

ADAM CONTZEN

TEN BOOKS OF POLITICS

BOOK SEVEN

On Civil Magistracy

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CHAPTER I

The Various Classification of Magistrates

§ 1. Magistracy is divided in many ways. First, according to the different kinds of state: thus one kind is monarchical, another aristocratic, another political or democratic; and in each of these a great variety is discerned. Next, according to the very nature of the power: one magistracy is supreme, as a King, a Senate, or the people; another is subordinate, as a Viceroy, a Consul, or a Demarch. Third, according to its proximate end: some are appointed to give counsel and to determine, as are those who are the Counselors of Kings and Princes; others to execute the things which have been decreed, as a Consul, a Praetor, or a Satrap. And this is a distinction taken from the thing itself; for otherwise the power of deliberation and of execution frequently resides in the same person, and it is expedient that it should be so. For prudent men execute counsels more promptly and prudently when they themselves were participants in them or even their authors.

Fourth, the distinction taken from the matter with which, and the persons with whom, the magistracy is concerned is exceedingly varied. Hence one is civil, another military, and each is occupied with a great variety of affairs and business. Hence also there are Urban and Provincial magistrates.

§ 2. Therefore, those who entrust to one man the care of great or many affairs--indeed, sometimes of all affairs--gravely injure the state.

That arrangement has never turned out happily. The Sejani, Plautiani, Rufini, Eutropii, Stilichones, and Ablavii had dreadful ends. Men of the middle age whom excessive responsibility oppressed were likewise overtaken by the indignation of Princes: Belisarius, Narses, and Peter de Vineia of Campania, who under Frederick II was privy to and governor of all his secrets and, after he had been cast down from his dignity and deprived besides of his eyes, was driven into madness and killed himself. Nor did excessive power turn out happily for those at whom our own times have marveled. In nearly one year magnates fell in Germany, France, and Spain.

But if Alfonso prudently detested Princes who were the slaves of their Counselors and conducted everything at another's judgment, how much more shall we detest the man whom the malicious cunning of one person holds in its power? Aristotle speaks excellently in book 4, chapter 15 of the *Politics*:

In great states it both can and ought to happen that one magistrate is set over one matter. For it can happen that many men participate in principal offices and commands, because there are many citizens, so that it is permissible to leave some magistracies vacant for a long time and to hold others once. It is then better that the care of each matter and action should fall to a man placed and occupied in one business than to one distracted by many. But in small states it is necessary to unite and concentrate many magistracies in a few men. For because of the small number and scarcity of men, it is not easy for many to be in magistracies.

§ 3. The form and end of the state, and the virtues and vices of those who govern, have already been discussed in the preceding books. The state must now be furnished with magistrates; the offices of the several magistrates must be explained; and certain special precepts must be added. And first, indeed, we shall treat of the supreme magistrate.

It seems to me, not without reason, that the condition of mortals must be lamented: although they alone among animals cannot live without a state and command, they alone nevertheless are malicious and contumacious toward those who command. In all matters we grieve to be overcome, even in those in which it is nobler to be overcome. The desire to excel and command has neither end nor measure, but no one endures subjection to another except through necessity. Man alone can neither govern himself nor endure a governor.

CHAPTER II

The Method of Creating Monarchs

§ 1. The election and inauguration of Monarchs must be conducted with the most celebrated magnificence of preparations and the varied pomp of ceremonies.

For the greatness of the matter demands this, so that, in order that it may be more conspicuous even to all the imprudent, it should be adorned by the addition of outward splendor. Next, the difficulties in a Principate are so great and so continual that no one would undertake it unless he were induced to those enormous labors by these things as though by enticements; for Kings undertake the care of an exceedingly monstrous beast. Plato truly said: if there were a city of good men, *περιμάχητον ἂν εἶναι τὸ μὴ ἄρχειν, ὥσπερ νῦν τὸ ἄρχειν*; it would come to pass that men would flee from commands as eagerly as they now seek them.

Therefore, biting cares must be made to appear easy, and the most perilous dangers magnificent, lest their weight become apparent.

§ 2. When a Monarch is elected, singular provision must be made for the security and liberty of the electors.

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Accurate provision concerning this matter was made in the Roman Empire. For the Golden Bull of Charles IV not only commands that all territories lie open to all who journey to the election, but also binds everyone so that no one may hinder them, and commands that safe conduct be furnished to them:

We furthermore decree and command all the other Princes holding Fiefs from the Holy Roman Empire, by whatever name they are designated, and likewise all Counts, Barons, Knights, Vassals, Nobles and Commoners, Citizens and communities of all castles, cities, and places of the Holy Empire, that at the same time--namely, when an Election of a King of the Romans to be advanced as Emperor is to be celebrated--they shall, without guile and in the manner aforesaid, escort through their territories, and elsewhere as far as they can, every Prince Elector who asks safe conduct of them or any of them, or his messengers whom he has directed to that Election, as stated above.

But if any presume to act contrary to this our constitution, they shall by that very fact incur the penalties written below. All Princes, Counts, Barons, Knights, Vassals, and all others acting to the contrary shall incur the guilt of perjury and deprivation of all Fiefs which they hold from the Holy Roman Empire and from any others whatsoever, and also of all their possessions held from whomsoever.

All citizens and communities who presume to act against the foregoing shall likewise be perjured and, moreover, shall be entirely deprived of all their rights, liberties, privileges, and favors obtained from the Holy Empire; and they, together with their persons and all their goods, shall fall under the Imperial Ban and proscription. By that very fact we deprive them of right from now as from then; and henceforth it shall be permissible for any person, by his own authority and without judgment or invocation of any magistrate, to attack them with impunity. The person who attacks them shall have to fear no penalty on this account from the Empire or from anyone else, especially since such rash contemners of so great a matter are proved to act faithlessly and perversely as rebels, disobedient men, and perjurers against the state and the status and dignity of the Holy Empire, and also against their own honor and safety.

We furthermore decree and command that the citizens and communities of all cities shall sell, or cause to be sold, provisions at the common price and rate to the aforesaid Princes Electors and to each of them who requests this, and to their messengers, for their necessities or those of their aforesaid messengers and men, both when they approach the aforesaid city for the purpose of celebrating the aforesaid Election and when they depart from it, employing no fraud whatsoever in the foregoing. Otherwise, we will that those acting to the contrary shall by that very fact incur

those penalties which we declared above to be promulgated against citizens and communities.

Furthermore, if anyone among the Princes, Counts, Barons, Knights, Vassals, Nobles or Commoners, citizens, or communities of cities presumes to set hostile watches or prepare ambushes for a Prince Elector going to celebrate the Election of the King of the Romans or returning again from it, or to attack or disturb them or any one of them in their own persons, in the persons of their men, or in their property, or their aforesaid messengers or any of them--whether they requested safe conduct or did not judge it necessary to require it--we decree that he, together with all the accomplices of his malice, has by that very fact incurred the aforesaid penalties, so that every person shall incur the penalty or penalties which, according to the foregoing, we judged should be inflicted according to the condition of the persons.

But if any Prince Elector were carrying on enmities with any fellow Elector, and any contention, controversy, or dissension were proceeding between them, notwithstanding these things each shall be bound to escort the other, or the other's messengers to be dispatched to an Election of this kind, in the manner previously provided, under the penalty of perjury and the loss, on that occasion only, of his vote in the Election, as was expressed above.

But if any other Princes, Counts, Barons, Knights, Vassals, Nobles and Commoners, citizens, or communities of cities harbored an adverse disposition toward any Prince Elector or several of them, or any discord, war, or dissension were proceeding among them, nevertheless, with all contradiction and guile ceasing, they shall be obliged to furnish to the Prince Elector or Princes, or to his or their messengers going to an Election of this kind and returning from it, such safe conduct as each will desire to furnish in order to avoid the aforesaid penalties laid by us upon them; and we decree that those who act otherwise have incurred these penalties by that very fact.

And this is the chief point in the election of the Supreme Emperor: that with true liberty the Princes may choose from among many the man who is to preside over all. For it must not be considered an election where fear extorts votes from the unwilling.

§ 3. The Emperor furnishes no less security within the very city appointed for the election:

We enjoin and command the citizens of Frankfurt faithfully and diligently, by virtue of the oath which we decree that they shall swear upon the sacred things concerning this matter, to protect and defend all the Princes Electors collectively, and each of them, from an attack by another if any adversity should arise among them, and also from every person, together with all their men whom they and each of them have brought to the aforesaid city within the aforesaid number of two hundred horses. Otherwise they shall incur the guilt of perjury and, moreover, shall entirely lose all their rights, liberties, privileges, favors, and concessions which they are known to have obtained from the Holy Empire.

They shall also by that very fact fall under the Imperial Ban, together with their persons and all their goods. From then on it shall be permissible for every person, by his own authority and without judgment, to attack with impunity those citizens whom in that event, from now as from then, we deprive of every right, as traitors, faithless men, and rebels against the Empire, so that those who attack them in this way need fear no penalty whatsoever from the Holy Empire or from anyone else.

Furthermore, during all the time in which the often-mentioned Election is discussed and conducted, the aforesaid citizens of Frankfurt shall admit no one into the aforesaid city, nor permit anyone to enter it in any way, whatever dignity, condition, or status he possesses, excepting only the Princes Electors or their aforesaid messengers or Procurators, each of whom must be admitted with two hundred horses, as stated above.

But if, after the entrance of the Princes Electors or in their presence, anyone happens to be found in the aforesaid city, those citizens shall arrange his departure at once, without delay and with effect, under all the penalties promulgated above against them and also by virtue of the oath which the citizens of Frankfurt themselves, by virtue of the present Constitution, shall be obliged to swear upon the sacred things concerning this matter, as was expressed above.

Nearly the same precaution is employed for Cardinals journeying to the assembly for electing a Pontiff and enclosed at Rome in the conclave.

§ 4. The end is that, after setting aside their affections, they may elect a man useful not to themselves but to the state. Thus the electors in the Empire are accustomed to swear, as is set forth in title 2 of the Golden Bull:

When a Mass of this kind has been completed, all those Ecclesiastical Electors shall reverently place their hands upon their breasts before the Gospel of blessed John--“In the beginning was the Word”--which shall have to be

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placed there before them. But the secular Princes Electors shall physically touch that Gospel with their hands. At that time all shall be obliged to stand there unarmed with their whole household. The Archbishop of Mainz shall give them the form of the oath, and he together with them, and they themselves, or the Messengers of those absent together with him, shall swear the oath in the common tongue in this form:

I, N., Archbishop of Mainz, Archchancellor of the Holy Empire throughout Germany and Prince Elector, swear upon the holy Gospels of God here physically placed before me that, by the fidelity by which I am bound to God and the Holy Roman Empire, according to all my discretion and understanding, with God's aid, I will elect a temporal head for the Christian people--that is, a King of the Romans to be advanced as Caesar--who shall be suitable for this, insofar as my discretion and judgment direct me and according to the aforesaid fidelity; and I shall give my voice and vote, or the aforesaid Election, without any compact, payment, price, promise, or anything by whatever name such things may be called. So may God and all the Saints help me.

§ 5. Nevertheless, that pomp of ceremonies has not always been observed either in the Roman Empire or in other kingdoms. At times ambition, at times dangers, compelled everything to be conducted suddenly and hastily. Samuel solemnly designated Saul; he anointed David secretly, and after Saul's death David held part of the kingdom. Judah called Rehoboam King, and Israel Jeroboam, with the rites passed over. Jehu was suddenly raised to be King; the soldiers dragged forth the trembling Claudius.

Tiberius immediately usurped the power and falsely refused the name. The soldiers themselves created innumerable Emperors after the authority of the Senate had collapsed. The beginning was made with Claudius; thereafter so many human monsters infested the world.

But care must be taken in the state that the judgment of establishing so great a power should not rest in the votes of the very lowest men, and by no means in the hands of the soldiery; for in truth they seek the man under whom there will be the greatest license and the least justice.

Hence it was also long observed that those elected did not fully reign without the authority of the Senate. Indeed, this was customary even in the time of the Kings: for royal birth did not secure the command for Lucius Tarquinius, the son of Priscus; rather, the guile of his rival overturned it. But as vices increased, nothing remained for the Senate except the servile compliance of adoring and flattering those selected.

Nevertheless, the better each Emperor was, the more highly he valued the authority of the Senate, as did Vespasian, Titus, Trajan, Tacitus, Pertinax, and others. Hence it happened that Emperors chosen by the Senate were frequently hateful to the soldiers.

There is a rare example in Tacitus, concerning whom Vopiscus writes. The army, which had been accustomed hastily to create an Emperor, sent a letter to the Senate asking it to choose a Prince from its own order. But the Senate, knowing that Princes chosen by itself did not please the soldiers, referred the matter to the soldiers. And while this was done repeatedly, the sixth month was completed.

Finally the whole Senate acclaimed: “Tacitus Augustus, may the Gods preserve you! We love you! We make you Prince!” But this was not merely rare; it was altogether unique.

Now that power has been transferred to the leading men, the seven Electors, and the ancient struggles have subsided.

§ 6. Soldiers used to raise Emperors upon a shield or a litter. This was done in the time of Maurice, as Draco relates in book seventeen concerning Germanus. Thus, in the case of Phocas, the soldiers *προεστήσαντο, ἐπὶ ἄσπίδος τε εἰς ὕψος ἐξάραντες εὐφήμεον ἐκτόπως τὴν ἀναγόρευσιν*. They made him Prince, raising him upon a shield, and proclaimed him after accompanying him with auspicious acclamations. Because Jehu was chosen by God in a council, he was raised upon the cloaks of the Princes.

§ 7. Roman Emperors were conducted into the Palace, according to Capitolinus in his *Pertinax*. But they had already been elected. Among the Israelites they were placed upon the royal mule and upon the throne, 3 Kings 1:34. Soldiers generally made a raised platform for a throne out of turf, according to Suetonius in his *Vitellius*. But it was customary for the ruler to be placed upon a shield; the Canninefates also imitated this, according to Tacitus, book 4. Claudian is a witness:

But when presently the soldier had raised you with the accustomed acclamation, etc.

This, however, was not done when they were elected in the city of Rome or Constantinople. At Rome, rather, thanks were immediately given to the Senate and the army; at Constantinople they were carried into the circus, so that they might greet the people and hear their auspicious prayers.

But now the procession, or solemn court, is instituted by the law of Charles IV, title 24:

On the day on which a solemn Imperial or Royal Court is to be celebrated, let the Princes Electors, Ecclesiastical and Secular, come at about the first hour to the dwelling place of the Emperor or King; and there the Emperor or King himself shall be clothed with all the Imperial insignia. Having mounted their horses, let all proceed with the Emperor or King to the place prepared for the session, and there let each of them proceed in the order and manner more fully defined above in the law concerning the order of procession of the Princes Electors themselves.

For the Archchancellor in whose Archchancellorship these things are done shall carry upon a silver staff all the Imperial or Royal Seals and Dies. The Secular Princes Electors shall carry the scepter, orb, and sword, according to what is expressed above.

Immediately before the Archbishop of Trier, as he proceeds in his place, there shall also be carried, first, the crown of Aachen, and second, that of Milan; and this only before the Emperor, because he is now adorned with the Imperial insignia. Certain inferior Princes appointed for this purpose by the Emperor at his pleasure shall carry them. The Empress also, or Queen of the Romans, clothed in her august insignia, after the King or Emperor of the Romans, and also after the King of Bohemia, who immediately follows the Emperor, shall proceed at a suitable interval to the place of the session, accompanied by her nobles and attended by her maidens.

Indeed, in title 25 he also pursued the arrangement of the table:

We establish that whenever the Emperor or King of the Romans celebrates his solemn Courts, in which the Princes Electors ought to serve or exercise their offices, the order written below shall be observed in them.

First, while the Emperor or King himself is seated upon the Royal Seat or Imperial Throne, the Duke of Saxony shall perform his office in this manner. Before the building of the Imperial or Royal session there shall be placed a heap of oats of such a height that it reaches as far as the breast or breast-strap of the horse upon which the Duke himself shall sit. He shall have in his hand a silver staff and a silver measure which together shall make twelve marks of silver in weight; and, sitting upon the horse, he shall first take that same measure full of oats and give it to the first servant who comes. When this

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has been done, he shall thrust the staff into the oats and withdraw; and his Deputy Marshal, namely, the man of Pappenheim, shall approach--or, in his absence, the Marshal of the Court--and shall distribute those oats.

But when the Emperor or King has entered for the meal, the Ecclesiastical Princes Electors--that is, the Archbishops--standing before the table with the other Prelates, shall bless him according to the order prescribed for them above concerning these matters. When the blessing has been completed, those same Archbishops, all of them if they are present, otherwise two or one, shall receive the Imperial or Royal Seals and Dies from the Chancellor of the Court. The one in whose Archchancellorship that Court happens to be celebrated shall proceed in the middle, with the other two joined to him on either side.

All of them, touching with their hands the staff upon which the Seals and Dies have been hung, shall carry them and reverently place them upon the table before the Emperor or King. But the Emperor or King shall immediately restore them to them; and the one in whose Archchancellorship this occurs, as stated above, shall wear the great seal hung from his neck until the end of the meal, and thereafter until, riding away from the Imperial or Royal Court, he reaches his lodging. The staff mentioned above shall have to be of silver, containing twelve marks of silver in weight; and each one of those Archbishops shall pay one third both of the silver and of its price. The staff itself, together with the Seals and Dies, must immediately be assigned to the Chancellor of the Imperial Court, to be converted to whatever uses he pleases. But after the one whose turn it was to carry the great seal has returned from the Imperial Court to his lodging, as stated above, he shall immediately send that seal back by one of his household to the aforesaid Chancellor of the Imperial Court upon a horse which, according to the propriety of his own dignity and the affection which he bears toward the Chancellor of the Court, he shall be obliged to present to the Chancellor.

Next, the Margrave of Brandenburg, the Archchamberlain, shall approach upon horseback, having in his hands silver basins containing water, of twelve marks of silver in weight, and a handsome towel; and, dismounting from his horse, he shall give water to the Emperor or King of the Romans for the washing of his hands.

The Count Palatine of the Rhine shall likewise enter upon horseback, having in his hands four silver dishes filled with food, each of which shall weigh three marks on the scale; and, dismounting from his horse, he shall carry them and place them upon the table before the Emperor or King.

After these things, the King of Bohemia, the Archcupbearer, shall likewise come upon horseback, carrying in his hands a covered silver cup or goblet weighing twelve marks and filled with wine and water mixed together; and, dismounting from his horse, he shall offer that goblet to the Emperor or King of the Romans to drink.

Moreover, just as we have learned that it has been observed hitherto, so we establish that, when the aforesaid Secular Princes Electors have performed their aforesaid offices, the man of Falkenstein, the Deputy Chamberlain, shall receive for himself the horse and basins of the Margrave of Brandenburg; the Master of the Kitchen of Nordenberg, the horse and dishes of the Count Palatine; the Deputy Cupbearer of Limburg, the horse and goblet of the King of Bohemia; and the Deputy Marshal of Pappenheim, the horse, staff, and aforesaid measure of the Duke of Saxony--provided that they are present at such an Imperial or Royal Court and each of them serves in his office. But if they or any of them determine to absent themselves from the aforesaid Court, then the daily ministers of the Imperial or Royal Court shall act in place of the absent men--that is, each in the place of that absent man with whom he shares a title or office--and, just as he performs the office, so shall he receive the profit in the foregoing matters.

Furthermore, the Imperial or Royal table ought to be prepared in such a way that it is raised in height six feet above the other boards or tables of the hall. On the day of the solemn Court, no one at all shall be seated at it except the Emperor or King of the Romans alone.

But the seat and table of the Empress or Queen shall be prepared at the side in the hall, in such a way that her table is three feet lower than the Imperial or Royal table and the same number of feet higher than the seats of the Princes Electors, who shall have among themselves seats and tables at one and the same height.

Below the Imperial session, tables shall be prepared for the seven Ecclesiastical or Secular Princes Electors: three, namely, on the right; another three on the left; and the seventh directly facing the Emperor or King, as was more

clearly defined above in the chapter concerning the Seats and Order of the Princes Electors.

No other person, of whatever dignity or status he may be, shall sit among them or at their tables.

But none of the aforesaid Secular Princes Electors shall be permitted, after he has performed the duty of his office, to take his place at the table prepared for him while any of his fellow Princes Electors still has his office to perform. Rather, when any one or several of them have completed their service, they shall go to the tables prepared for them and wait while standing beside them until the others have completed their aforesaid services; and only then shall all and each together take their places at the tables set for them.

