, & exactores in variis provinciis & locis deputaverint & conſtituerint, & nos deputaverimus, conſtituerimus: Ac ſemper de illis dicti prædeceſſores perpleraſq; literas, tanquam de rebus ad Cameram pertinentibus donando vel tranſcendo, diſpoſuerint, & nos diſpoſuerimus —— dubium hujuſmodi enucleare, ac in præmiſſis opportunè provideri volente motu proprio, & ex certa noſtra ſcientia, ac de apoſtolicæ poteſtatis plenitudine declaramus res & bona hujuſmodi, ſpolia nuncupata, in quibuſvis regnis ac dominiis, tam citra, quam ultra montes & maria conſiſtentia, quæ pro tempore poſt obitus Prælatorum, & perſonarum quomodolibet qualificatarum, etiam Cardinalatus honore fulgentium, qui vel nullo condito teſtamento, vel abſq; ſufficienti facultate condito, deceſſerunt, decedent, remanſerunt, remanent, & remanebunt, &c. ſpectaſſe & ſpectare, illaq; tanquam ad Cameram ipſam ſpectantia perpetuo colligi & recuperari potuiſſe & poſſe, atq; debere. 7 *Decret. lib.* 3. *tit.* 3. *cap.* 1.

Thus the Over-zeal of ſome Perſons, in attempting to ſet a few Provinces at Liberty from ſuch a Grievance, hath brought the Impoſition to be challenged over the whole Univerſe; tho' it has not hitherto been drawn into Practice any further than in Places where it had been already admitted. But this hath been all along the conſtant Courſe of this Affair, the Popes have iſſued their Bulls, but the Noiſe they make in the World, and the Alarm Men take at the Novelty, make the Execution be ſuſpended for ſome Time, and until a more favourable Opportunity: When that happens, they fall to execute the Bulls with the ſame Rigour, Exactneſs of Cenſures, and other Severities, as if the Bulls had taken Effect at the Time of their Publication, and had only been diſcontinued through the Malignity of ſome ill affected Perſons.

Until the Year 1560. the *Spolia* comprehended only what remain'd of the Eccleſiaſtical Revenues at the Death of the Clerk or Incumbent. This Year Pope *Pius* IV. publiſh'd a Bull, in which he declar'd, "That under the Name of *Spolia*, which, "throughout all Countries and Dominions, throughout the World, belong to the Apoſtolick Chamber, were comprehended all whatſoever any "Clerk or Eccleſiaſtick had acquir'd, or ſhould "acquire, by any Ways or Dealing, or Commerce "unlawful, or in any other Manner contrary to "the Canons (5)": Which is very comprehenſive, ſince they underſtand all ſort of Merchandiſe to be unlawful.

Again

(5) Cum a nonnullis vertatur in dubium, an res, & bona per Clericos, etiam in ſacris ordinibus conſtitutas, ex negotiatione illicita, aut alias contra ſacros Canones acquiſita, uti ſpolia, vel alia ad Cameram præfatam jure legitimo ſpectare & pertinere debeant. Nos omnem deſuper hæſitationis materiam ſubmovere, & malitiis eorum, qui jura dictæ Cameræ uſurpare ſatagunt, obviare, aliaſq; in præmiſſis opportune providere volentes, motu proprio, & ex certâ noſtra ſcientia, ac de apoſtolicæ poteſtatis plenitudine, decernimus & declaramus, omnia & ſingula, res & bona, cujuſcunq; qualitatis & quantitatis exiſtentia, ac in quibuſvis regionibus, & regnis, ac dominiis, tam citra quàm ultra montes & maria conſiſtentia, per quoſvis Clericos tam Seculares, quàm Regulares, &c. ex negotiatione illicita, aut aliàs, contra ſacros canones quomodolibet acquiſita, ad eamdem Cameram & non alios, etiam in quibuſvis Cathedralibus etiam Metropolitanis, & Collegiatis, ac aliis Eccleſiis, Monaſteriis, Hoſpitalibus, Militiis &c. ſucceſſores ſpectare, ac ſub nomine ſpoliorum venire, illaq; uti ſpolia, ad Cameram pertinentia, perpetuo colligi potuiſſe, poſſe, ac debere. *Nov.* 1560, *Ibid. cap. ultim.*

Again, by the Canons the Clergy are prohibited many Sorts of Plays, and little Trades and Ways of Livelihood and Induſtry; by which they make great Advantages, and from whence the Chamber will draw great Revenues, if the Bulls concerning the *Spolia* ſhould ever gain Admittance in one half of *Italy*, where they have never yet been put in Execution, or in *Germany*, *France*, and other Kingdoms and States, where they have never yet been admitted. Beſides that in the Kingdoms of *Caſtile*, by a Law of the Emperor *Charles* V. and *Philip* II. all the Clergy of thoſe Kingdoms were exempted from this Impoſition.

The Canoniſts found the Right to the *Spolia* chiefly upon this Aſſertion, That the Pope is the real Proprietor of all Eccleſiaſtical Revenues; but thoſe who ſpeak with moſt Modeſty ſay, He is only Adminiſtrator of them.

By which Doctrine the Parties concern'd have ſlid into a Practice of much Convenience, which is, That if any Man have wrongfully poſſeſs'd himſelf of any Benefice, or committed any other Rob-

bery

bery on the Church, he came to an Agreement with the Apoſtolick Chamber to give ſuch a Part, by which he not only ſecur'd the reſt, but a ſafe Conſcience to himſelf in the Enjoyment of it. Upon punctual Performance of which Agreement, it is univerſally affirm'd, he hath a general Releaſe and Abſolution for all the reſt, and may lawfully retain and enjoy it as his own; ſeeing the Pope is either abſolute Proprietor, or univerſal Adminiſtrator. And this is call'd, Compounding with the Apoſtolick Chamber, whoſe Power is thus happily enlarg'd, that thoſe whoſe Conſciences are either ſelf-convicted, or have any Qualm about them of enjoying any thing that is not their own, but know not where to make Reſtitution, may have Recourſe to this Compoſition in Relief of all their Scruples.

FINIS.

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