CHAPTER III

The Anointing and Coronation of Monarchs Is Rightly Employed

§ 1. Peter the Pseudo-Martyr, at chapter 19 of book 3 of *Kings*, is indignant that Christian Kings are anointed:

But since we are now speaking of anointings of this kind, to which the word of God was peculiarly added, I cannot sufficiently wonder why they were transferred to the Kings and Emperors of the Christians. I know that some say that the matter is political and can therefore be retained. But those who answer this way are deceived and deceive others. For it is held to be a religious ceremony; and for that reason it is performed in a temple, and is performed in a temple by none other than Bishops and Cardinals. It pleases me, indeed, that both Kings and Emperors should be publicly inaugurated by the votes and acclamations of the people, and especially with pious prayers interposed. But I do not think anointing should be recalled from the Jewish ceremonies. Much less do I approve that by which sacrificing priests and Bishops are anointed.

Yet he did not persuade even his own adherents that anointing should be neglected; for the Kings of Britain and others, lest they not be anointed--that is, Christs of the Lord--are anointed with oil when they are inaugurated into their kingdoms.

The error of this shadow-boxing Martyr arises from his supposing the anointing of Kings to be a Jewish ceremony and therefore not to be recalled, lest, of course, we should seem to be Jews. Consideration of Scripture could have freed him from this error. For in Judges 9 we read: מֶלֶךְ עֲלֵיהֶם לְמִשַּׁח הָעֵצִים הָלְכוּ הָלוֹךְ (*Haloch halechu haghazim. Lemischach ghalehem melech*): “Going, the trees went to anoint a King over themselves.” Jotham, the son of Gideon, speaks from the common manner of consecrating kings. For why does he say “to anoint,” if no Kings were anointed? Why τὸ χρῖσαι, and not τὸ ποιῆσαι, καταστήσαι--“to make” or “to establish”?

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Accordingly, in the time of the Judges, when there was not yet a King in Israel, the Kings of other nations were anointed. Indeed, in verse 9 the olive tree itself answers: “Can I abandon my fatness, בִּי וְאֲנֹשִׁים אֱלֹהִים יִכְבְּדוּ בִּי”--by which both gods and men make use of me--or, as some have it, ἡν ἐν ἐμοὶ ἐδόξασεν ὁ θεός, καὶ οἱ ἄνθρωποι; “by which in me they honor Gods and men”? Junius and Tremellius interpret this as referring to the fact that oil is employed for sacrifices and for anointing Kings, Priests, and Prophets. Yet they did not correctly translate verse 8, for they rendered it, “They went to create a King over themselves”; by that translation they obscured the antiquity of a most beautiful rite.

It is therefore not a Jewish rite, but a rite of the Eastern Kings, although certain barbarous nations, such as the Persians and Medes, seem to have used other ceremonies. For the Kings of the Persians put on the robe of Cyrus, ate a cake of figs, tasted the terebinth, and drank a cup of sour milk, according to Plutarch in his *Artaxerxes*. Yet Cyrus is called the Christ of the Lord, and so I think that he was peculiarly anointed, and that this was done by the counsel of Daniel and the Israelites.

Second, he complains that Christian Kings are anointed without a word of God. If he had observed that this was a custom of the nations which the Hebrews imitated, he would no more accuse our Kings than the Eastern ones. For just as the Hebrews borrowed from the nations diadems, thrones, scepters, and other insignia, so too did they borrow the rite of anointing; and Christian Kings borrowed it from both. No sane man can judge that no ceremonies or rites are to be admitted into the state unless there is a special command expressed by God in the sacred writings. Next, the signification of anointing suits not only the kings of the Hebrews and Eastern nations, but also our own, who themselves are and are called Christs of the Lord.

My teacher Nicholas Serarius wrote most learnedly on this matter at chapter 10 of book 1 of *Kings*:

Concerning anointing, note first that it is not established whether among other peoples, and before this time, there was any anointing of Kings--unless in Judges 9:8 there seems to be an allusion to anointing which was already customary in those times, though not among the Jews, since they had never yet had a King, but among other nations; as at 3 Kings 19 and St. Jerome on Isaiah 45. Just as among us the diadem and purple are given only to Emperors, so among the Hebrews those about to reign were bathed in ointment. Hence Saul is also called Christ, and Cyrus at Isaiah 45.

Note second: the anointing was performed, first, with oil. Since there were two kinds of oil, sacred oil or ointment and common oil, and only Pontiffs and priests were anointed with the former, Exodus 29, Kings nevertheless could be anointed with either: with the sacred at 3 Kings 1, and with the common at 3 Kings 9. Some, such as Vatablus, think that Saul was anointed with sacred oil, because Samuel had caused it to be brought to himself from the tabernacle, or because he himself, as Pontiff and Prophet, had now consecrated it. Yet the Hebrews cited by him teach that only Kings from Judah and the house of David were anointed with the oil of anointing, but Saul with common oil because he was to be rejected; and Abulensis approves this opinion more strongly in question 1.

That oil was contained in the small vessel which the interpreter here and in book 4, chapter 9, translates as a "lentil," not from anointing, as Abulensis wishes, but from its lentil-like shape, concerning which Pliny speaks in book 37, chapter 12. This is clear from the Greek name here, which is very similar to the Hebrew. It is sometimes called a horn, as below at chapter 16, and a *lecythus* at book 3, chapter 17. That ointment was poured upon the head of the King, as also upon that of the Pontiff, whereas the lesser priests were only sprinkled with it, Exodus 29. He was anointed sometimes by Prophets, when a King of this kind was still concealed and unknown; ordinarily, however, by the Pontiff, 3 Kings 1 and 2 Paralipomenon 23. It seems that it could sometimes also have been done by inferior priests, if the Pontiff was absent through death or illness, since the latter was also accustomed to be anointed by those inferiors. God was said to anoint through his ministers, as here at verse 1, or the people, as at 2 Kings 2.

No ceremonies, indeed, had been prescribed by divine law, but these were observed by certain human laws and customs. First, the future King was placed upon a seat. Second, he was adorned with a diadem, 2 Paralipomenon 23 and 4 Kings 11. Third, he was anointed. Fourth, the book of the law--that is, Deuteronomy--was put into his hands. Fifth, he swore to observe it. Sixth, sacrifices of every kind were made, 3 Kings 1 and here below at chapter 11, just as in Herodian, book 2. Seventh, various signs of joy and approval were displayed, 3 Kings 1, here at verses 25 and 27. I have spoken of the antiquity of the anointing of Kings at chapter 9 on Judges, question 10. But the Kings of the Persians put on the robe of Cyrus; and, after eating a cake of figs, they also tasted the terebinth and drank a cup of sour milk, according to Plutarch in *Artaxerxes*.

But there was a twofold reason why Kings were anointed in this way. The first was that, just as there was the highest excellence and dignity of the Pontiff among sacred ministers, so the highest excellence of the King among political princes might be signified, as Abulensis says in question 1. The second was to signify that grace and strength were given to them by God for the defense of religion and the Church, the people, and the inheritance of God, as Augustinus Triumphus explains in *On Ecclesiastical Power*, question 38, article 2. Chrysostom says in homily 4 on Acts:

Elisha received grace through a sheepskin cloak; another again through oil, as David did; but Moses is called through the fire of the bush.

The same author says in oration 3 against the Jews:

Whenever anyone was to be anointed, the spirit of grace flew down and sprang into the ointment.

And in homily 4 on Philipians: "Mercy is *καὶ τῆς φιλανθρωπίας σύμβολον*, also a symbol of benevolence"; and therefore Priests, Kings, and Prophets were anointed. St. Augustine, as cited by Father Gretser in *Anti-* page 525, says that Saul, although wicked, possessed the holiness of the sacrament and of anointing, but not that of innocence.

There could also have been a third cause: that they might signify the true King of the whole world, namely, the Messiah or Christ, concerning whose kingdom see St. Thomas, Bellarmine, Suárez, and others. “That stone,” says Augustine in chapter 6 of book 2 of *On the Trinity*, “which Jacob placed at his head, Genesis 28, also received anointing to signify the Lord, who is called the Rock.” How much more, then, did those Kings receive it? And if priests signified him by their anointing, why not Kings also? For he is Priest, King, and Prophet. By this anointing Kings were also made sacrosanct and were called Christs or Messiahs, below at chapters 24 and 26; book 2, chapter 1; 1 Paralipomenon 16; Psalm 104.

Note third. Hence the rite of anointing also began to be employed long ago among Christian Emperors and Kings, as is clear from chapter *Venerabilem, Extra*, title *On Election*; chapter *Cum venisset, Extra*, title *On Sacred Anointing*; Augustinus Triumphus; Aimoin, book 1, chapter 15, and book 5, chapter 49; Hincmar; and Forcatulus, book 6, *On the Empire of the Gauls*. And God approved the rite of this anointing by, as it were, a twofold miracle. First, by the heavenly gift and preservation of the ampulla which is kept at Reims, as Faye, Senator and President of Paris, writes in his *Energumenicus* that he himself had inspected it most diligently. Second, by the power which anointed Kings in Gaul possess to cure scrofula, as the same man writes in the same place, and as the Granatensis writes in book 2 of his *Catechism*, chapter 27; and, among the heretics, Caspar Peucer admits it in *On Incantations*, folio 156. Those who were present and saw it in the year 1607 affirm it.

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Consult Polydore Vergil’s *English History*, book 8, on King Edward, and Peter of Blois, epistle 150, where he calls them scrofulas, because swine are liable to that disease; Pliny, book 11, chapter 17; Celsus, book 5, chapter 38.

On Emperors, see Bellarmine, book 1 of *On the Transfer of the Empire*, chapter 4, and book 2, chapter 2; Thomas Bozius, book 17, sign 76. “Formerly,” says Krantz in book 1 of his *Metropolis*, “Emperors did not permit Pontiffs to live; now he is not held to be Emperor whom the Roman Pontiff has not confirmed and consecrated. The earth is the Lord’s; he transfers kingdoms, and most worthily delegated this sacred mystery to his vicar on earth.” See also Castaldus, treatise *On the Emperor*, question 21 and following; Irenicus, book 2 of *Germany*, chapter 30. On the coronation of Charlemagne, see Constantine Manasses and Baronius, volume 9, from Thegan. Many things pertaining to this matter are found in the same Baronius, volume 8. Add Onuphrius, *On the Assemblies and Insignia of the Ancient Emperors*. “At Constantinople,” he says, “either under Justinian or after his death, this was added to the election of the Emperor: as soon as he had been declared Emperor, he was anointed with oil by the Patriarch of Constantinople in the great basilica of Byzantium and was crowned with a golden diadem. They called this rite coronation, taking the example from the ancient kings of the Hebrews.” And again on anointing, folios 395, 396, and following. See Stevanus, chapter 7, folio 36 verso.

There is therefore no reason why we should reject an ancient and approved rite or render it suspect.

§ 2. There is, I say, no reason why we should begrudge our Kings the symbol when we grant them the reality beyond it. Martyr himself concedes that it is a symbol:

The anointing of Kings was an external symbol by which was signified the spiritual faculty which, through his favor and kindness, was conferred by God upon a new King. It was a symbol of the power and grace by which he was to exercise his power, and of that which was chiefly sought in a King: victory and peace.

Thus at 2 Kings 1:21: “Because there the shield of the mighty was cast away, the shield of Saul, as though it had not been anointed with oil.” It is as if he were saying that he ought not to have been conquered and killed, since he had been anointed with oil. Anointing, therefore, was a symbol that Kings, as men consecrated to God and judging in the place of God, were sacrosanct and inviolable.

Hence David ordered the Amalekite to be killed, 2 Kings 1:14: “Why were you not afraid to put forth your hand to kill the CHRIST OF THE LORD?” And at verse 16: “Your blood be upon your own head; for your mouth has spoken against you, saying: I killed the CHRIST OF THE LORD.”

For this reason David is afraid to kill the King who is his enemy, because he is the Christ of the Lord, 1 Kings 24:7 and 11, and 26:9: “For who shall put forth his hand against the Christ of the Lord and be innocent?” and verse 23. Indeed, David even grieved that he had inflicted the least injury upon the Christ of the Lord, 1 Kings 24:5:

David therefore arose and silently cut off the edge of Saul’s cloak. After these things David’s heart struck him because he had cut off the edge of Saul’s cloak. And he said to his men: May the Lord be gracious to me, lest I do this thing to my lord, the Christ of the Lord, that I should put forth my hand against him, because he is the Christ of the Lord.

Hence arose the custom that suppliants should carry olive branches before them; for to a branch of leafy olive they joined fillets and the words of petitioners, so that they might show that they sought peace and were inviolable. Nations were rarely so barbarous that they violated ambassadors of peace. And if they were unwilling to pardon the suppliants, they nevertheless by no means killed those who carried olive branches, but sent them back into the city with their object unaccomplished, there to undergo the same fortune as their fellow citizens.

For this reason Kings should now be anointed especially, after new heresies have brought forth so many plotters against Kings.

§ 3. The use of anointing was also ancient in the Christian state. Clovis was anointed in Gaul, and from this the King of France possesses preeminence among Christian kingdoms. Charlemagne was anointed by Leo, as the Deacon writes in book 24, and indeed from his head all the way to his feet. Manasses also describes it:

ἔνθεν ἀμειβόμενος δὲ τὸν Κάρολον ὁ Λέων ἀναγορεύει κράτορα τῆς πάλαι πρεσβυτέρας Ῥώμης, ὃς δὲ τὸν στέφει περιτίθεισιν νόμοις Ῥωμαίων, οὐ μὴν ἀλλὰ χρησάμενος καὶ νόμοις Ἰουδαίων, ἐκ κεφαλῆς μέχρι ποδῶν ἐλαίῳ τοῦτον χρίει, οὐκ οἶδα τίσι λογισμοῖς, ἢ ποίαις ἐπινοίαις, οὕτω δ’ ἢ τῶν δυοῖν σεβασμίων πόλεων ἐρράγη.

Then Leo, repaying the favor, declares Charles Emperor of ancient Rome and surrounds him with a diadem in accordance with Roman laws. Indeed, employing even the laws of the Jews, he anoints him with oil from his head all the way to his feet. For what reasons or according to what thoughts I do not know. Thus for the first time the bond between the cities--namely, Constantinople and Rome--was broken. So says the Greek scoffer.

They are customarily anointed by Bishops, just as the ancient Kings were by Priests or Prophets. Gregoras writes in book 2 that Justinian established that that city should live by its own laws, but on condition that it should not anoint the Kings of the Romans, for this was granted by the laws to another.

Theodore Angelus assumed for himself the name of Emperor, and Gregoras adds: **χρίεται βασιλικῶς παρὰ τοῦ τηνικαῦτα τὴν τῆς Βουλγαρίας ἐπισκοπὴν διυθύνοντος.** And he is anointed in royal fashion by the man who at that time administered the Bishopric of Bulgaria.

Royal anointing is a distinction of great honor. For that reason, in title 4 of the Golden Bull, the King of Bohemia has the first place of sitting among the Secular Electors after the Emperor, since he is a crowned and anointed Prince. So the Latin text reads; but the German text has: *Wann er ein gesalbter vnd gekrönter König ist*--“if he is an anointed and crowned King.”

Indeed, at Constantinople a man was not regarded as Emperor until after anointing, and he was consecrated in the church. Nicetas says in book 1: **Ταινία αὐτὸν ἐν νεφί χρίει τῷ αὐτοκρατορικῷ στεφώματι πατριάρχης, ὃς καὶ χρίει ἱερὰ εἰσερχόμενον μέλαθρα.** The Patriarch crowns him--Manuel--with the imperial diadem and also anoints him as he enters the sacred edifice.

Inauguration is the public and solemn transmission of a kingdom. See Alexander, *Days of Various Knowledge*, book 1, chapter 28; Olaus Magnus, *History of the Northern Peoples*, book 14, chapter 5.

§ 4. The diadem has been customary for all Kings, so much so that even now kingdoms and empires are called crowns. Crowns have been various; but the most ancient were ribbons or white bands. “Accursed band,” a Queen said after she had made a noose from it and it broke when she attempted to hang herself, “not even now are you of any use.”

Hence Favonius stirred up ill will against Pompey, according to Varro, book 6, chapter 2. For when Pompey had a leg bound with a white bandage, Favonius said that it made no difference on what part of the body he wore the diadem. Lucian calls Alexander **διαδεδεμένον ταινία λευκή τὴν κεφαλὴν**, having his head bound with a white band. Silius calls it a fillet in book 16.

Later purple was added. Curtius in book 6 attributes to Alexander a purple diadem distinguished with white. Among the Constantinopolitans in later centuries it was made of purple alone; Nicetas in his *Alexius* calls it **πορφυρᾶν**.

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Later gems and gold were added. Hence Cedrenus calls it **ταινίαν χρυσοπόρφυρον**, a purple-and-gold band. Suger, in the life of Louis the Fat, calls it Phrygian ornament.

Afterward the diadem itself was made of gold, as Claudius did according to Dio, and as Cedrenus relates concerning Theodosius. Constantine added brighter gems. Cedrenus says: **Πρῶτος ταινίῳ διαδήματι ἐχρήσατο, καὶ μαργάροις, καὶ λίθοις περιεργότερον**--he was the first to use a diadem and adorned it more elaborately with pearls and gems. Now the crowns of all kingdoms are heavy with gold and gems and often contain the revenue of provinces.

§ 5. Sometimes Kings wore only the diadem or band; sometimes a diadem bound around a cap. And this is what Philo writes in his *Life of Moses*: Eastern Kings use the *cidaris* as a diadem. The *cidaris* is a cap, straight, high, and as it were turreted; it had cheek-pieces in front and fillets behind; around its middle ran a white band bright with little stars.

They therefore did not wear the *cidaris* in place of a diadem, but wore the diadem upon the *cidaris*. Xenophon states it plainly in book 8 of the *Cyropaedia*: **ὁ Κῦρος εἶχε διάδημα περὶ τῇ τιάρᾳ**. Cyrus had a diadem around his tiara. Zonaras, in his *Basil*, relates that it was commonly called a *tupha*. Ambition afterward added rays. Statius says in book 7 of the *Thebaid*:

May he himself impress high upon your hair the radiant arc.

And Virgil:

Twice six golden rays encircle his gleaming temples.

Such were those which were called **καμηλαύκια**. Such was the Macedonian *causia* bound with a crown.

§ 6. Just as the name of King was hateful to the Romans, so also the diadem was assumed late. Julius, to be sure, refused it; but in ancient times a great part of dignity lay in it.

The King of the Ammonites had a diadem weighing a talent of gold and bearing very precious gems, and it was placed upon the head of David, 2 Kings 12:30. That diadem could not be borne by the King, but had to be placed upon his head in such a way that it was supported by attendants.

§ 7. Let these things have been said concerning a band that is noble rather than happy. Meanwhile pious Kings perceive what one man said--whether it was Seleucus, as Plutarch says in his book *On the Delays of Divine Vengeance*, or Antigonus, as Stobaeus says in discourse 47, or perhaps both agreed in so manifest a truth.

Seleucus, contemplating the diadem, said: “O band, noble rather than happy! If anyone knew thoroughly how full of cares it is, he would not lift it from the ground even if it lay there silently.” And Antigonus said to an old woman who admired royal felicity: “O mother, if you knew in how many evils that little band is wrapped, you would not even take

it from a dungheap.” The matter of the robe and purple is too well known for it to need treatment; let us therefore gird ourselves for other matters.

CHAPTER IV

Great Honors Must Be Shown to Kings

§ 1. Flattery diminishes honors by increasing them; for it makes moderate honors contemptible and the greatest honors commonplace. It proceeds so far that ingenuity fails it, and it finds nothing new except what is empty and ridiculous. Honors were bestowed upon Kings either by titles alone, or by ceremonies, or by statues and temples.

§ 2. Some titles of Kings and Emperors were lawful, others unlawful. Among shameful and impious titles I reckon the appellations “Divine” and “Divinity” in their ancient sense. For they actually decreed divine honors to men, and Kings wished to be believed Gods. “Should I doubt that I am a God, when I make Gods?” For those whom the Latins called *Divi*, the Greeks call Gods. Thus Justin Martyr says: **καὶ τῶν παρ’ ὑμῖν ἀποιχομένων αὐτοκρατόρων εἰκόνας ἐν τούτῳ τῷ σχήματι ἀνατίθετε, καὶ θεοὺς διὰ γραμμάτων ἐπονομάζετε.** And you set up images of deceased Emperors in this guise and call them Gods in writing.

Tertullian says in the *Apology*, chapter 13:

But it is fitting that you ascribe the honor of divinity to deceased Emperors, since you also assign it to them while living. Your Gods will accept it as credited to them; indeed, they will congratulate themselves that their masters are made their equals. But when you adore Larentina, a public prostitute--I wish it were at least a Lais or Phryne--among the Junos, Cereses, and Dianas; when you inaugurate Simon Magus with a statue and the inscription “Holy God”; when you make into a God some pathic from among the court pages whose identity I do not know: although the ancient Gods were not more noble, they will nevertheless reckon it an insult from you that this was permitted to that man and to others, a thing which antiquity conferred upon them.

They established altars, flamens, and temples so that they might plainly appear to be Gods. Oaths were sworn by them, and at times the common people believed it. Wise men laughed at those fictions; powerful men commanded them in earnest. Seneca mocks them in his *Apocolocyntosis*:

Yet if it should be necessary to produce an authority, inquire of the man who saw Drusilla going to heaven. He will likewise say that he saw Claudius making the journey with unequal steps. Whether he wishes it or not, it is necessary for him to see everything that is done in heaven. He is the curator of the Appian Way, by which, as you know, both the Divine Augustus and Tiberius Caesar went to the Gods. If you question him, he will tell it only when alone; before many he will never say a word. For since, after he swore in the Senate that he had seen Drusilla ascending to heaven, no one believed him in return for so good a report concerning what he had seen, he affirmed in a set form of words that he would not disclose it even if he had seen a man killed in the middle of the Forum. Whatever I heard from this man, I report as certainly clear--so may I have him safe and prosperous.

The Arians impiously usurped those titles. Eusebius says in book 4 of the *Life of Constantine*, chapter 46:

When all these matters had now been completed and accomplished, and the fame of the greatest Emperor’s virtue was flying through every mouth, one of the Priests dared to call him blessed to his face, since in this life he was worthy to possess supreme power over all things, and in the life to come to reign together with the Son of God. But when the Emperor signified that he heard these things with displeasure, he also exhorted the man never again to dare to employ a word of that kind, but rather to strive with God in prayer that in this life and in the future he might be deemed worthy of God’s service.

That man was an Arian, and he proclaimed Constantine worthy to reign with the Son of God as though equal to him. Thus the Arian presbyter Colluthus wrote:

At the petition of Ischyrras the presbyter, supplication having been made to the piety of my lords the Augusti and Caesars that a Church might be built for him in the place of peace called Secontaururus, their Divinity decreed that this should be done as soon as possible. Take care, therefore, after the copies of this divine diploma which was placed first, and the records of our holiness, have been read and briefly examined, that the business proceed and that those things divinely established may be brought to effect.

Behold: those who denied divinity to the Son of God, who is God from God, asserted it of Emperors.

§ 3. The expression “our divinity” is frequent in the laws of Justinian, as are “divine enactments,” “the oracle of the divine voice,” and others; for almost everything

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pertaining to the Emperors was called divine. Indeed, it was also customary for them to write, “Our eternity has decreed,” an expression which Marcellinus mocks in Constantine and which nevertheless the others, and even Justinian, imitated, in the final law of the Code, title *On Bishops and Clerics*, and in other places.

I consider it very probable that Justinian--a man otherwise well deserving of the state in peace and war and of the Church--could have been deceived by Tribonian into falling into such great errors. For Justinian was wholly illiterate, and for this reason he was even called ἀναλφάβητος, as Suidas relates; Suidas also mentions his error of supposing himself immortal. Hesychius of Miletus likewise attests this when writing on the Philosophers: “Tribonian, flattering the Emperor Justinian, persuaded him that he would not die, but would be received together with his body and migrate into heaven.” I am not unaware that he is accused by many. Indeed, I wish him to be excusable; but I fear that eloquence cannot defend the man whom deeds cast down, and whom heresy and persecution disgrace at the end of his life.

§ 4. I think that these titles--“Divine Emperor,” “our divinity,” “our eternity”--can be given and admitted in such a way that they are not impious as they were among the Gentiles; nevertheless, I do not think them fitting for Christian Monarchs, both because they can easily become impious and because they offend the weak. Nor is it becoming to borrow titles from idolaters. Finally, modesty must be maintained at so great an elevation.

Moreover, care must be taken that we do not attribute Divinity to Emperors and Kings in the Gentile fashion, so that consecration, temples, and sacrifices follow from it. We see that formerly all things were full of Divinities and empty of truth. Many temples were built for Pompey; yet he himself lies on Mount Casius covered by no tomb, so that, by the great judgment of true Divinity, those fictitious divinities might be mocked from heaven. The following saying about Pompey is witty: τῷ ναοῖς βρίθοντι, πόση σπάνις ἔπλετο τύμβου; “For one abounding in temples, how great is the want of dust?”

Christian Kings, therefore, can be called *Divi* in the manner in which they can be called Gods, because they are the Vicars of God and judge in God’s place. The divinity of Kings is participation in divine power, by which, established under true Divinity, they govern the world. Hence laws and the oracles of their voice are divine, because they are pronounced by divine authority; and those who resist them resist the ordinance of God. For what are Kings? What are Aaron and Moses? The eternity of Kings is nothing except the will of uncreated eternity that men obey them. It is an eternal law that magistrates must be obeyed, and by that law the firmness of all laws is made solid.

Although these things are most true, nevertheless, because their beginning comes from a corrupt custom--τῶν ἠρώων, τῶν ἀποθεωθέντων, ἱερομένων, ἡγεμονευμάτων--I should wish them to be entirely removed, together with the Indigetes, the couches of the *Divi*, and their temples; nor would I wish modes of speech or flattery to be restored which the Fathers and the wise men of the nations mocked. For perjuries can arise from flattery. Livia purchased perjury from Numerius Atticus, a man of praetorian rank, at the price of one million sesterces, so that he would say that he had seen Augustus ascending into heaven.

No less imprudently mendacious was Pliny in his Panegyric to Trajan when he said:

Nerva, whom you first honored with tears and soon afterward with temples, you did not imitate those who did the same thing but with another intention. Tiberius dedicated Augustus to heaven, but in order to introduce the crime of injured majesty; Nero dedicated Claudius, but in order to mock him; Titus and Domitian dedicated Vespasian, the former that he might appear the son of a God, the latter that he might appear the brother of one; you, because you so believe.

Yet neither Trajan, as he listened to Pliny, nor Pliny himself believed it, either for himself or for others; and nevertheless those things were said. If Emperors had come from the house of the Caesars for one or two hundred years, the Romans would have believed as much in the divinity of Augustus as in that of Jupiter. They would have believed it, I say; for as it was, they acted as though they believed it. Prudentius says:

Posterity worshiped Augustus with table, shrine, flamen, and altars; appeased him with calf and lamb; and pleased him by prostration at his couch.

Let truly Great Kings imitate Constantine the Great. He did not admit those divine titles, as Eusebius and Juvencus attest:

Constantine, indulgent ruler of the open earth, is present; worthy thanks are due to him who deserves them, who alone of Kings shudders that the weight of the sacred name should be placed upon him, so that, worthier through righteous deeds, he may receive eternal life for divine ages.

I conclude with the opinion of Prosper: “An eternity which is temporal is assuredly a name of blasphemy, since mortal men, although Kings, are in it called *Divi*, and their suppliants say to them: ‘To your divine power, to your altars, to your perpetuity.’”

What then? Shall not only Poets but also serious Writers, historians, and even Theologians be condemned who suppose that by such titles they honor their Kings--and very often Princes inferior to Kings--or seek the reward of flattery? Among writers of every kind I find these titles, even among those who scruple to call the Virgin Mary *Diva*; yet they are not afraid repeatedly to call a royal maiden or a bride *Diva*. I think that their meaning is true and right, for those who speak thus do not make Gods. But I judge that the words are to be blamed.

Next, I judge it to be the duty of Kings to repress flatteries so foreign to a Christian Prince. If you call a King *Divus*, you offend many. If you use the word in the ancient manner, you are an idolater; if in the Christian sense, you would speak more correctly by saying God and the Vicar of God, for this is customary. “Divinity,” “eternity,” and “immortality” are understood in another sense; let Kings take care that they do not prejudice themselves. The man who admitted flatteries, so that he rejoiced for his words to be called those of a God and not of a man, was struck by an Angel and died. I do not believe that he thought himself to be an immortal God; nevertheless, delighted by a false good, he fell into a true evil, an evil to be expiated by death.

§ 5. A similar abuse was discerned in adoration, oaths, and vows.

The adoration of Kings was always exceedingly customary in the East. At 3 Kings 1:24 Nathan the Prophet adores, prostrate upon the ground, and Bathsheba does the same at verse 31. There in the Hebrew we read, **אָפִים בַּת־שֶׁבַע וַתִּקַּד**, **לְמֶלֶךְ וַתִּשְׁתַּחוּ אָרְץ**, “and she bowed herself to the King with her face toward the ground.” The Septuagint has **καὶ προσεκύνησεν τῷ βασιλεῖ ἐπὶ πρόσωπον ἐπὶ τὴν γῆν**. And in the same chapter Adonijah adored Solomon. This adoration was lawful; for neither Nathan the Prophet nor Bathsheba offered divine honors to David, nor would he have accepted them. Nor was the adoration of others in the East of another kind, although it later degenerated into idolatry.

Since external symbols--such as inclination

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of the head, moderate bending and lowering of the knees toward the ground, prostration of the face upon the ground, offering of gifts, and a kiss--are signs both of civil and of divine honor, none of these honors can be condemned as

excessive unless the mind and intention of the person who honors are known. At present, Princes other than Kings do not admit prolonged genuflection. But the **προσκύνησις** shown to Kings is nothing other than a civil **ὑπακοή**--salutation and submission. Julius, while servitude was still raw, did not admit **προσκύνησιν**; indeed, it was among the causes of the conspiracy that he had not risen before the Senate.

Caligula, Nero, Domitian, Heliogabalus, and Diocletian exacted adoration as though they were Gods. It afterward came into common use, but with a different intention; for although Constantine and others were adored, they claimed nothing beyond the distinctions of civil honor. In the life of Chrysostom even the Clergy adores the Emperor: **Ἰωάννης, καὶ πᾶς ὁ κληρὸς σὺν αὐτῷ προσεκύνησαν τῷ βασιλεῖ, καὶ ὁ βασιλεὺς ὑπέκλινε τὸν αὐχένα τῷ Ἰωάννῃ**. John and all the clergy adored the King, and the King inclined his neck to John.

Thereafter this matter was established by law. For Belisarius, when he proceeded to adore Justinian, warned the captive Gelimer to do the same: **ὅτι οὕτω νενομίσται προσκυνεῖσθαι τοῖς Ῥωμαίων βασιλεῖς**. For it has been established by law that the Kings of the Romans are to be adored in this way. St. Gregory Nazianzen comes nearer to the present manner when he says, **τὴν δεξιὰν προσκυνεῖν**, “to adore the right hand,” which is now in use; and they say **τὴν δεξιὰν προσφιλεῖν**, “to kiss the right hand.”

§ 6. They were also accustomed to swear by the names of the Emperors:

We set up altars upon which men must swear by your name.

Thus there was also a twofold oath by the name of the Emperor. The first was idolatrous, when the Emperor was employed as a witness of the truth as though he were God or all-knowing. The second was to swear by the Emperor as a creature, while nevertheless testimony was sought from God. For it is lawful to swear by creatures insofar as the divine majesty and truth shine forth in them. Thus even the Jews swore by the temple, Matthew 23:16. So Christians swore by the safety of the Emperors. Tertullian says in the *Apology*, chapter 33:

But we also swear, just as we do not swear by the guardian spirits of the Caesars, so we swear by their safety, which is more august than all guardian spirits. Do you not know that guardian spirits are called demons, and from that, by a diminutive word, little demons? In the Emperors we revere the judgment of God, who placed them over the nations. We know that to be in them which God willed. Therefore we also will that what God willed should be safe, and we hold this to be a great oath. But demons--that is, guardian spirits--we are accustomed to adjure, in order to drive them out of men, not to swear by them, so that we should confer upon them the honor of divinity.

This was nevertheless prohibited by the Kings of the Franks, according to the authority of Pammelius, who affirms that the laws of Clovis, Childebert, and Chlothar, which he possesses in manuscript, read thus in chapter 6: “Let no one presume to swear by the life of the King and of his sons.”

§ 7. Vows were made to Princes and for Princes. To make vows to Kings as to Divinities was idolatrous. “You too will condemn us by your vows,” says the ingenious flatterer. To make vows to God for Princes is Christian. Tertullian says in the *Apology*, chapter 31:

We have now flattered the Emperor and lied about the vows which we said we made, namely, in order to escape violence. Plainly this deceit is profitable. For you permit us to prove whatever we defend. You, therefore, who think that we care nothing for the safety of the Caesars, inspect the words of God, our writings, which we ourselves do not suppress and which many chances transfer into the hands of strangers. Know from them that we are commanded, unto a superabundance of kindness, to pray to God even for our enemies and to ask good things for our persecutors. Who are more the enemies and persecutors of Christians than those against whose majesty we are charged with crime? But it is also said expressly and by name: Pray, he says, for Kings and for Princes and powers, that all things may be tranquil. For the Empire is shaken together with you, and when its other members too have been shaken, certainly we also--although we are thought strangers to the disturbances--are found in some place of the fall.

The public making of vows was an act of great honor, for they were made for Princes and for others who had deserved well. When Pompey was ill, all Italy made vows. Tiberius denied that they ought to be made for the safety of his grandsons. By this he indicated that their health was not so much provided for by that public making of vows as their honors were increased.

In another manner vows are undertaken for Christian Princes, when their safety is commended to the Divine Majesty. This beginning, from the precept of Paul, was thereafter handed down by Constantine in a set form of words. Eusebius says in the *Life of Constantine*:

He--Constantine--was the instructor of all the soldiers in the prayer that was to be made, commanding them all to say thus in the Roman tongue: You alone we know as God; you we acknowledge as King; you we invoke as helper. Through you we have conquered; through you we have been superior to our enemies. To you we give thanks for the good things which we enjoy; from you we expect the good things to come. We are all your suppliants. We ask you to preserve our Emperor Constantine and his sons, who love God, safe and victorious for many years.

And hence every day in the Church the Princes are mentioned by name in the public prayer.

Excellent Princes, proposed for imitation to all later ages, are surely very far from that flattery. Following the example of Constantine the Great, they published little books of most holy prayers for their own use and that of their people, and understood that all their security in the Principate and happiness in domestic life depended upon God, not upon the force of wealth and the strength of soldiers. And indeed the divine power willed their prosperous successes and most honorable longevity to be a proof to all that those are happy, not who emulate divine honors, but who worship the Divine Majesty from the heart. Let no one at all hear unwillingly--both because Princes and the children of Princes are known for their piety, and lest anyone disparage another's piety--that which God willingly and gladly adorns with a great reward.

CHAPTER V

Other Honors Customarily Shown to Kings

§ 1. Among the ancients there was moderation in titles, until the appellations of greater men, attributed to lesser men, compelled them to decree new flatteries to those more worthy of honor. Emperors were especially delighted by these titles: that they should be called Pious, Clement, Mild, Tranquil, Best, Serene, Fortunate, Lofty, Greatest, Lords, Triumphant, Augusti, Antonini, Flavii; or that they should be named from conquered nations--Germanicus, Dalmaticus, Parthicus--and this either separately or with the crowning addition of flattery: *Germanicus Maximus*, and so forth.

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Now we address no Prince except in superlatives: Most Clement, Most Invincible, Most Illustrious, Most Serene. This also is not without the example of the ancients. St. Leo writes to the Emperor Leo in these words: **Τῷ ὑπερενδόξῳ, καὶ γαληνοτάτῳ υἱῷ Λέοντι αὐγούστῳ. εὐσεβέστατε βασιλεῦ, ὑπερενδοξότατε καὶ ἡμερώτατε. ἡ σὴ ἡμερότης, καὶ εὐλάβεια.** “To the most glorious and most serene son Leo Augustus. Most sacred, most glorious, most mild; your mildness and prudence.”

They were among the first to claim the title of piety, so that they were called **εὐσεβεῖς**. Antoninus was the first to be called by the cognomen Pius, although others had been so called before Antoninus. Yet the ancients and the Christians were called Pious for different reasons: the former from superstition or affection toward country and parents, as “pious Aeneas”; our men from zeal for true religion. Later we read in nearly all inscriptions: “Pious, Fortunate, **εὐσεβής, εὐτυχής.**”

All men, even though they were cruel, loved the title of clemency and mildness, provided that they were not wholly barbarous. Mildness and tranquility pertain to the same thing; the latter was peculiar to the Kings of the Goths. Cassiodorus says in book 6: “They are called Most Tranquil because, themselves unmoved, they rule and compose with the countenance of law the greatest tempests of affairs.” Marcus the Philosopher and Alexander Severus were especially called the Best.

Serenity, or Humanity, which the Greeks call **γαληνότης**, belongs to the ornament of mildness and clemency. For the countenance of a Prince ought to be like the sun, so that the spirits of his subjects may be gladdened and may hope. The title **ὁ ὄγκος, καὶ ὑψηλότης**, or Highness, was somewhat more unusual. But it is now exceedingly customary among Christian Princes, and it was taken from the Apostle, Romans 13:1, where they are called **ἐξουσίαι ὑπερέχουσαι**, supereminent powers. For this is indicated by the word “Highness.”

The proud name “Greatest” has now almost ceased, as has that of “Triumphant”; “Augustus” and “Lord” have endured continually. Titles derived from conquered nations were at first based upon truth, but later upon flattery. Theudebert, King of Francia, judged it intolerable that Justinian the King should call himself in his royal edicts “Francicus, Alemannicus, Gepidicus, Longobardicus,” as though he had reduced those nations to servitude, according to Agathias, book 1. Now, in addition to ordinary and common titles, the King of Gaul is called Most Christian, the King of Spain Catholic, and the King of Britain Defender of the Faith.

Most pleasing of all was that they should be called Fathers of the Fatherland--if they were so called by a free fatherland, not an oppressed one. Rome indeed once so named Cicero, but later forcibly brought monsters of Princes to the same degree of honor. It began with Cicero; but Julius, an oppressor of the fatherland, seized so honored a title while Cicero was still alive. Augustus, who betrayed Cicero, the father of the fatherland, to his enemies, appropriated the same name, book 1 of *Deeds*. But flattery--servitude--did not remain within moderation:

Long ago, says Naso, you were the father of the world.

Hence in Horace he is “Father of cities,” book 3, Ode 4; and Statius says in book 4 of the *Silvae*: “Hail, great parent of the world.”

The ancients also appear to have rejoiced in a not dissimilar honor; hence the Kings of Palestine were called “My Father, the King.” For this reason some think that Pharaoh bestowed this title upon Joseph, Genesis 41:42: “And he caused him to ascend upon his second chariot, while the herald proclaimed that all should bend the knee before him.” For many interpret אבִּיר in this way, as if “tender father” were said. The Chaldean has דְּמִלְכָּא אֲבָא רַבָּא, “that father of the King,” for they say that רִי in Arabic signifies a King. But more learned men agree with our interpreter that כִּרְע is placed there and that the bending of the knees is indicated.

Otherwise, that Joseph was called Pharaoh’s father is sufficiently indicated by chapter 45, verse 8: “Who made me as a father to Pharaoh.” And that appellation was frequent in the East. Thus the servants of Naaman the Syrian say in 4 Kings 5:13: “Father, if the thing were great,” and so forth. For it is pleasing to peoples and to a household to exchange the name of Prince and Lord for the appellation of father.

§ 2. An eminent form of worship shown to Kings and Princes lay in the honor of statues. In this matter, indeed, honor afterward attributed to a creature was due to God alone. For although love and civil veneration gave rise to statues, it nevertheless declined into idolatry. Wisdom 14:15 says:

For a father, grieving with bitter sorrow, made for himself an image of his son who had quickly been taken from him; and him who had then died as a man, he now began to worship as a God, and he established sacred rites and sacrifices among his servants. Then, as time intervened and the wicked custom became established, this error was kept as a law, and images were worshiped at the command of tyrants.

Nor was there another reason why the King placed the statue in the plain of Dura--or, as Josephus says, ἐν τῷ μεγάλῳ τῆς Βαβυλῶνος πεδίῳ, in the great plain of Babylon--than that he himself might be worshiped in his own image. So Jerome says on Daniel 3:1. For this reason so solemn a dedication of the statue is instituted, and for this reason the furnace is kindled: that all might be compelled to adore the new Divinity.

Nebuchadnezzar followed the earlier King of the same name, concerning whom Judith 3:13 says: “For King Nebuchadnezzar had commanded him to destroy all the Gods of the earth, so that he alone might be called God by those nations which could be subjected by the power of Holofernes.” Tyrants had learned these things from the more ancient Belus and others whom power raised to an opinion of divinity.

That divine honors were sought in the statue was taught by the constancy of Daniel’s companions, who said, “We do not adore the golden statue which you have erected,” and by the miracle through which they were protected in the furnace.

Next, because it was a Colossus, it was sixty cubits in height and six cubits in width, by which he wished to show that he was greater than the human condition. For if the cubits were common ones, this statue contained the height of fifteen men. If they were Babylonian cubits, which exceeded the common cubit by three digits, its length was 67½ cubits, and it had the height of nearly seventeen men.

For no other reason did the statues of the Gods exceed human height by almost three times, while those of Heroes were twice as great as ordinary statues. Therefore the vast statue of the King of the Chaldeans raised him above the Gods. Nero placed his own countenance upon the Colossus of Chares, which was 107 feet high; Vespasian removed it and placed the head of the Sun upon it.

Indeed, the adoration of images of Emperors in cities seems to have passed down from the Chaldeans. Philostratus relates in book 1 of the *Life of Apollonius* that an image of the Emperor was customarily displayed at the gate of Babylon and adored by those entering.

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For because the Romans could not travel throughout the Empire, they used to send images to the cities. Thus the images of Constantine the Great were received at Rome; thus at Aquileia were those of Maximus, Balbinus, and Gordian, according to Herodian, book 8.

Yet this honor and superstition existed especially in the camps. For the images of the Caesars were adored among the eagles and standards, according to Suetonius, *Caligula*, chapter 14.

Soldiers and provincials alike honored the images of Princes with crowns, flowers, and acclamations; according to Tacitus, book 14, they received them with wax candles and incense. They were called *λαυράτα*, or *laurata*, and were also affixed to military standards. See Suetonius, *Tiberius*, chapter 48; Vegetius, book 2, chapter 6; Tacitus, book 4. They also worshiped them at home. Martial says in book 10:

This portrait of mine, which is worshiped with violets and roses.

There was recourse to them as to an asylum; the overturning, befouling, and insulting of them were referred to the crime of injured majesty.

All these things can be tolerated, and many of them praised, if the adoration of *latría* is absent; if men do not sacrifice to them with incense and unmixed wine, as Pliny reports was customarily done in his letter to Trajan; if a rayed head is not represented as a symbol of divinity; and if a golden seat is not placed among the Gods.

Amid these things I am pleased to behold and deplore the vanity of human pride, when I ponder within myself at what expense and with what labor so many thousands of statues were erected to Princes, although scarcely any now appear, and those with doubtful countenances. The envy of successors or the most free indignation of peoples has worn most of them away.

§ 3. Now the statues of Princes and magnates in part remain, and in part have been changed into hereditary insignia. Such is now the religious regard given to the statues of Princes that every cult of divinity is absent. For they are placed either in public, profane places or in churches, and in no place do they receive any veneration other than civil.

Following the example of Constantine the Great, statues are set up in this manner. Eusebius says in book 4 that Constantine was depicted standing in the palace at the gates, in images placed in the upper vestibule, with eyes raised to heaven and hands spread in the posture of one praying.

The same Constantine ordered his images to be placed in churches, as Paul the Deacon attests in book 1--namely, in the posture of one praying, which most now imitate, and with laudable piety. For in this way they attest their faith. If Julian endeavored to prove his apostasy by his image, why should orthodox Princes not attest their constancy and true religion in this way? Julian arranged for Jupiter to be depicted in his images as though appearing from heaven and delivering the crown and the purple, the insignia of Empire. In the same panel were Mars and Mercury, looking on and by their gaze approving the Emperor as one preeminent in war and eloquence.

And these things are done publicly. In private, however, images of Princes are customarily given and carried very widely, with coins struck for this purpose--not coins which serve for commerce and contracts, but monuments of a Prince's friendship.

§ 4. In the place of images there have generally succeeded what they call insignia, or in German *arms*. For these are impressed upon coinage, are added to all images, and are inscribed as an indication of jurisdiction. Citadels, bridges, tollhouses, and the boundaries of regions are marked with them; and just as formerly, when images were admitted or cast down, it was a sign of men accepting or rejecting governments, so now the same obtains with these insignia.

They derive their first origin from Egyptian hieroglyphics; I prefer to derive them from the Prophets of the Hebrews, among whom their use was frequent. Reuben is water poured out; Judah a lion's whelp; Issachar a strong ass; Dan a

serpent in the way, a horned serpent in the path; Naphtali a hart let loose; God the stone of Israel, Genesis 49. Joseph is like the beauty of a firstborn bull; his horns are the horns of a rhinoceros. Gad rests like a lion; Dan is a lion's whelp, Deuteronomy 33. Later Daniel likens four monarchies to the same number of metals, chapter 3; then the Holy Spirit expresses four kingdoms by four beasts, chapter 7.

Hence, therefore, the Romans had Eagles and Dragons; hence the standards of the legions and the insignia of shields. For Virgil sufficiently shows that shields and bucklers were sculpted when he describes the shield of Aeneas, which Aeneas, ignorant of the events but rejoicing in the image, raised upon his shoulders, and upon it the fame and deeds of his descendants. And in Christian times:

Christ marked the labarum; he had painted Christ as the insignia of the shields.

And hence came the ambitious insignia of nobility. The power to paint upon shields either the image of the Emperor, or one's own image, or some hieroglyphic by which men displayed their spirit, virtue, or deeds excellently performed in war, was granted by Commanders; otherwise a man served among the common soldiers,

inglorious, with a white shield.

These insignia were also customary among the Carthaginians. Hasdrubal's silver shield with his own image was found, according to Livy, book 25.

They also sealed letters with these insignia, although this was once a matter of choice. For Augustus varied his seal:

The Divine Augustus, at the beginning, sealed with a Sphinx. He had found two among his mother's rings, alike in a similarity that could not be distinguished. During the civil wars, while he was absent, his friends sealed letters and edicts--which the circumstances of the times required to be issued in his name--with the other, not without the recipients' witty jest that the Sphinx brought riddles. Indeed, even the frog of Maecenas was greatly feared because of the levying of money. Augustus afterward, in order to avoid reproaches about the Sphinx, sealed with an image of Alexander the Great.

Later Princes sealed with an image of Augustus, which he had engraved upon a gem. Thus the manner of sealing changed, as Pliny relates in book 37, chapter 1 of the *Natural History*. In that matter this also is remarkable: the man of Intercatia, whose father Scipio Aemilianus had killed after a challenge, used as his seal an image of that combat. This gave rise to the well-known jest of Stilo Praeconinus: "What, then, would he have done if Scipio had been killed by his father?" But you, reader, what do you think those men did who earned praise through some conspicuous deed, when we see all their stones filled with the insignia of a centurionate, decurionate, or tribunate; of the reception of a naval or mural crown; of a citizen saved; and of other boasts of military affairs--stones which afterward passed to their heirs together with the gems and rings?

And let these things suffice concerning the insignia of Princes, which formerly were not customary in the manner in which they are now. Yet it is established that the Gods had definite insignia: Jupiter his thunderbolt, Pallas her aegis, Hercules his club, Mercury his caduceus, and others theirs.

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And Pliny, our faithful authority on antiquity--even when he relates things scarcely credible--prudently intimates this in book 37, chapter 1:

After this ring, there is a royal fame belonging to the gem of that Pyrrhus who waged war against the Romans. For it is related that he possessed an agate upon which the nine Muses and Apollo holding a lyre could be seen--not by art, but because the markings of nature spontaneously ran in such a way that their respective insignia were rendered even to each one of the Muses.

The man who believes this may, with my permission, also believe that Apollo was heard singing with the Muses from the same gem, and that by that harmony Augustus was conducted into heaven by the Appian Way. I note only this: each Muse had her own insignia.

Triumphal arches, trophies, pyramids, and honored inscriptions can be joined to these things; many of them are also now in use. Laevinus Torrentius, a Prelate as learned as he was prudent, indeed records that most monuments of wicked Emperors were formerly erased and altered, and that many marbles can be seen at Rome from which the name of Domitian has been erased. Suetonius attests that this was done, chapter 23.

§ 5. Even in ancient times it had been customary for fire to be carried before Kings. That was a Persian rite, which nevertheless I think was taken from the fire of the Hebrews.

When the camp was moved, they carried before it an image of the sun enclosed in crystal and the sacred fire which they called eternal, and this upon silver altars. Nor was such a man lacking to the Greeks in battle: Pollux and Suidas call him the *πυρφόρος*, the fire-bearer, who carried laurel and crowns. Indeed, before trumpets were invented, *λαμπαδοφόροι*, torch-bearers, scattered fire and kindled torches, so that in this way they might at the same time kindle the battle.

Why the Persians carried fire before them is not easy to conjecture. Perhaps it was because fire is *ἀγνιστικόν*, purificatory, and renders all things pure. But it is more probable either that fire was worshiped by the Persians, as it was by the Chaldeans--this is gathered from the deed of Darius, who, as he went round the battle line, prayed to the Sun, Mars, and the sacred and eternal fire--or that the most likely beginning was this: fire might always be at hand for those wishing to sacrifice. That they did not use any fire whatsoever is sufficiently established from their history. Yet that custom flowed from the laws of the Hebrews. At Leviticus 10:1 and 16:1 it was not lawful to offer strange fire; and in 2 Maccabees 1, from verse 18, we read:

Since we are therefore about to celebrate the purification of the temple on the twenty-fifth day of the month Caslev, we judged it necessary to signify this to you, so that you too may keep the day of the feast of tabernacles and the day of the fire which was given when Nehemiah, after the temple and altar had been built, offered sacrifices.

For when our fathers were being led into Persia, the Priests who were then worshipers of God secretly took fire from the altar and hid it in a valley where there was a deep and dry well; and there they made it secure, so that the place was unknown to all.

But when many years had passed and it pleased God that Nehemiah should be sent by the King of Persia, he sent the descendants of those Priests who had hidden it to seek the fire. As they related to us, they did not find fire but thick water. He ordered them to draw it and bring it to him; and Nehemiah the Priest ordered the sacrifices which had been laid upon the altar, and the wood and the things placed upon it, to be sprinkled with that water. When this had been done and the time arrived at which the sun, which before had been in a cloud, shone forth, a great fire was kindled, so that all marveled.

All the Priests were making prayer while the sacrifice was consumed, Jonathan beginning and the others responding. Nehemiah's prayer had this form: Lord God, creator of all, terrible and strong, just and merciful, who alone are the good King, alone excellent, alone just and omnipotent and eternal; who free Israel from every evil; who chose the fathers and sanctified them: receive the sacrifice for all your people Israel, and guard your portion and sanctify it. Gather our dispersion; free those of us who serve the nations; look upon those who are despised and abominated, that the nations may know that you are our God. Afflict those who oppress us and act against us with pride. Establish your people in your holy place, as Moses said.

The Priests sang hymns until the sacrifice had been consumed. But when the sacrifice had been consumed, Nehemiah ordered the larger stones to be drenched with the remaining water. When this had been done, a flame was kindled from them, but it was consumed by the light which shone forth from the altar. When the matter was made manifest, it was reported to the King of the Persians that water had appeared in the place where the Priests

who had been carried away had hidden the fire, and that with it Nehemiah and those who were with him had purified the sacrifices.

The King, considering the matter and examining it diligently, made a temple for it, so that he might prove what had happened; and when he had proved it, he gave many good things and various gifts to the Priests, taking them with his own hand and distributing them to them. Nehemiah called that place Nephtar, which is interpreted “purification.”

This history, known to the Kings of the Persians, could therefore have been a reason why they wished to preserve, carry about, and in some manner honor fire. Our Serarius, most learned in divine and human matters, weighed the matter accurately in his *Harmony of the Maccabees*, on chapters 1 and 2 of book 2, minor question 14.

First, the King of the Persians diligently examined the matter. Then “he made a temple,” says Lyranus--either he made a temple properly so called, as Darius did at Ezra 6, or improperly, namely, he adorned one already made, as Artaxerxes did. But Genebrardus says in his notes that some sacred building, such as the sheep-pool at John 5 and in Bede on 2 Ezra, was then erected.

In the same sense the Greek *ιερόν* could be taken adjectivally: he made that place sacred, so that what had previously been a profane well might now contain some veneration and worship of God, as the commentator on the new translation also says. It contributes not a little to this exposition that the King is said to have enclosed and consecrated that place--Greek *περιφράξας*. Hence in the Latin at verse 34 there appears to have been, not “considering,” but “consecrating,” “enclosing,” or certainly “shutting up.”

For otherwise this act of enclosure would be omitted in that text, and the Greek *δοκιμάσας* would be translated by more words than is fair when “examining the matter diligently” is added. Furthermore, places of this kind, being religious--such as groves, asylums, and the like--admit even the name of temples, which our interpreter uses. Thus Virgil too said in book 8 of the *Aeneid*: “The craggy rocks, temples of Bacchus.”

Third, he treated the Priests well and gave them with his own hand many diverse things which he received from his treasures. But *τὰ διάφορα* could also be taken as though it were *τὰ διαφέροντα*, that is, excellent and distinguished things, or better and more excellent things, as at Romans 2 and Hebrews 1:4: “By how much he inherited a name more excellent than theirs.”

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But did the King do these things because of Persian opinions concerning fire? So great is the goodness of God that, as St. Augustine says, he elicits good even from evils.

Since fire had descended from heaven, as has already been noted above and is recorded in the Scriptures, the Gentiles fabricated stories that fire had sometimes fallen or been kindled among them also by divine power: in Pliny, book 2, chapter 110; Servius on book 12 of the *Aeneid*; and most of all among the Persians in Ammianus, book 23. They too possessed a sacred and perpetual fire, and many fire-temples and *τὰ πυρεῖα*, as Cedrenus calls them in his life of Chosroes. God now converted this opinion--or rather this superstition--of the Persian King to good, and caused his true work and benefaction to be praised and honored even by a barbarian.

This custom therefore appears to have flowed from the Hebrews, although we read that others also had a regard for fire; see Rhodiginus, book 15, chapter 15. We likewise read among the Greeks that barbaric honors were rendered to this element by the Medes and Assyrians--not, surely, through religion, but rather through fear of a most destructive thing which consumes everything. Porphyry writes--as I think I have related elsewhere--that fire can suitably be consecrated to the Gods who are within heaven, whether they wander in a certain course or do not wander, whose leader must be regarded as first the Sun and then the Moon, because it is, as it were, a kindred thing. But, to insert something concerning our religion into these labors of ours: throughout all the Churches of the East, when the Gospel

is to be read, they light lamps even while the sun is shining--not, certainly, to drive away darkness, but to demonstrate a sign of joy.

Dino, in Clement, says that the Persians possessed no image of their Gods, because they considered fire and water alone to be images of the Gods.

That honor was transferred to the Roman Emperors. **Τοῦ λαμπαδαρίου**, that of the lamp-bearer, was an ordinary office of the court of Constantinople; for not a brazier, but a lamp or lantern, was carried before them. Codinus says: **τοῦ δὲ λαμπαδαρίου κατέχοντος τοῦ μεγάλου δομestίκου τὸ ἀξίωμα, τὸ θεῖον μύρον μεθ' ἡμμένης λαμπάδος φέροντος**--the lamp-bearer bearing the divine ampulla together with a lighted lamp. The Imperial lamp was encircled by two little crowns, and that of the Augusta and Patriarch by one. I think that the earlier Emperors had braziers, and that what Herodian says concerning Pertinax in book 1 is to be understood in this way: "He did not permit fire to be carried before him or any other insignia of Empire to be raised." Commodus granted this to his sister; to his concubine Marcia he gave all the privileges of an Augusta except the fire, according to Herodian, book 1. Now that ceremony has entirely ceased, except that they are sometimes received with torches. That this was customary formerly is clear from Judith 3:10, for they received Holofernes with crowns and lamps. Festive thunderings of cannon have succeeded to their place. But the insignia of Empire are carried before the ruler as prescribed in title 22 of the Golden Bull:

To declare the order of the Princes Electors in procession in the presence of the Emperor or King of the Romans while he walks--a matter of which we made mention above--we decree that whenever, in the celebration of an Imperial court, the Princes Electors happen to walk in procession with the Emperor or King of the Romans in any acts or solemnities whatsoever, and the Imperial or Royal insignia must be carried, the Duke of Saxony, bearing the Imperial or Royal sword, shall immediately precede the Emperor or King and shall be placed between him and the Archbishop of Trier. The Count Palatine, bearing the Imperial orb on the right side, and the Margrave of Brandenburg, bearing the scepter on the left side of the Duke of Saxony, shall proceed in a straight line. But the King of Bohemia shall immediately follow the Emperor or King himself, with no one intervening.

§ 6. It was also rendered to the honor of Princes that no one should approach or receive them without a gift. But that belonged to the Persians; in the Roman state, and now in the Christian state, the custom has become obsolete. In the same way New Year's gifts were given to Emperors. Gifts were sent to Augustus even in his absence at the Capitol, according to Suetonius, chapter 57; they were brought to Caligula at his seat, according to Dio, book 56. He both issued an edict and stood to receive them, Suetonius, chapter 42. Tiberius acted better: he was accustomed to repay them fourfold, a custom which Princes now commonly imitate.

§ 7. The birthdays of Princes are also publicly celebrated, a custom which has now so ceased that their birthdays are scarcely known. Martial prefers Domitian's birthday to that of Jupiter in his cradle:

Kindly day of Caesar, more sacred than that light

Which Ida, knowing what she bore, brought forth Dictaeon Jove.

There is something similar in Plato's *Alcibiades*. But after the firstborn who succeeds to the kingdom is born, at first all who are under the kingdom celebrate that day; and thereafter all Asia annually observes the King's birthday with sacred rites and festivities. But when someone is born among us, not even his neighbors, as the comic poet says, perceive it.

Yet formerly that honor was severely commanded. When the consuls forgot to issue an edict concerning Caligula's birthday, he abolished their magistracy, and the state was without supreme power for three days. Thus, in 2 Maccabees 6, the Jews were led by bitter necessity to sacrifices on the King's birthday. Not only the birthday, but also the day on which the Principate began was celebrated. Pliny says to Trajan:

Lord, we celebrated with the great joy which you deserve the day on which you preserved the Empire by undertaking it, and prayed to the Gods that they would preserve you safe and flourishing for the human race, whose

guardianship and security were entrusted to your safety. We led the way, while our fellow soldiers rendered the oath in solemn form and the provincials strove to show the same devotion by swearing.

And Suetonius says in *Vespasian*, chapter 6: “Tiberius Alexander, Prefect of Egypt, was the first to bind the legions to the oath in Vespasian’s words, on the Kalends of July; this was afterward observed as the day of his Principate.”

Or a day was celebrated on which he had affected the peoples with some great benefit. Thus Augustus, in Dio, book 54: “Because of his return and because of those things which he had accomplished while absent, many and various honors were decreed to him. Of these he accepted nothing except that he permitted an altar to be consecrated to Fortuna Redux, and the day of his return to be enrolled among the festivals and called the Augustalia.”

Indeed, peoples devised new birthdays in favor of Princes. Suetonius says in *Augustus*, chapter 59: “Certain cities of Italy made the day on which he first came to them the beginning of the year.” These were indications either of true love or of feigned flattery. That affection of the peoples toward Augustus was already present when he was an old man:

Whether the people wish you safe more, or you the people,

May Jupiter, who watches over both you and the city, preserve in doubt.

You may recognize the praises of Augustus.

Christians marked their prelates with the same ceremony, for they held as a festival the day on which they had been elected to the episcopate. Thus on the fifteenth day before the Kalends of February the Roman Chair is celebrated, and on the eighth day before the Kalends of March the Antiochene Chair.

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Concerning this custom the most learned Baronius writes in the *Martyrology* at the fifteenth day before the Kalends of February:

As regards the present solemnity, there flourished in the Church a praiseworthy ancient usage: the anniversary was kept on which someone had been appointed Bishop over a particular see. Almost innumerable examples teach that this was observed both in the Western Church and also in the Eastern. St. Paulinus writes about the custom of the Roman Church in epistle 16 to Severus; and sermons of St. Leo the Pope delivered on that day remain. For Bishops from all parts of Italy were then accustomed to assemble at Rome to celebrate the birthday of the Roman Pontiff, as the epistle of Pope Hilary to Ascanius and the other Bishops of the province of Tarragona beautifully demonstrates, when these words are read in it: “When your letters were therefore read in the assembly of the brethren whom the festival of my birthday had gathered,” and so forth. The synodical records recited above indicate who these men were and from which cities of Italy they had assembled at Rome. Receive also examples concerning the usage of other Churches, such as what St. Ambrose writes concerning Felix, Bishop of Como, in book 8, epistle 60 of the Roman edition; likewise what St. Augustine has concerning the birthday of Aurelius, Bishop of Carthage, in sermon 32 *On the Words of the Lord*, at the end, and concerning the anniversary day of his own ordination in homilies 24 and 25. The menologies of the Greeks sufficiently admonish us concerning the custom of the Eastern Church, for in them the birthday of the see of St. Basil, St. John Chrysostom, and others is observed. By the same usage and reasoning the Roman Church was accustomed solemnly to observe the day on which the Roman Chair was born, because, I say, by divine counsel St. Peter first began to sit at Rome when the see which he had held at Antioch for seven years was transferred there. Moreover, this solemnity is so much more celebrated than that on which he sat at Antioch, because the latter was movable, or established only for a time and as though in passing; but at Rome God established and confirmed that same see to remain forever for Peter’s successors. As Irenaeus relates in book 3, chapter 3, the same Apostle, together with Paul, consecrated it even by his blood, after it had been fortified by doctrine, enriched with traditions, illustrated by merits, and increased by gifts.

§ 8. It was customary to receive Princes with joyful acclamations and applause. This has now almost ceased, except when at a coronation men acclaim, “May the King live!” Formerly that applause was especially sought; but after it was rendered more lavishly to every most wicked tyrant, it fell into contempt and disuse.

First, they recounted their praises. They acclaimed Pertinax: “To the pious father, the father of the Senate, the father of all good men! Under the Emperor Pertinax we feared no one; we lived secure!” They repeated this until their voices failed, according to the Deacon, book 8. There were also these words: “O happy you! O happy we!” Pliny to Trajan. Second, they prayed and made vows: “May Jupiter add years to you from our years,” in Tertullian; “May you conquer, Justin,” they sing in Corippus. Third, this applause was performed by modulation of the voice, clapping of the hands, their casting about, and the movement of garments. The voice was modulated either simply or with instruments added. The common people resounded in fixed modes and with composed applause, according to Tacitus, book 16. Cassiodorus says in book 1 of the *Variae*: “Voices sweeter than an organ; not shouts, but tones.” Pliny calls it harmony. Nero, delighted by the praises of the Alexandrians, caused young equestrians and five thousand men from the common people to be trained to learn that method of applauding. They called the forms *bombs*, *roof tiles*, and *potsherds*, from a certain resemblance of sound. Aurelian gave *oraria* to the people for acclamation.

But what were *oraria*? Lipsius wishes them to have been resonant coverings by which modulated acclamations were produced; Casaubon, straps and bands which were tossed about in applause. Nor can the matter be sufficiently gathered from Eustathius, who says on book 4 of the *Iliad*: *μίτραι*, he says, *οἱ ἐκ φασκίων καὶ ὀραρίων στέφανοι*--“mitres are crowns made from *oraria* and bands.” If, therefore, it is established what the parts of mitres are, it will also be established what *oraria* are. But a mitre or *cidaris* was various in form; and therefore whatever was in the mitre besides the bands is called an *orarium* by Eustathius--namely, those parts which were bound together by the bands. Accordingly, since the *cidaris* was tower-shaped and was also called a *τιάρα*, according to Pollux, book 8, chapter 13, a tiara also was of this sort. Suger says concerning Louis the Fat: “Surrounding his head, they place upon it the Phrygian Imperial ornament, shaped like a helmet and fashioned with a golden circlet.” But Isidore calls the Phrygian ornament a mitre. An *orarium*, therefore, was some such thing that a mitre might be made out of several *oraria*, if we believe Eustathius; and thus it served to strengthen the sound and booming, not merely for tossing, since it was small and would not be very conspicuous when tossed. Therefore they produced a smacking sound with an *orarium*, just as they now do with sheets or other things. Vopiscus wished to say this concerning Aurelian. But if Aurelian’s *orarium* was not unlike the ecclesiastical *orarium*, and either that profane one was named from the sacred or the sacred one from the profane, it must be said that there was some analogy between them.

The ecclesiastical *orarium* is treated in canon 28 of the Fourth Council of Toledo, celebrated in the time of Pope Honorius I:

If a Bishop, Priest, or Deacon who has been unjustly cast down from his rank is found innocent in a second Synod, he cannot be what he was unless he receives back before the altar, from the hand of the Bishop, the things belonging to the rank which he lost: if a Bishop, the *orarium*, ring, and staff; if a Priest, the *orarium* and chasuble; if a Deacon, the *orarium* and alb; if a Subdeacon, the paten and chalice. In this way the other ranks also receive that restoration of themselves which they received when they were ordained.

This *orarium* was a kind of garment, for in book 6 of Burchard it is called an “orarial stole,” chapter *Presbyter*. This is because canon 40 of the Fourth Council of Toledo says:

It is not lawful even for a Bishop or Priest to use two *oraria*, much less for a Deacon, who is their minister. A Levite must therefore wear one *orarium* upon the left shoulder because he prays, that is, preaches; but he must have the right side free, so that he may move about unimpeded in the priestly ministry. Therefore henceforth let the Levite take care not to use a double *orarium*, but only one, and one that is pure and adorned with no colors or gold.

It was therefore a garment which impeded the minister, and it appears to have been granted to Bishops that they might adorn it with gold or colors. Third, the manner of wearing it is handed down in chapter 9 of the Council of Braga: “Let

the Subdeacon and Deacon have an *orarium*; but let the Deacon have the *orarium* concealed beneath his tunic, while the Subdeacon shall use the *orarium* laid over his shoulder.” Bede, in his collection, chapter *On the Seven Orders*, says: “An *orarium* properly belongs to prayers, a garment suited to its office.” Therefore, just as those applauding an earthly King were furnished with *oraria* for acclamation and applause, so those who proclaimed the praises of the eternal Emperor and the law of the King of Kings used *oraria*.

They also applauded with their hands, or gave a **κρότον**. And now, as the state perished through its own vices, they moved their hands in circuses and theaters rather than in fields and vineyards, as Varro complained. They also applauded artfully, as Aristaenetus says in book 1, epistle 10: **ἡ δεξιὰ τοῖς δακτύλοις ὑπεσταλμένοις ὑποκειμένην τὴν ἀριστερὰν ἐπληττεν εἰς τὸ κοῖλον, ἵν’ ὥσπερ αἱ χεῖρες εὐφωνοί**

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συμβάλλοιεν τρόπον κυμβάλων. With the fingers contracted, they struck the left hand placed beneath with the right in its hollow, so that the hands, when struck together, might sound well after the manner of cymbals. They also demonstrated their favor by tossing their hands and garments:

And everywhere to give signs with tossed togas.

Public records teach that they were accustomed to value greatly that applause, or the breezes of popular favor; for they sent the Emperor not only the acclamations themselves, but also their number and their words. Nor was that testimony of the public will to be neglected, since there is a firm bond of friendship between people and Prince: namely, that the Prince should benefit the people, while the people should pour themselves forth in praises of the Prince.

Hence, according to the manner and custom of those times, the people applauded Bishops in the Church with great fervor, showing their agreement in sacred doctrine and their desire for a purer life. A splendid example is found in the proceedings by which Augustine designated Eradius as his successor, epistle 110. I shall append the whole passage so that the ancient custom may be understood:

Therefore, says Augustine, lest anyone complain about me, I present to the knowledge of all of you my will, which I believe to be the will of God: I desire the Priest Eradius to be my successor.

The people acclaimed: “Thanks be to God; praises to Christ!” This was said twenty-three times. “Hear us, O Christ; life to Augustine!” This was said sixteen times. “You our father; you our Bishop!” This was said eight times.

When silence had been restored, Bishop Augustine said: There is no need for me to say anything in his praise; I favor his wisdom and spare his modesty. It is enough that you know him. I say that I desire what I know you desire; and if I had not known it before, I would have proved it today. This, therefore, I desire; this I now ask from the Lord our God with fervent prayers even in my cold old age. I exhort, admonish, and ask you to pray for this with me: that God may confirm what he has wrought in us, when all minds have been joined and fused together in the peace of Christ. May he who sent him to me preserve him--preserve him unharmed, preserve him without blame--so that he who causes joy while I live may fill my place when I die. As you see, what we say and what you say are received by the notaries of the Church; both my speech and your acclamations do not fall to the ground. To speak more openly, we are now making ecclesiastical records. I wish this matter, insofar as it pertains to men, to be confirmed in this way.

The people acclaimed thirty-six times: “Thanks be to God; praises to Christ!” “Hear us, O Christ; life to Augustine!” was said thirteen times. “You our father; you our Bishop!” was said eight times. “He is worthy and just!” was said twenty times. “Well-deserving, well-worthy!” was said five times.

When silence had been restored, Bishop Augustine said: I wish, as I was saying, my will and your will, insofar as it pertains to men, to be confirmed in the ecclesiastical records. But as regards the hidden will of the Omnipotent, let us all pray, as I said, that God may confirm what he has wrought in us.

The people acclaimed: “We give thanks for your judgment!” This was said sixteen times. “Let it be; let it be!” was said twelve times. “You our father; Eradius our Bishop!” was said six times.

When silence had been restored, Bishop Augustine said: I know that you too know, but I do not wish what was done concerning me to be done concerning him. Many of you know what was done; only those do not know who had not yet been born at that time or were not yet of an age to know. While my father and Bishop Valerius of blessed memory, now an old man, was still present in the body, I was ordained Bishop and sat with him. I did not know that this had been prohibited by the Council of Nicaea; nor did he know it. Therefore, what was censured in me I do not wish to be censured in my son.

The people acclaimed: “Thanks be to God; praises to Christ!” This was said thirteen times.

When silence had been restored, Bishop Augustine said: He shall be a Priest as he is; when God wills, he shall become Bishop. But now, with the mercy of Christ assisting, I am plainly going to do what I have not yet done. You know what I wished to do some years ago and did not permit. It pleased me and you, on account of the care of the Scriptures which my brothers and fathers, my fellow Bishops, at the two Councils of Numidia and Carthage deigned to impose upon me, that for five days no one should trouble me. The proceedings were drawn up; it pleased you; you acclaimed it. Your decree and acclamation are being recited. For a short time it was observed toward me; afterward it was violently broken through, and I am not permitted to be free for what I desire. Before noon and after noon I am held by the occupations of men. I beseech and bind you through Christ to permit me to pour the burdens of my occupations upon this young man, this Priest Eradius, whom today in the name of Christ I designate as Bishop and my successor.

The people acclaimed: “We give thanks for your judgment!” This was said twenty-six times.

When silence had been restored, Bishop Augustine said: I give thanks to your charity and goodwill before the Lord our God--indeed, I give thanks to God for it. Therefore, brothers, whatever used to be brought to me shall be brought to him. Wherever he needs counsel, I shall not deny my assistance. Far be it from me to withdraw myself. Nevertheless, whatever used to be brought to me shall be brought to him. But let him consult me if perhaps he does not find what he ought to do, or let him seek as helper the man whom he knows as father, so that nothing may be lacking to you and I at last, if God grants me however little space of this life, may not give over my life, however little remains, to idleness or donate it to inactivity, but may exercise it in the Holy Scriptures so far as he permits and grants. This will benefit both him and, through him, you also. Therefore let no one begrudge my leisure, because my leisure contains great business. I see that concerning this matter, for which I invited you, I have done with you everything that I ought. I ask this finally: let those of you who can deign to subscribe these proceedings. Here I need your response; let me retain your response. Acclaim something concerning this assent.

The people acclaimed: “Let it be; let it be!” This was said twenty-five times. “It is worthy; it is just!” was said twenty-eight times. “Let it be; let it be!” was said fourteen times. “Long since worthy, long since deserving!” was said twenty-five times. “We give thanks for your judgment!” was said thirteen times. “Hear us, O Christ; preserve Eradius!” was said eighteen times.

When silence had been restored, Bishop Augustine said: It is well. Let us now be able to perform the things of God concerning his sacrifice. At the hour of our supplication I especially commend to your charity that you set aside all your causes and business and pour forth prayer to the Lord for this Church, for me, and for the Priest Eradius.

Indeed, even preachers are attended with applause, for eagerness is necessary to a speaker. Hence arose the madness of Paul of Samosata, concerning which the Bishops write in Eusebius, book 7 of the *History*, chapter 24. There is no need to relate in speech the tricks which he employed in ecclesiastical councils, cleverly devising them by pursuing shadows of false glory, hunting after various forms of folly, and thereby leading the minds of the more ignorant into admiration of himself; nor in what manner he prepared a lofty seat and throne for himself, kept it private and separate--not as befits a disciple of Christ, but as Princes of the world are accustomed to do--and called it by his own name; nor how, while sitting upon it, he struck his thigh with his hand and sometimes beat upon it with his heels; nor

how he gravely rebuked and received with insulting words those who, when they heard him preaching, did not extol him with praises, did not turn themselves about in circles with agitations to applaud him, as is customary in theaters, and did not acclaim him discordantly and rejoice as though at the beat of an oar, after the manner of the gladiators and little women whom he kept about himself, but listened modestly and moderately, as is proper in the house of God; nor how, when openly preaching amid a crowd of men, he raged wantonly and immoderately against the interpreters of the word of God who had departed this life; nor how, not as a Bishop but as a sophist and impostor, he vaunted magnificent words concerning himself.

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From these things theatrical gestures and manners may also be noted.

§ 9. Imperial majesty, and before it royal majesty, was especially recognized on journeys. Various honors were exhibited. Sacrifices were offered; the roads were filled with fragrances; candles were lit; flowers, crowns, gates, private houses, and temples were adorned; public banquets were celebrated; cloaks were spread out; all men came to meet them, escorted them, carried them, praised them, and sang with instruments arranged along the road--so that Princes then at last recognized themselves to be Princes when they traversed their kingdoms. Examples are found in Curtius, book 5; Dio on Severus; Livy, book 32; Pliny's *Panegyric to Trajan*; Appian, book 8 of the *Gallic War*; Suetonius, *Nero*, chapter 30; Theodoret, book 5, chapter 34; Socrates, book 6, final chapter; Claudian, *On the Sixth Consulship of Honorius*, and book 3; Sozomen, book 8; Paul, book 30; and Herodian, books 4 and 8.

I think that this was done by the ancestors with the highest prudence--indeed, plainly by divine counsel. For since it is of the greatest importance to the state that a Prince should not reside in one place, but should exhibit the benefits of his presence to all the peoples by whom he is supported and honored, they endeavored by every enticement to incite him to journeys.

Another honor consists in titles taken from kingdoms which they do not possess. For magnates retain titles, not to soothe their minds with empty delight, but to await an opportunity to obtain those kingdoms.

CHAPTER VI

The Power of Princes Is Great but Various

§ 1. It is established that the power of Princes over their subjects has been various. I have approved as best the power tempered from monarchy, democracy, and aristocracy. This must especially be provided for: when the form of the state is changed, the power of customary magistrates should be changed slowly and in parts, but their names most slowly of all, until, when the matter itself has declined, they vanish of their own accord.

This was done with the greatest deliberation in the Roman Empire. At first tyranny raged under the name of Dictator when Sulla was savage; afterward the dictatorship was given to Caesar, but perpetually. Third, under the name of the Triumvirate for settling the state, proscription removed the foremost of the leading men. And although the Emperors could do everything, they secured their power by the titles of lesser magistrates. Hence they were declared Chief Pontiffs and Consuls; and, what rendered them safest of all, they renewed annually the title of tribunician power. For by that power they were held sacrosanct and retained the favor of the people, since that magistracy had been established for the sake of the people against the injuries of the more powerful citizens.

§ 2. The power of all Christian Kings is constituted not after the manner of Gentile Kings but of Hebrew Kings. For just as the authority of the High Priest and of the supreme council, the Sanhedrin, was inviolable and was not oppressed by royal power, so too a Christian King must command in such a way that he nevertheless hears and venerates the prelates of religion. Then let him weigh within himself how great a thing it is to reign fortified by the friendship and favor of the supreme presiding authority in religion. For when this bond of concord is neglected, everything is violently disturbed. Histories teach us how great a cause of evil was the importunity of the Emperors who claimed everything for themselves in the conflicts between the Henrys and the Pontiffs, and afterward the Fredericks and other Pontiffs. For since the Empire was transferred by pontifical authority from the Greeks to the Franks and then from the Franks to the Germans, it follows that the Pontiffs have some part in its government. To speak of the present condition, Nicholas Bellus, in discourse 1 *On the Pontiffs*, relates that the Electors were established not only by Imperial but also by pontifical authority.

From this assertion of pontifical authority over Kings, it follows that the Pontiff can much more involve himself in affairs of the Empire, since they belong to pontifical law and are immediately subject to the Apostolic See. This is proved because Gregory V established the number of Electors to whom he granted the power of electing Caesars. Although authentic copies of the Golden Bull which he issued for this purpose cannot be produced, nevertheless, after I undertook great labor to ascertain the clear truth of this matter, many letters patent together with copies of them came into my hands. In these many ancient Electors expressly acknowledged that they attributed their authority to the Supreme Pontiffs, as may be seen in the treasury in Castel Sant'Angelo and in the three books entitled *Privileges of the Emperors*, and likewise in the Vatican Library, where there are copies taken from those preserved in Castel Sant'Angelo. From these it is clearly evident that the authority and institution of the Electors depend upon the Holy Roman Church.

To prove this more fully, I bring forward the fact that on different occasions Electors were deprived by different Pontiffs of the privilege of electing, as John XXII formerly did. Leo X likewise deprived the Duke of Saxony; but Clement VII maintained and asserted that the election of Charles V was valid even without the vote of that Duke, as may be seen in a certain book bound in red leather entitled *Capitulations of Princes*, which is preserved in the pontifical repository. In the registers of Leo X and Clement VII in the Archive of the Apostolic Camera, this authority appears more clearly: as soon as a King of the Romans or Emperor is elected, the Electors seek confirmation from the Pontiff; and quite often, when the Pope did not grant his consent, they proceeded to a new election, as may be observed if careful attention is given to the said books.

I would not wish conflicts to arise between the Christian kingdom and the royal priesthood, conflicts which have often been quieted by the disasters of peoples. I give this political and prudent warning: for the sake both of piety and of the state, an Emperor ought courteously to observe the authority of the Pontiff. Let the remaining evidence be seen and the histories consulted. The same writer says that Charles V, when challenged to single combat by Francis, King of the Gauls, answered that he was a son and defender of the Holy Apostolic See, that he was bound to it by an oath, and that he could determine nothing concerning himself.

Charles spoke truly and rightly. The destinies of so many peoples ought not to have been weighed upon one sword, and the death of either King would have given rise to greater evils. But that most wise Prince showed how close the bond between Emperor and Priest is. If the safety of the supreme Prince is so closely joined with the advantage of the Church, so too will be that of other

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Kings and states. For the several kingdoms--Britain, Denmark, Poland, Aragon, Hungary, and Naples--have their own treaties. Nor can even the most powerful Kings despise the common father to whom assistance is brought by many sons.

§ 3. In the more cultivated kingdoms, the power of rulers depends in great part upon the council of the fatherland, or the estates of the fatherland. It has great utility against more unjust Princes, but also many disadvantages, since it brings delay to useful or necessary matters. By its authority it moderates the disposition of the Prince and ensures that, if anything happens to him, the fatherland is not without government.

The greatest disadvantages arise if the estates are not in agreement. All of us in Germany complain about this matter, and yet we always act in such a way that there is occasion for complaints. In Germany there are three orders which assemble at the great council or public diet: first the Electors; then the other Princes and Counts; third the free cities. Hence everything is completed slowly, and now, after much time, almost nothing is accomplished. The causes are delay in assembling, the absence of some, the restricted power of the delegates, debate concerning the matter to be proposed, and manifold disagreements. The chief disagreements now concern religion, but many cover their desires with a pretext of piety. In reality there are rivalries among the Princes, and between the Princes and the rest of the nobility, which is oppressed by some, although otherwise they wish to be subject to the Emperor alone as companions and ministers of his court. Greater is the rivalry between the free cities and neighboring Princes. The aims and endeavors of the cities tend toward preserving their liberty; some Princes strive to render them subject to themselves.

The happiness of these cities is situated in peace; when war arises, they are in great danger, because most defend their liberty not by force but by laws, and when laws fall silent amid civil arms, liberty stands beneath the blow. This appeared in the civil war waged against Charles V, in which the cities made the greatest expenditures, obtained an inglorious partnership in the war, and, once defeated, were most grievously fined. They would have been in a worse condition if they had conquered; for during the war they had offended the Princes by obeying less promptly, and even if there had been no offense, the rewards of victory would nevertheless have fallen to the Princes alone as the more powerful. Once this had occurred, the cities would have lacked the protection of the Empire and their neighbors would have pressed upon them more severely. Thus, even as victors, they would have retained their liberty only through the favor of the Princes. These, therefore, are the causes why the Empire moves so slowly: in the same body the same things are never advantageous when it has departed from harmony and a legitimate tempering of the humors.

§ 4. Gaul also has its estates: the Ecclesiastics, the nobles, and the common people. There are two councils, a secret one and a public one. Formerly the public Council was convoked from the three estates. In that Council there was supreme authority and so high a reputation for integrity that many foreigners also referred their controversies to it. The gravest matters--or, as they call them, affairs of state--were treated there: whether a King was to be created or abdicated; whether war was to be waged, peace made, laws enacted, principal prefectures conferred, crimes of Princes

examined, or a dowry assigned to royal children. Indeed, the accounting of expenditures and taxes was also treated in that council; and this is what they call the General Court or Parliament.

At that time, therefore, the power of the Kings of France was very greatly curtailed. But their successors diminished the authority of the council--they attribute this to Hugh Capet--by erecting a college of peers who would judge concerning the fortunes of Princes and other matters. Parliaments were later added, but now for a long time they have referred the affairs of the kingdom to the Privy Council. Hence deliberations are more expeditious. Estates of this kind also exist in Gaul, Spain, England, Scotland, and other kingdoms; any Prince can easily regulate his power according to their constitution.

§ 5. The Senate formerly represented the estate of the fatherland--not as one ruling in a free state, but as one sharing in councils and public honors under moderate Emperors. Probus had it in this condition, according to Vopiscus, for he granted appeal from all men to the Senate and other things which had already fallen into disuse. It was done again under Honorius. Claudian says concerning Stilicho:

When the Senate judged wars in the ancient order,
Stilicho restored the custom neglected now for so many ages:
the Fathers would entrust battles to commanders,
and by decree of the toga the fortunate watchword
would go forth to the legions.

Stilicho did this, but not to honor the Conscript Fathers; rather, he wished to diminish the authority of the Emperor and by this popularity to prepare a path to tyranny for himself and his son Eucherius. Tiberius, when with the greatest dissimulation he had most eagerly accepted the imperial office, long refused its name; sought protection from the Senate; said that the soldiers belonged to the state, not to him; wished to be called Prince of the Senate; and desired colleagues. But these were cruel mockeries by which he explored the sentiments of the nobles. He held magistrates in honor, just as if the state were still standing, and rose before the Consuls; and whenever he gave them a dinner, he went to the doors to meet them as they entered and accompanied them as they departed.

CHAPTER VII

The Chief Care of the State Must Be to Entrust Dignities and Magistracies to Suitable Men

§ 1. I speak of the lesser magistrates, who are appointed either by the King, by the Senate in an aristocracy, or by the people in a polity. For wherever suitable and good men are placed in command, the safety of the state stands firm. Let this remain a certain, fixed, and noble maxim of rulers: a state in which the Prince is bad is better than one in which the friends of the Prince and the magistrates who administer the state in part are bad. For one good man does not easily restrain many bad men; but if a bad Prince has good administrators, he lacks instruments of wickedness. This alone is difficult: that under a bad Prince the administrators should be good and long-lasting.

§ 2. It is a natural and supreme obligation of a Prince to place good Governors over the province, to protect the Prefects, and to keep them in their duty; and, to say it in one phrase, to see that his administrators and magistrates remain in their duty. The Emperors themselves recognized this, and some of them exercised particular care in selection. The Emperor Alexander never granted provincial governorships as a benefice, but by judgment. That

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obligation arises from the right of the state and of every private person. For just as, if the Prince establishes a physician and surgeon at the expense of the city, he is bound by the laws of justice not to send among the citizens--like living and effective plagues--men such as Demonstratus, Marcus, Simon, Menophanes, Capito, Phaedo, Socles, Agelaus, Alexes, Agidas, Zopyrus, Charinus, Gennadius, Rhodon, and Callignotus, who boast like the man in Agathias, *Epigrams*, book 2, εἰς ἱατρὸν:

Καὶ γὰρ ἐγὼ πολλὰς ψυχὰς Αἴδι προΐάπτω.

For I too send many souls down to Hades.

Rather, he must send skilled, industrious, and faithful men--not men whom the textually uncertain οἱ σοφοτῆγοί

βάλλουσι μίτραις, ἄνθεσι, καὶ στεφάνοις--

sprinkle with mitres, flowers, and crowns.

Thus by no right can Princes set plunderers and unjust men over peoples. For unless they themselves take precautions, they are compelled to answer for the fault of their Governors.

§ 3. At Rome, even amid the highest ambition and a venal electoral field, some account was nevertheless taken of candidates. Before the assemblies it was necessary to declare their names before a magistrate; if their names were not accepted by him, they could not be elected by the people. For by public judgment those to whom the government of the state was to be entrusted had been judged unworthy. But avarice and ambition broke through all these things. When Cato perceived the conspiracies of the leading men, he cried out that it was an unworthy thing for command to be consigned to the procuring of marriages and for men, through women, mutually to advance one another to provinces, commands, and armies.

§ 4. The greatest virtue of a Prince, therefore, is to know his own men--and not merely to know but also to govern them, which cannot be done without knowledge. It was prudently established in the Roman Empire that a summary of the Empire should be ready at hand, containing all taxes, expenditures, provinces, fleets, armies, magistrates, and their salaries.

The ancients called it the *Register of the Empire*; Augustus was accustomed to display it publicly. They also called it the *laterculus*. Cedrenus says: ἦν δὲ πάνδημος πίναξ, καὶ τὰ τῶν στρατιωτῶν ὀνόματα ἀπεγράφεοντο. It was a

public register in which the names of Senators and of the army were written. Tacitus, book 1 of the *Annals*, says that Augustus composed a booklet in which the public resources were contained: how many citizens and allies were under arms, how many kingdoms, fleets, provinces, taxes and revenues, needs and largesses--all of which Augustus had written out with his own hand. In later times these matters were handled much more diligently, as is clear from title 17, book 1 of the Code, *To the Praetorian Prefect of Africa*:

We believe that this too must be ordained by the present sanction: that judges should not appear to sustain great expenses for the completion of charters or warrants, whether in our register or in the archives of the Praetorian Prefect throughout Africa. For if they themselves are not injured by expenses, they will have no necessity to burden the taxpayers of our Africa. We therefore order that the civil as well as military judges of the African diocese shall pay no more than six solidi in our register for the customary fees of the warrants and charters of their promotion; but in the archive of the Prefects they shall be compelled to pay no more than twelve solidi. If anyone exceeds this measure, the judge himself shall be liable to the expense of thirty pounds of gold, while his staff shall sustain not only a like expense but also the danger of capital punishment. For if anyone from any quarter dares to exceed our commands and does not hasten to observe them with the fear of God, he shall sustain not only danger to dignity or property, but shall also be subject to the ultimate punishment.

The Princes of all, therefore, had a description of their Prefects. Then those records were deposited in the sacred archive. On the *Notitia*, see also book 5, *On Various Advocates*.

Since the ancient records have perished, but Justinian's African *laterculus* survives in the place cited, anyone may read it there.

§ 5. In great Empires, just as nothing is more pleasant or fruitful than common peace and security--for they do not fear more powerful neighbors--so the license of inferior magistrates is most grievous, because in so great a mass of business injuries easily lie concealed. This arises either because access is not given to the accuser or because remote matters are neglected. Therefore the state will take this especially to heart: just as on the frontier of the Empire and near the enemy it stations the bravest and most faithful commanders, so in the most distant places it must station the most equitable Governors and Judges. For distance itself, just as it takes from subjects the hope of assistance, gives rulers confidence of impunity. Who at Rome dared to do what the Romans did in Gaul and Asia? Indeed, it occurred very often that Governors were so intent upon ruin that they compelled the wretched to rebel, and in this way had no need to stand trial, since they had already judged them enemies upon whom their injuries had imposed the necessity of rebellion.

Cyrus restored liberty to the nation of the Jews and issued an edict in this form, 1 Ezra 1:2:

The Lord God of heaven has given me all the kingdoms of the earth, and he has commanded me to build him a house in Jerusalem, which is in Judah. Who among you is from all his people? May his God be with him. Let him go up to Jerusalem, which is in Judah, and build the house of the Lord God of Israel; he is the God who is in Jerusalem. And let all the rest, in every place wherever they dwell, assist him from their own place with silver and gold, substance and cattle, besides what they voluntarily offer to the temple of God which is in Jerusalem.

If this had had to be done at Babylon, a magnificent temple would have stood within a year. But now, what could the command of an absent King do against the hatreds of neighbors? First Ezra 3:3 says: "They placed the altar of God upon its bases, while the peoples of the surrounding lands terrified them; and they offered upon it a holocaust to the Lord morning and evening."

They had been ordered to assist in building the temple, but they terrified them so that they could not even erect an altar. Nor do they merely obstruct; under the pretense of assistance they also endeavor to profane it. First Ezra 4:1 says: "Let us build with you, because we seek your God just as you do. Behold, we have sacrificed victims from the days of Esarhaddon, King of Assyria, who brought us here."

When they could accomplish nothing by force, they acted by calumnies. In the same chapter, verse 4: “They hired counselors against them, that they might destroy their counsel throughout all the days of Cyrus, King of the Persians.”

They acted much more perfidiously against Nehemiah, not fearing the fact that he was dear to the King, had been sent with power by the King and Queen, and that commanders of the army and horsemen had been sent with him, 2 Ezra 9 and 10. What, then, did the King’s Governors do? First, “They were grieved with a great affliction.” Second, “Sanballat was exceedingly angry,” chapter 4:1. Third, greatly disturbed, he mocked the Jews. And at verse 8: “Sanballat, Tobiah, the Arabs, the Ammonites, and the Ashdodites all gathered together to come and fight against Jerusalem and devise ambushes.” And at verse 11: “Our enemies said:

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Let them neither know nor understand until we come into their midst, kill them, and cause the work to cease.”

Behold, against the express command of the King, the King’s subjects devise such things against his subjects and against a legate sent from the King’s table who was soon to return to the King. Therefore the most diligent provision must be made for distant regions.

Nor did the Governors of the Indies furnish few examples for the Spains. To say nothing of the wars of the Portuguese and Castilians: without the cruelty, avarice, ambition, and mutual slaughters of the Governors, the Castilian Crown would hold all the West Indies. Examples need not be sought farther away. Many men, and not without reason, judge that no Empire in Europe is more rightly constituted than the French; yet when the French held the kingdom in Sicily, petty tyrants, by their injuries, compelled that nation to revolt, because their Governors had withdrawn as far from equity as from their fatherland.

A further proof of this matter is what Nicholas Bellus relates in his discourse on the Kingdom of Naples. First, he testifies that military affairs were administered negligently and perfidiously, and that the triremes were old and useless:

For, he says, it is enough for the royal ministers to display some outward appearance which may be magnified in the Royal Court. By ostentatiously displaying diligence in this way, they satisfy the King to some degree and hold the whole world in extraordinary expectation of great achievements. This contributes wonderfully to the swift acquisition of riches, with which they soon purchase some jurisdiction in the kingdom, accumulate revenues, and amass costly furniture.

He recounts that these things were done in the year 1579. And a little afterward:

For the most part the Neapolitan triremes remain at the harbor mole without pay, without soldiers, and often without half their complement of rowers. These rowers are very frequently hired out by the captains to merchants, nobles, and others to unload ships and perform other domestic work. Thus in a time of necessity--as in the preceding year, when eight pirate triremes captured two Sicilian vessels near the island of Capri--five triremes were equipped throughout an entire day to pursue the Turks, since both oars were lacking and soldiers were wanted. It must therefore be doubted whether from so great an expense, which the King bears for these triremes, even the smallest advantage is gathered; all the more because those same triremes are badly furnished with engines of war and lack experienced sailors. The rowers, moreover, are either Turkish slaves or condemned men: the former row under compulsion and with danger to those who employ them, while the latter are inexperienced and insufficiently suited to endure the hardships of the sea.

What the boldness produced by the King’s absence accomplishes is found in the same discourse:

When an ordinary gift had recently been made to the Royal Majesty, and the nobles and the whole kingdom wished to send it through certain men of their own, the Viceroy wished to send it through his own man. He did this lest, if others were sent, the Viceroy’s misdeeds should be reported to the King and his court; and therefore he compelled them to hand the gift over to him.

This is surely an injury greater than the injuries and insults themselves: violently to wrest from the nobles of the whole kingdom, when sending gifts to the King, the power of sending their own legates. What must private men suffer if such crimes are committed publicly--so openly that the accounts fly throughout the whole world, while the Kings alone, whose danger is involved, remain ignorant? But such was the practice at that time; and that age too had its own Verres.

§ 6. In appointing magistrates, therefore, the lot is altogether to be condemned. For if, when about to sail the sea, you do not choose a ship and a shipmaster by lot, but seek an experienced master and a strong ship, how can it belong to a well-constituted state to cast the safety of all citizens into the hazard of lots? The Athenians, a bold and impetuous people, chose **τὴν γερουσίαν τῶν πεντακοσίων**, the Senate of Five Hundred, by lot; and through this they possessed a state constituted in the worst manner. Xenophon, in **Περὶ Ἀθηναίων πολιτείας**, *On the Polity of the Athenians*, rightly judged:

Περὶ δὲ τῆς Ἀθηναίων πολιτείας, ὅτι μὲν εἶλοντο τοῦτον τὸν τρόπον τῆς πολιτείας, οὐκ ἐπαινῶ διὰ τόδε, ὅτι ταῦθ' ἐλόμενοι, εἶλοντο τοῖς πονηροῖς ἄμεινον πράττειν ἢ τοῖς χρηστοῖς· διὰ μὲν οὖν τοῦτο οὐκ ἐπαινῶ.

As regards the state of the Athenians, I do not praise the fact that they followed that form of government, because by following it they brought it about that the wicked were in a better condition than the upright. In this respect, therefore, I do not praise it.

They act altogether badly, but popularly, for they consider bad men useful to themselves. Hence they both choose by lot and, when designating a magistrate by votes, are more favorable toward the worst and unjust toward the good. All the decrees and deeds of that people were barbarous. Thus Xenophon judges:

Διὰ ταῦτα οὖν τοὺς μὲν χρηστοὺς ἀτιμοῦσι, καὶ χρήματα ἀφαιροῦνται, καὶ ἐξελαύνουσι, καὶ ἀποκτείνουσι, τοὺς δὲ πονηροὺς αὖξουσιν.

Therefore they dishonor the good, punish them by loss of money, exile, and death, but increase the bad.

Hence they exercised their Empire for a short time and turbulently.

§ 7. Nevertheless, a matter can be entrusted to the lot if some greater power divinely directs it. Thus, after Saul had already been chosen and anointed King by Samuel, they selected him by lot, 1 Kings 10:20. For God did not wish Samuel to be suspected, as though he had designated Saul by his own judgment or affection. Then the people sought a King from Samuel as a Prophet. Although they sinned by demanding a King, they nevertheless acted rightly in this respect: they established a King not through tumult and the ambition of the tribes, but sought him from a Prophet, that is, from God himself. Thus they speak at 1 Kings 8:5: "Establish a King for us, that he may judge us." The use of the lot, therefore, was not lawful unless it was established that it would be directed by God. There were hidden disputes among the twelve tribes, and that assembly would not have been concluded without strife unless God had determined the matter by his judgment. Among barbarians there was great use of lots, which were corrupted either by rashness or superstition.

§ 8. When there are several candidates who are judged equal and all suitable, they may be elected by lot, yet with the assistance of God invoked so that he may designate the man who is best. Thus the Apostles placed Joseph and Matthias in the midst; the lot fell upon Matthias, and he was numbered with the twelve Apostles. Hence the turns of the Priests in the temple were distributed by lot. "It happened," says Luke, "when he exercised the priesthood before God in the order of his turn, according to the custom of the priesthood, that he went forth by lot to place incense after entering the temple of the Lord." For since several Priests were present, all of whom had equal right to place the incense although it had to be placed by the work of one man, one was selected by lot lest contention arise from rivalry. Otherwise, under the Old Law the supreme priesthood was never subjected to the lot. In the Jewish War, according to Josephus, book 4, chapter 5, the Zealots, after Pontiff Ananias had been reduced to the ranks, chose by lot as High Priest a rustic named Phannias, who was an object of mockery to all.

In persecution St. Augustine commands Honoratus to apportion dangers by lot: those more useful to the common people should be retained; but if all are equal and prepared for death, the matter is to be entrusted to lots.

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§ 9. Yet even in these cases recourse is not always or rashly to be had to lots. Their use must be applied only from necessity or by a certain decree of God, when reason and counsel admit no other course. For lots have various disadvantages.

First, they are corrupted with little difficulty. When Smerdis had been killed, the nobles of the Persians determined by oath to choose as their new King by lot the man whose horse first uttered a neigh. They were about to regard the voice of a warlike animal as an oracle; but although they supposed that they would act by lot, they entrusted the whole state to the ingenuity of Oebares the groom. For, after bringing Darius's stallion to a mare on the preceding night, he caused it to fill the air with neighing through remembrance of the place and pleasure. What Darius's colleagues believed had occurred by divine power had been accomplished by the fraud of a little slave.

Cresphontes even more cunningly drew the territory of the Messenians to himself, as Pausanias relates in his *Messenian Affairs*. When the matter was to be settled by lot, the Priest Temenus by evil fraud gave the victory to Cresphontes. The procedure of the lot was that dry, hard clay should be placed in water; he whose clay dissolved more slowly would possess the Messenian territory. Corrupted by promises and gifts, Temenus hardened the clay of Cresphontes at the fire and that of the others in the sun. Since the hardness produced by more violent baking dissolved more slowly, the Messenians fell to Cresphontes.

Second, although men appear equal, nevertheless there is often great inequality which easily appears to those who consider it. In the Roman state, the lot was customary in assigning Governors to provinces and selecting Judges. For the Consuls either agreed upon the provinces between themselves or drew lots for them, while Judges were either nominated or chosen by lot. Each practice was established with much caution and yet not without difficulties.

In the allotment of provinces there appeared to be no difficulty. Since each Consul had exercised the supreme magistracy at Rome, why should he not also be equal to the lesser dignity in a province? Thus it appeared to make no difference who was placed over which province. But this matter often deceived the Roman people. For if there were peace in Greece and war in Gaul, and the Consuls were Caesar and Metellus, I certainly would not wish Caesar to be sent to Greece and Metellus to Gaul. Provinces are therefore to be entrusted by judgment, not chance. For it is contrary to reason to send a veteran commander into a peaceful province and to expose a timid and inactive man to the fiercest enemies. For this reason Augustus prudently corrected that system: he entrusted the peaceful provinces to the Senate and people, while he retained for himself those that were turbulent and where war was necessary. He not only exempted Egypt from the lot, but did not even permit a Senator to enter it without his command. Elsewhere it must be said how great evils the allotment of Judges produced.

§ 10. Although Aristotle, book 2, chapter 6, does not approve that men who have been elected should be called to another election, usage has nevertheless obtained this in many places. Aristotle's reason is that those few men can easily agree and choose the magistrate at their own pleasure. But this will easily be prevented if, first, many Electors are chosen generally, and then a few are selected from them; and if a lot is also added, ambition is entirely excluded. Let the people therefore appoint fifty Electors; let each of these choose another man; and finally let a lot be held among those who are to choose the magistrate.

§ 11. After the King or Senate has deliberated concerning the appointment of Governors, let it never suppose that sufficient provision has been made for the state unless it has clearly understood the judgment of the people concerning the man. For the people is rarely deceived; and if the people approves its ruler, although he lacks many things, the administration is tranquil.

Princes therefore sin most greatly in this respect when, on the recommendation of others, they hold certain men in esteem and place them over cities, although their avarice, frauds, and lusts are publicly known. In this matter they entangle themselves in the greatest danger to their reputation and kingdom. For the people and prudent men speak thus within themselves: the King either knows or does not know the crimes and wickedness of the bad Governor. If he knows them, what may we hope from that King, among whom criminals possess such patronage and who raises the most wicked on high? If he does not know them, we have a statue, not a King. It is not lawful that we perish on account of his ignorance. How greatly such men are hated, moreover, their downfall alone demonstrates.

The ministers of Princes are their eyes, hands, feet, and, as it were, the living organs of the supreme majesty. Therefore their good deeds and offenses are imputed to those who reign, and upon them the reputation of the Prince for the most part depends. Hence the greatest part of the Imperial duty consists in appointing magistrates, as Zonaras teaches excellently. No one assumes or retains a magistracy without the command of the Prince. Thus the Valerian law in Livy, and Dionysius, book 15, speak concerning the people as Prince and bestower of dignities; but that right was transferred to the Prince by the royal law, Digest, book 1, title 4, law 1, §1, *On the Constitution of the Prince*.

CHAPTER VIII

The Method of Training Good Men for Government

§ 1. Although some are born with better talent, character, and greater prudence than others, no one is born a craftsman. They must therefore be trained by teaching and practice for the art of arts, the art which is mistress of all, that is, politics. I have indeed said enough concerning teaching in the book on education; now practice must be discussed.

§ 2. Since in a state there are civil and military magistrates, together with those who administer taxes and those who administer judgments, the young ought to be exercised in these in due order. I shall speak in its own place concerning military training. In order that they may become skilled in civil affairs, let them learn early to know the state, which they will attain by the following methods.

§ 3. Let noble young men, after they have passed their twentieth year, be permitted by a decree of the Senate or edict of the Prince to attend the Senate, sit in the council of the Prince, and state an opinion, provided they have served their campaigns with praise or proved their learning at universities. Yet their judgment must possess the force of consultation, not decision. For in this way they will understand what matters are treated in the public council; they will observe the speeches and wisdom of the disputants; and they will meditate upon the things proposed. Nor is there less advantage in hearing the petitions of suppliants and the artful discourses of legates, all of which are examined in the Council.

At Rome in ancient times, the witty story about polygamy attests that the sons of Senators attended the deliberation; now the practice is not much in use. The Venetian state preserves it to its great advantage. For all Patricians possess the right of entering the Senate, provided they are twenty-five years old; by a special motion the council is open to some even before that age, provided they are twenty. They are in what they themselves call the Great Council, which they say contains two thousand Senators,

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although because of those engaged in embassies and the government of cities and provinces, only sixteen hundred ordinarily assemble.

§ 4. It is also a great exercise if either the Senate or the Prince commands these young men to explain briefly and clearly in writing their opinion concerning proposed matters, especially when an answer must be given to embassies or grave matters are proposed. Sometimes, after hearing and maturely considering the various opinions, let them set forth the advantages and disadvantages of them all and produce their own judgment. For just as no man should be considered a veteran soldier who does not possess knowledge of the orders to be preserved and restored in every place and time, and of striking and avoiding the enemy, so no one will ever be a Senator or Counselor who has not long and much been engaged in the affairs of his own and other states.

Hence comes that great number of men who pass over to the opinion of others--not because they approve or understand it, but because they have no wisdom outside the judgments of others and have never learned to judge or speak by their own power.

I observe that the course of those who are employed in the state is twofold. Some, after devoting themselves to jurisprudence with a complete circle of the sciences, and after learning it thoroughly so that they can now be or appear Doctors, immediately enter the training and household of some practiced Advocate, Syndic, or Assessor, so that by experience they may learn forms, forensic practice, and precedents. If these men possess strength of talent or judgment, they become perfect pleaders, but not suitable Judges of lawsuits.

Yet they are not mature enough to give counsel either in the Senate of the Conscript Fathers or in the Consistory of the Prince. For that matter demands varied knowledge and is not confined within the narrow limits of forensic controversies. Others, after philosophizing moderately and tasting a little of the forms of the Institutes, return to their fatherland in foreign dress and undertake the state. From their ignorance the greatest disadvantages arise, for they possess the authority of Counselors and magistrates, but the ignorance of uneducated men.

§ 5. The principal apprenticeship in politics is for those Companions who will one day govern some part of the state to be joined to legates sent anywhere. Nowhere is the nature of affairs and men more easily perceived; nowhere are the words and gestures of others observed with greater care and attention, or one's own governed more carefully.

Therefore, if there is any matter in the whole world by which prudence is learned, it is found in embassies. Formerly the constitution of the world was different. The Greeks went to the King of the Persians while preserving the dignity of liberty even in meeting and speech. Roman Legates were protected by the majesty of their Empire. Now perpetual embassies travel among kinsmen, friends, rivals, and distrustful men; sometimes they do not know the mind either of the other Princes or of their own. Let three or four men, therefore, be joined to the Legate as Companions and Counselors--not to direct him, but to learn to avoid the rocks, which are very many and very hidden.

This benefits the younger men because they are instructed; it benefits the state because it receives more prudent citizens; and a Legate surrounded by such a retinue cannot betray his trust. Nor is there any other reason why the Romans abounded in so great a number of men skilled in politics than their perpetual journeys with Legates and magistrates.

For friends and tent-companions--that is, noble young men who accompanied them in order to learn military and political affairs--were joined to all magistrates except Legates, Tribunes, and others, whether commanders or ministers of an army. This cohort of friends was a nursery of magistrates; and the more illustrious the Proconsul or Propraetor who went to a province, the greater the company of nobility with which he was surrounded. Nor has that usage now been wholly abolished, for Governors and Viceroy's draw a multitude with them; but these men are less employed in public deliberations and in learning affairs.

§ 6. It is a matter of no little importance that younger men should attend to the command and administration of others, either to imitate things rightly done or to accuse errors. This is a most wholesome practice when the rage for calumniating is removed. Let us say nothing of ancient examples. In our own age, in Germany, Gaul, and Spain, we have seen certain men amass riches for many years amid the infamy of Kings and Princes and with danger of rebellion, and inflict injuries upon provinces; although their crimes were in every mouth, only the Princes remained ignorant of them.

If there had been a lawful method of accusation here--if either the oppressed had been permitted to speak or well-disposed men to give counsel--wickedness would not have exulted with impunity for long. Those men do indeed suffer punishment, but late and after the disasters of many.

CHAPTER IX

Magistrates Must Be Inspected

§ 1. If the ancient system and custom of judicial proceedings remained, there would be no need to send Legates to inquire into the deeds of magistrates. The Romans ordinarily had annual provincial magistrates. During the time in which a man remained in office, it was lawful for no one to lodge an accusation against him; but as soon as they had departed from the province, they were prosecuted as defendants for many misdeeds. Many were accused, many condemned, and also many acquitted. Later, when judgments had been corrupted, the provinces were plundered. It would altogether be best to restore this method, if frequent change did not greatly obstruct it. But since it is now not so expedient for this to be done, this course must be taken: an annual rendering of accounts should be introduced into custom, the complaints of peoples should be heard, injuries avenged, and the oppressed relieved.

An account of these matters must be required. First, did they do anything against the state? Did a man free enemy commanders with money; did he permit them to escape when he could have detained them; did he attempt to overthrow the highest interest of the state; did allies take up arms through his work and counsel, as is treated in the *Varia* law? The *Sullan* law concerning this was most severe and exceeded moderation, being a rival of proscription.

Furthermore, inquiry is ordered into the man who removed an intercession or hindered a Magistrate from exercising his office; who led an army out within a province; who waged war of his own accord; who solicited an army; who pardoned captured enemy commanders or freed them for money; who pardoned captured leaders of robbers; or who did not defend his power in administering. Here the testimony of a woman is accepted; no penalty is established against calumniators; and no dignity is exempted from bloody interrogations.

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To this belongs the case in which hostages were killed by his command, a Magistrate was slain, enemy soldiers were assisted, a province was not handed over to his successor or was betrayed to enemies, or money was accepted during embassies.

Yet it rarely happens that provincial Governors are guilty of treason. For they are generally more honored among their own Princes than they could be among enemies under the name of traitor. Formerly it was frequent, when a new Emperor had been elected, immediately to change allegiance and conspire against the Prince. Two other crimes are so customary that they have already passed into accepted practice: embezzling public money and plundering allies. The Romans punished the crime of peculation most severely; at first they vigorously punished injuries to allies, afterward more languidly, and finally neglected them. How frequent peculation--that is, theft of public money--formerly was is proved by the fact that a standing court for peculation and a court for extortion were each entrusted to its own Praetor. Yet more men were accused of peculation because the treasury has many avengers; the cause of allies is easily abandoned.

Money is then extorted from allies in many ways: by hope, fear, malicious fraud, acceptance of gifts, sale of judgments, exactions by attendants, and the usury of publicans. Hence the Senate gave the allies *recuperatores*. Lucius Calpurnius Piso proposed that a definite Praetor be established for this matter, to whom the allies might flee. There are the *Caecilian*, *Junian*, and *Servilian* laws concerning these matters; under the latter law the Praetor selected four hundred and fifty men. Lest lawsuits be drawn out and the Legates of the allies remain at Rome to their great disadvantage, the *Acilian* law provided that cases could not be adjourned for further inquiry or deferred to the next day. The *Cornelian* law added that inquiry should be made in the same manner whether a man had treated provincials or allies lustfully, proudly, or cruelly. It extended this also to those to whom the money had come. The penalty was that, once the defendant had been condemned, damages should be assessed and he should be interdicted from water

and fire. And do not marvel: Julius Caesar, the greatest of thieves, enacted a precise law concerning this matter, containing those very heads under which he himself was guilty above all men.

Besides the things said above, it contains these provisions: if anyone accepted money to do more or less of anything from his office; if anyone not possessing the right to testify accepted money to declare or not declare testimony; if anyone accepted it for sending or not sending a soldier, for stating an opinion in the Senate, for granting or not granting a Judge or arbiter; if he entered a public work as accepted before it was completed; if he exceeded the prescribed measure in exacting grain; if he did not leave his accounts in two cities of the province and report the same to the treasury in identical words; or if the Judge's attendant accepted money.

§ 2. If, amid so many laws and judgments, there were not lacking men who plundered or raged at their own peril, knowing that penalties must be paid upon conviction, what will happen where the administration is longer and there is no fear of the laws? What Scauri, Galbae, Hortensii, Plemirii, Verreses, Felices, and Flori may we suppose that the hope of impunity will produce? So many and so pious laws were established by the Kings of the Spains for the benefit of the Indians; but nothing was as effective as the Legates and Bishops sent into those regions to restrain the injuries of the Governors. This, therefore, must be established: a province will never be rightly governed except by a very few men, unless the Propraetor or Viceroy fears the King as much as the subjects fear the Viceroy. This practice therefore formerly belonged to all kingdoms, and must also be employed now.

§ 3. Empires are either middling, great, or very extensive; I speak of the expanses of lands and seas. In all of them a different system can and ought to be instituted. The Athenians possessed a middling Empire. Because access was easy from a moderate distance, they drew all the greater judicial proceedings and causes into their city. Thus Xenophon in *Περὶ Ἀθηναίων πολιτείας*, *On the Polity of the Athenians*:

The Athenian people appear to act imprudently in this too, because they compel the allies to sail to Athens to seek justice. But they themselves set forth the advantages which arise from this for the Athenian people. First, they receive pay from the Prytaneis throughout the whole year. Next, while sitting at home, without a sea voyage, they administer the allied cities; they preserve the popular party and oppress their adversaries in judgments. But if each city had jurisdiction at home, since the Athenians are hated, they would overthrow from among themselves those who were greatest friends of the Athenian people.

To these things it is added that the Athenian people make these gains while the allies seek justice at Athens. First, the hundredth tax is greater for the city at Piraeus. Next, if anyone owns an upper room or a slave for hire, he gains from it. Furthermore, heralds conduct their business better because of the journeys of the allies.

In addition, if the allies did not come to court, they would honor only those Athenians who sailed to them--Generals, Captains of triremes, and Legates. But now each of the allies is compelled to court the Athenian people, understanding that he must go to Athens to undergo trial and plead his cause before no others than the people, who assuredly are the law at Athens. Therefore he is compelled to supplicate in the courts and, whenever anyone enters, to grasp his hand. For this reason the allies become more the servants of the Athenian people.

Add that, because of their possessions and principal offices distant from their own borders, they incidentally learn to row, both they themselves and their companions. For a man who sails often must grasp an oar, as must his servant, and must learn the names of nautical equipment. They become good pilots both through experience of vessels and through practice. Some practice by steering a vessel, others by steering a merchant ship; some pass from this to triremes, while many, as soon as they enter ships, row, since they can do so because they have practiced throughout their whole life.

The Athenians acted with a bad end, indeed, but under a specious title. Accordingly, although most matters were badly established, their Governors who commanded the cities were nevertheless restrained by great fear from inflicting injuries upon the allies. For since men from all the cities traveled to Athens for the sake of their causes, while the Athenian people judged, the crimes of powerful men could not remain hidden. Since the more powerful were also

hated in a popular form of the city, they could not hope for pardon from the people. For this reason the Athenians were more pleasing than the Lacedaemonians, whose rule over the cities of Greece was harsher.

If the Empire is great, such as the Spanish Empire is now and the Roman Empire was under the ancient Emperors, the Emperor or King can travel around the provinces, as Hadrian formerly did according to Spartianus, and punish Procurators and Governors for their deeds. Herodotus relates that in ancient times the Kings of the Persians were accustomed to traverse their kingdom to see whether there was anything which needed royal assistance. Plato says the same about Minos, but his dominion was enclosed within narrower bounds. In great Empires this is more difficult.

For very extensive Empires, such as that of the King of the

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Spains, can never everywhere enjoy the presence of their Prince. Nor is it expedient: if he were to make a journey to America or the East at his own peril, he would place all his kingdoms in danger. Therefore, in inspecting and governing them, he needs the best and most steadfast men.

§ 4. But no man's virtue must be trusted in such a way that the Prince does not know the account of his administration, both because magistracy reveals the man and because honors easily change virtue. Nicholas Bellus relates this praiseworthy practice in the Kingdom of Sweden:

Above the Viscounts, he says, is a superior or Prefect who is called in Latin the Lawgiver, an office which approaches nearest to the Royal Majesty. He is very like the Seneschals of France, and such men are called *Lamem* by the Swedes, as though Supreme Justiciars. An appeal lies from the Viscounts to the Prefects and Lawgivers; from them to the Royal Council; and from this to the King himself. The Royal Majesty moreover affirms that in those kingdoms there are eleven Prefects or Lawgivers, to whom more than three hundred Viscountcies are subject. The Lawgivers travel around and inspect a part of their territory every year, until, after inspecting it on every side and completing a kind of circuit, they return again to inspect the earlier part. Just as this contributes wonderfully to knowing in detail the condition of the state and applying opportune remedies to public diseases, so it relieves and revives the peoples, since they exact the tax by turns from the territories and parishes which they inspect, and all are not burdened at once.

The knee is regarded as closer to everyone than the calf, as Theocritus used to say. Each man cares for his private interests. In their sacrifices the Persians prayed for the King and kingdom, not for themselves; yet each man plundered for himself. The same is done now also unless a daily examination strikes fear.

In this manner administration now proceeds more rightly in the New World. For at first the inhabitants were treated with the greatest severity, both on account of their innate barbarity and savagery and because the avarice and cruelty of the soldiers was harsher toward cannibals. It exasperated everyone that, neglecting treaties and oaths, the victors slaughtered all without regard. But when Theologians perceived that the wretched were oppressed, they vigorously pleaded their cause. Francis of Zumárraga, of the Seraphic Order and endowed with true zeal, reported the whole matter to Charles V; Rodrigo Minaya, having journeyed to Paul III for this cause, obtained assistance for the liberty of the Indians. Bartolomé de las Casas also vigorously opposed the oppressors. The jurist La Gasca reformed the jurisdiction. Now the matter is most excellently constituted.

For the Viceroy has their Counselors; they have other independent Governors in the kingdom; they have Bishops whose care it is that all things be administered justly. There are nine supreme Consistories or judicial Parliaments in New Spain and five in Peru, from which there is no appeal. Reports concerning matters to be done are made almost every month. This is done more expeditiously because those matters are judged not suddenly and rashly but deliberately. For other established councils govern all these matters, and the King decrees after hearing the opinion of the Counselors. These councils are the Privy Council, the Council of War, and those of Italy, Aragon, Navarre, Belgium, and the Indies. The account of all matters is referred to them; they respond; and the command for execution

is written by the King. Thus the deeds and errors of all are reported and judged not only in Spain but even in the most distant provinces, and are requited by reward or punishment.

Bellus says:

Cities are governed by one of their own citizens, upon whom the King bestows the name and authority of Governor, and by Counselors whom the citizens themselves elect. When the Governor has completed his magistracy, inquiry is almost always made into his acts by a careful proceeding. After this proceeding has been examined, the Royal Council reports the things badly done to the King's Majesty, who chastises the Governor if he understands that he was unjust and criminal; but if he perceives that the man fulfilled the due parts of justice and diligence, he exalts him to greater and nobler offices. Finally, there is no man who conducts himself honestly and according to virtue for the King and state who is not most generously rewarded, just as, conversely, those who fail in their office through dejection of spirit, negligence, or injustice are punished and chastised. This assuredly is the principal cause and reason by which this most sacred Crown is preserved and is exalted more from day to day.

It has sometimes come into my mind to marvel how, contrary to the custom of all kingdoms, so great a Monarchy has stood for so long a time without sedition, rebellion, or revolt. Besides divine providence, I find no other cause than that the deeds of all men are in the sight of the Royal Councils and of the King. For a hundred years the Spains have held the Indies and various dominions in such remote and inaccessible provinces, with so great an occasion for treaties with barbarians and so great a license for sinning; yet scarcely any revolts or tumults have been heard of, and only the Pizarros waged civil wars in America.

But if we examine the mature Roman Empire, no decade will be found in which there were not more seditions, conspiracies, plunderings of allies, peculations, and crimes of extortion than that so widely extended Monarchy saw in a whole century. This is a sign that the kingdom abounds in excellent laws and men.

§ 5. This, therefore, is the support of a kingdom which is not only most powerful but is also spread in different directions toward the East and West: everything is so filled with inspectors and with men writing to the King and the Royal Councils that the beginnings of plots and injuries can easily be suppressed and their authors discovered.

CHAPTER X

Magistrates Should Not Readily Be Changed

§ 1. The Romans had annual Magistrates in the provinces. There was a twofold reason for this: both lest, through long familiarity with provincials and soldiers, they should acquire a power formidable to the fatherland, and so that access to wealth and honors might lie open to more men. Accordingly, that perpetual changing was instituted not for the good of the state but through the cupidity of powerful men. But if another means of security had been devised, there would have been no need to change Governors every year. Statius says, “A short reign does not spare peoples.” Charles V did not readily change magistrates.

§ 2. The Roman custom of renewing provincial Magistrates annually conduced neither to the security of the state nor to the advantage of the provinces. The cause which did not produce security was the wickedness of those men who, if they had not been able to seize the state by continuing Magistracies, would have ruined it by some other crime. Machiavelli, book 3 of the *Discourses on the Republic*, chapter 24, contends that Rome was brought to destruction by the prolongation of magistracies; but he attends, not rightly to the cause of the evils,

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but to that which immediately preceded the evil. The words of Machiavelli’s discourse are as follows:

If anyone carefully examines the form of the Roman state, he will discover that the primary cause of its destruction arose from Agrarian disputes and from the prolongation of magistracies. If provision had been made against these diseases in time, public liberty could have been longer-lasting and more peaceful. For although no seditions appear to have arisen at Rome because commands were prolonged, it is nevertheless established that those whose Magistracies were prolonged attained such authority and power as was pernicious to public liberty. Indeed, if all those whose Magistracies were ever continued had been like Lucius Quinctius, no danger to public liberty could have been created from that matter. For when there were disputes between the plebs and the fathers, and the plebs had again created the same Tribunes for the following year--because they considered them fit to resist the fathers--and the fathers for the same reason wished to prolong Quinctius’s consulship, he resisted vehemently and did not permit the fathers to imitate the plebs in a matter that was of evil example; and by great exertion he obtained the election of new Consuls. If the other Roman citizens had imitated him, they would by no means, through a most evil example, have dissolved the ancient decree of the Senate concerning the continuation of Magistracies; nor would the continuation of Magistracies have led to the prolongation of command, a thing which brought destruction upon the state.

The first man whose command was prolonged at Rome was Publius Philo. For when he was besieging Palaepolis and, near the end of his consulship, seemed to have victory in his hand, they sent him no successor, but prolonged his command and declared him Proconsul. Although this had been decreed by the Senate for the public good, in the course of time it passed into a most evil precedent and introduced tyranny into the state. For the farther from the City a war had to be waged, the more necessary that prolongation of command appeared. Hence it came about that fewer Roman citizens could excel in military affairs, since fewer became Commanders, and all the glory of war returned to a certain few whose commands were prolonged. Furthermore, a commander who had long commanded an excellent army could easily bind it to himself, so that, having in some fashion forgotten the Senate and People of Rome, it acknowledged only the commander’s fasces. For these reasons it came about that both Marius and Sulla could lead an army against the state and seize it. These evils would never have befallen the Senate and People of Rome if that prolongation of Magistracies and Commands had not been in use.

If you object that such great affairs could not have been conducted by the Roman people in places so remote from the City unless the Magistracies of the Commanders had been continued, I reply that perhaps so great a height of

empire could have been attained more slowly, but that empire would afterward have been more enduring, and a Monarchy could not have been introduced so quickly after public liberty had been abolished.

He is too hostile to long commands, although without prolonged or perpetual commands no empire has long endured. I seem to hear Gaius thundering in a most shameful cause: “Well done, Petronius! You have not learned to listen to a commander; you are swollen by Magistracies continued until now.” It is established that the examples of all states, and especially of the Roman state, may be set against Machiavelli.

But let us examine examples. The Kings of the Persians had Satraps in long and almost perpetual commands; before them, so did the Chaldeans and Assyrians. Nebuchadnezzar set Daniel and his companions over affairs, chapter 3; Darius did the same in chapter 7. But if we consider the states of Greece, what was accomplished by them except through distinguished men whose commands they prolonged? The Athenian Commanders Pericles, Nicias, Demosthenes, Cleon, Tolmides, and Myronides are illustrious in Thucydides, distinguished by great victories, whether naval or terrestrial, at Cythera, Megara, Corinth, Pylos, the Peloponnesus, and in Boeotia. Nor did those who were worse than these command for only a year: Alcibiades, Thrasybulus, Theramenes, and Archippus. For Miltiades, Cimon, Themistocles, and Chabrias held longer commands. No people was ever more unjust toward its Commanders and Princes than the Athenian people, through envy and perpetual suspicion lest they either excel or exercise tyranny; nevertheless, it could not defend itself without the commands of brave men, and indeed prolonged ones.

Nor did the Lacedaemonians act otherwise once they had become powerful, as the same Xenophon says in *Ἐν Λακεδαιμονίων πολιτείᾳ*:

Οἶδα γὰρ πρότερον μὲν Λακεδαιμονίους αἰρουμένους οἶκοι τὰ μέτρια ἔχοντας ἀλλήλοις συνεῖναι μᾶλλον ἢ ἀρμόζοντας ἐν ταῖς πόλεσι καὶ κολακευομένους διαφθεῖρεσθαι. Καὶ πρόσθεν μὲν οἶδα αὐτοὺς φοβουμένους χρυσίον ἔχοντας φαίνεσθαι, νῦν δὲ εἰσὶ τινες καὶ καλλωπιζόμενοι ἐπὶ τῷ κεκτηῖσθαι. Ἐπίσταμαι δὲ καὶ πρότερον τοῦτου ἔνεκα ξενηλασίας γιγνομένης καὶ ἀποδημεῖν οὐκ ἔξόν, ὅπως μὴ ῥαδιουργίας οἱ πολῖται ἀπὸ τῶν ξένων ἐμπίμπλαιντο. Νῦν δ’ ἐπίσταμαι τοὺς δοκοῦντας πρώτους εἶναι τοῦ διακατέχειν ὥς μηδέποτε παύονται ἀρμόζοντες ἐπὶ ξένης.

For I know that formerly the Lacedaemonians much preferred to live together at home while possessing moderate means rather than to be magistrates in cities and be corrupted by flatterers. And formerly, indeed, they feared lest they should appear to possess any gold; but now I know some who glory in it. Nor am I ignorant that, for this reason, foreigners were formerly customarily expelled and travel abroad was not permitted, lest citizens draw cunning and deceit from foreigners. But at the present time I know that those who appear to be foremost apply themselves especially to this: that they may never lay down a magistracy abroad. And formerly, certainly, they labored to be worthy of command; but now they labor to command rather than to be worthy of command. If, therefore, they sought not merely prolongations but perpetuities of command, it readily appears that those commands were not merely annual; for otherwise they would seek duration in vain.

But let us inspect the Roman state. Tiberius, whom Lipsius calls skillful in commanding, drew annual commands out to great length. Tacitus says in book 1:

It was also a custom of Tiberius to continue commands and to keep most men to the end of their lives in the same armies or jurisdictions. Various causes are reported. Some say that, through weariness of new care, he preserved decisions once made as perpetual; some, through envy lest more men should enjoy them. There are those who think that, as his disposition was crafty, so his judgment was anxious; for he did not seek eminent virtues and, on the other hand, he hated vices: from the best men he feared danger to himself, and from the worst public disgrace. By this hesitation he was at last carried so far that he entrusted provinces to some men whom he was not going to permit to depart from the City.

Fescenninus Niger also argued many things to this effect in Spartianus. “He was of such authority,” he says, “that he wrote first to Marcus and then to Commodus, when he saw that the provinces were being overturned by the easy

changing of administrations. First, that no successor should be appointed to any provincial Governor, Legate, or Proconsul before five years, because they laid down their power before they knew how to administer. Then he urged that no new men should approach the governing of the state except through military administrations, and that Assessors should administer in those provinces in which they had sat as Assessors. Severus and then many afterward maintained this, as the Prefectures of Paulus and Ulpian prove: they had been on Papinian's council, and afterward, when the one had served at the bureau of records and the other at the bureau of petitions, they were immediately made Prefects. It was also his rule that no one should sit as Assessor in his own province,

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and no one should administer at Rome unless he were a Roman, that is, sprung from the City."

Augustus also permitted Governors to hold long administrations. First, he made the Prefecture of the City, which was a great dignity, almost perpetual. He transferred Varus from Syria into Germany. In his testament he gave Tiberius the command that he should entrust the state to those who were strongest in practical knowledge and experience. But he could not have given it to experienced men if they were changed every year.

Yet Julius became more powerful than his fatherland from a prolonged province; so too did Sulla and Marius. Thence came Roman servitude.

I reply that the power of citizens is necessarily increased by continued or repeated Magistracies, just as it is by one Magistracy held once. But that which supplies a cause of greater power is not always to be avoided. For in truth a great part of the Roman citizens considered prolongation salutary. Moreover, unless indomitable Gaul, always formidable to Rome--unless the Batavians, Germans, and Helvetians--had faced a sufficiently vigorous and prudent Commander while the state was struggling with the Asian, Mithridatic, and Pirate Wars, the highest interests would have been placed in peril.

But the custom of continuously continuing or repeating Magistracies existed from the very beginning of the state. Brutus, Postumius, Quinctius, Camillus, Manlius, the Fabii, the Papirii, the Curii, the Fabricii, Africanus, Paulus, Metellus, and even Sulla and Marius held continued commands. The consular fasti themselves exhibit several consulships and triumphs; for whenever the state was in danger--and it is always in some danger--it looked to great and experienced men.

But let us weigh Machiavelli's arguments. When the plebs had created the same Tribunes because they were fit to resist the fathers, the Fathers also wished to prolong Quinctius's consulship; he himself resisted this because it was of evil example.

I am accustomed to marvel when I see history employed so childishly. Quinctius the Consul did not refuse prolongation because he considered it an evil precedent and an occasion for tyranny, whatever he pretended, but for other reasons. First, because the Senate had thus decreed: "Neither shall the Tribunes carry a law in that year, nor shall the Consuls lead the army out of the City. For the rest, the Senate judges that Magistracies should not be continued and that the same Tribunes should not be reelected, as being contrary to the state." Second, the Consul himself adduces this and other reasons:

I should marvel, Conscript Fathers, if your authority with the plebs is so empty that you yourselves diminish it. For because the plebs dissolved a decree of the Senate concerning the continuation of Magistracies, you yourselves also wish it dissolved, lest you yield to the rashness of the multitude--as though to possess more license and levity were to possess more power in the state. For it is assuredly more frivolous and empty to abolish one's own decrees and resolutions than those of others. Imitate, Conscript Fathers, the unreflecting crowd, you who ought to be an example to others; sin by the example of others rather than have others act rightly by yours, provided that I do not imitate the Tribunes and do not permit myself to be declared Consul contrary to the decree of the Senate. But you, Gaius Claudius, I exhort both to restrain the Roman people from this license and to persuade yourself of this

concerning me: I shall receive it as though, not my honor had been impeded by you, but the glory of despising honor had been increased, and the envy which threatened from its continuation had been lightened.

Thus spoke Quinctius, who not only could not seize a tyranny but despaired that the Fathers could defend themselves from the tyranny of the plebs. Here there is no reasoning concerning the danger of tyranny. But what he says is greatly to be noted: that the envy which threatens from a continued honor is lightened by the creation of a new Consul. For the plebs greatly feared Lucius Quinctius, since it would have him as an angry Consul, supported by the favor of the Senate, his own virtue, and three sons. Already before this the fiercer of his sons, Caeso, had been driven into exile, and Quinctius himself was compelled to pay the money for which his son had given bail. Livy says: "The money was exacted cruelly from the father, so that, after all his goods had been sold, he lived for some time across the Tiber, as though banished, in a hut." Deservedly, therefore, he refused continuation through fear of envy, although, if we consider the matter, the authority of the Senate prolonging the consulship could be preferred to the fear of Quinctius refusing it.

Finally, other things which occurred in this contest are proof to us that the consulship was not refused because the Romans disapproved its continuation and repetition. For in place of Quinctius and his colleague there were created as Consuls Quintus Fabius Vibulanus, for the third time, and Lucius Cornelius Maluginensis. Why did they not fear tyranny in Fabius? There is no less danger in repeated Magistracies than in continued ones.

Machiavelli nevertheless objects, on the contrary, that from the prolongation of command it came about that fewer Roman citizens could excel in military affairs, since fewer became Commanders, and that all the glory of war returned to a certain few whose commands were prolonged.

But this did not cast down the spirits of brave men. For when they observe that some among the many who have waged wars are held in great glory, when they see their command prolonged, see them reelected, and see them summoned again to great works, they are equipped by emulation. Virtue has sharper spurs if its activity is not concluded by the course of only one year. If it is pressed by a successor and the possibility of returning is cut off, it easily grows obsolete. But his judgment that men cannot excel in military affairs because fewer become Commanders is contrary to experience. David had the bravest soldiers and most excellent Commanders, yet David was King and Joab Commander of the army. Who hoped for command while Alexander lived? Who was Commander in Macedonia while Philip reigned, supported by several sons? And yet in his court there was a great abundance of the greatest Commanders; had they not dashed against one another, they could easily have obtained the whole world. Assuredly, more than thirty Commanders were equal to any King, although more had perished partly in war and partly through Alexander's cruelty. The Macedonians therefore became great Commanders, Generals, and Kings, not by commanding in turns, but by serving under Philip, the most cautious of Kings. Familiarity with a great King, consultations, and exercises made them great. Such were those who led ranks under Pompey and Julius; such are those who flourished under the Prince of Parma and Spinola. Supreme honor indeed excites men to the hard rudiments of war; but without it military skill can and commonly does subsist. No prudent man chooses a Commander so that he may learn to wage war; the experiment is too insolent when the entire state is in danger.

But the army obeyed its commander rather than the Senate; this was caused by the prolongation of command. Hence Marius, Sulla, and Julius.

Hence laws and plebiscites were compelled.

It seems to me that the fault lay not so much in prolonging command as in--

§ 2 (continued).

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creating such Magistrates in the beginning--or, to speak more correctly, in prolonging command for such men. I am speaking finally of liberty destroyed under Julius; for Marius and Sulla deserved very well of the fatherland, although

through the contest of parties they ruined everything. Nor here was the fault of Marius and Sulla greater than that of others. Florus has excuses for the Commanders rather than for the soldiers, book 3, chapter 21:

I would somehow bear it with a more equitable mind if plebeian commanders, or at least evil nobles, had furnished leadership for the crime. But when--O crime!--such men, such Commanders, the glories and ornaments of their age, Marius and Sulla, furnished even their own dignity for the worst crime, the state was agitated, so to speak, by three constellations. In the first, light and moderate, cruelty arose in a tumult greater than the war itself against the commanders of the armies. Soon, in a second and bloodier one, victory raged through the vitals of the whole Senate. The last surpassed not only civic but also hostile madness, when the fury of arms rested upon the strength of all Italy and hatreds raged so far that there were none left to be killed. The beginning and cause of the war was Marius's insatiable hunger for honors, when through the Sulpician law he disturbed the province allotted to Sulla. But Sulla, impatient of the injury, immediately wheeled his legions about and, Mithridates being postponed, poured a double battle line into the City through the Esquiline and Colline Gates.

Caesar and Pompey became powerful through prolonged commands, but the envy of other citizens caused them to abuse their power. "The cause of so great a calamity," says Florus in book 4, chapter 2, "was the same as that of all others: excessive prosperity. For when Quintus Metellus and Lucius Afranius were Consuls, when Roman majesty was powerful throughout the whole world and Rome was singing recent victories and the Pontic and Armenian triumphs in Pompey's theaters, Pompey's excessive power stirred envy among idle citizens, as commonly happens. Metellus, because his Cretan triumph had been diminished, and Cato, always hostile to powerful men, began to disparage Pompey and oppose his acts. This resentment drove him astray and impelled him to seek supports for his dignity. By chance Crassus then flourished in lineage, wealth, and dignity, yet wished for greater resources. Gaius Caesar was elevated by eloquence, spirit, and now also the consulship; nevertheless, Pompey towered over them both. Thus, since Caesar desired to acquire dignity, Crassus to increase it, and Pompey to retain it, and all alike were desirous of power, they easily agreed upon invading the state. Therefore, when each strove by their mutual strength for his own distinction, Caesar invaded Gaul, Crassus Asia, and Pompey Spain. Three very great armies were held, so that now the command of the world was occupied by the partnership of three Princes. That domination lasted ten years, since they were held together by mutual fear. After the death of Crassus among the Parthians and the death of Julia, Caesar's daughter, who, married to Pompey, maintained the harmony of father-in-law and son-in-law by the bond of marriage, rivalry immediately broke forth. Caesar's resources were now suspect to Pompey, and Pompey's dignity burdensome to Caesar; neither the one endured an equal nor the other a superior."

Nor is it so marvelous that powerful men were offended when, in return for their deserts, for enlarging the Empire, for bringing safety to the fatherland, and for innumerable dangers, they saw insult and new dangers. Such men ought not to have been trusted from the beginning. There were so many forewarnings concerning Caesar that the Romans' being deceived was not a matter of error but of will. When friends resisted Sulla as he deliberated about killing him, Sulla said that they had no understanding if they did not see many Mariuses in that boy. They knew that, when twenty talents were demanded of him, he had given the Pirates fifty and had killed them without a Magistrate's knowledge.

Since he gave so many indications of tyranny, Caesar did not steal upon men unaware. Plutarch relates it thus in his life:

By dinners, his table, and, in sum, the splendor of the rest of his life, he gradually gathered power in the state. His envious rivals, supposing that this would shortly vanish when his expenditures failed, safely permitted him to become illustrious in the state. But late, when his resources had now become immense and overpowering, and they perceived them openly breaking out into a change of affairs, they observed that the beginning of no matter should be judged small, since continuation does not fail immediately to render it great, and since by being despised it obtains the advantage of not being impeded. Therefore Cicero, who seems first to have regarded Caesar with suspicion and to have feared his serenity in governing the state, as one fears serenity at sea, and who considered the sharpness hidden beneath his humanity and flattery, said that in all his other undertakings and actions he discerned

a tyrannical disposition. “But when,” he said, “I see his hair arranged so carefully and see him scratching his head with one finger, on the other hand this man does not seem to me likely to conceive so great an evil in his mind as to overthrow the Roman state.”

They knew that before he had held any Magistracy he possessed a debt of thirty-one million two hundred thousand sesterces, as is found in the same author, and that he had contracted this through great expenditures and splendor. He had placed images of Marius on the Capitol; all men cried that he was contriving a kingdom; fear of his audacity seized all. Lutatius Catulus, accusing him in the Senate, said: “Caesar no longer attacks the state by tunnels, but now by siege-engines.” Since he was suspected in the conspiracy of Catiline, how could they doubt what he would do, when he publicly protested in the Senate that he would pass over to the people? Why did the Senate itself not decree the Agrarian laws and colonies? What of the claim that, while Aedile, he conspired with Crassus to slaughter the Senators? What of the fact that he terrified his enemies with a numerous household? The Senate knew all these things. Therefore it brought it about by largesse that not Lucceius but Bibulus should be designated Consul with him, as Tranquillus teaches. The Senate also contrived that provinces involving the least business--that is, woods and hills--should be decreed to the Consuls. For what would he not do in a province, when at home he compelled his colleague Bibulus and the Senate to confine themselves through fear? So much so that the tyranny was mocked in verses:

Nothing has lately been done under Bibulus, but under Caesar;

For I remember nothing done when Bibulus was Consul.

Thus, by way of jest, men dated documents “in the consulship of Julius and Caesar.” Finally, through conspiracies he obtained the decree of Gaul to himself for five years. Tranquillus, chapter 22:

Therefore, with his father-in-law and son-in-law supporting him, from the entire abundance of provinces he chose the Gauls above all, whose advantage and opportunity offered suitable material for triumphs. At first, indeed, by the Vatinian law he received Cisalpine Gaul with Illyricum added; presently he received Gallia Comata also through the Senate, because the Fathers feared that, if they themselves refused it, the people would give him this province too. Elated by this joy, he did not restrain himself from boasting a few days afterward in a crowded Senate that he had obtained what he desired against the will and amid the groans of his adversaries, and that henceforth he would leap upon the heads of them all. And when someone said insultingly that this would not be easy for any woman, he replied, as though alluding to it, that Semiramis too had reigned in Assyria and that the Amazons had once held a great part of Asia.

Then he bound the annual Magistrates to himself. Tranquillus, chapter 23:

Therefore, to secure the time to come, he regarded it as a matter of great importance always to bind the annual Magistrates to himself and to assist no others among the candidates, or permit them to attain honor, except those who had covenanted to defend him in his absence. From some he did not hesitate to exact an oath and even a written bond concerning this agreement.

Caesar therefore was already ruling before this. For the Senate, which he alone wished extinguished, after Caesar had received Cisalpine Gaul and Illyricum from the people, voluntarily added Gallia Comata, lest the people give him this also. Caesar’s power lay in the favor of the people, then in conspiracy and the purchase of powerful men. Meanwhile he nevertheless added much to the Empire, when all things would have been in danger unless the Gauls had been defended by a vigorous Commander. Therefore it was not long command, but--as commonly happens--the favor of the people and fear among the aristocracy that imposed that tyrant upon the City and the world. He was already a tyrant when he ordered his command to be continued.

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Accordingly, I do not approve annual Magistracies: both for the reasons set forth above and because transitions of government offer an opportunity for great and evil undertakings. It is also easier to endure one evil man than many. It is difficult for provincials to accommodate themselves to the variety of characters in different men, who are not merely contrary to one another but burden those who pleased their predecessors. Elsewhere I have said how greatly departing and returning Governors burdened the provinces with gifts and coronation gold. But what is most foul is this: those who think that they have obtained the single, almost unique, opportunity in their entire life to become rich use it most shamefully and avariciously; and since they fear trials and punishments, they attempt every abomination.

§ 3. Therefore, unless many other errors concur, the prolongation of commands is not sufficient for the destruction of a state. Nor did Julius first overthrow liberty when, after two five-year periods spent subduing Gaul, he waged many wars whose outcome was not easy; rather, he did so when by force and fear of death he compelled his colleague the Consul and the Senate to abstain from the Senate-house, and by the same fear drove them, though most hostile and unwilling, to decree to him an extraordinary five-year command in both Gauls and Illyricum; and when, after forming a conspiracy with Pompey and Crassus, he extorted a second five-year period. Thus, before the prolongation, he was already more powerful and had oppressed liberty.

Others attempted the state with greater danger, although success failed them. Spurius Cassius endeavored through Agrarian laws to bind the plebs to himself; his father killed him. Maelius had planned to purchase it more effectively by largesse and would have accomplished it had Servilius Ahala not stabbed him in the middle of the Forum. They cast Manlius down from the Capitol when he was suspected of tyranny. These are the arts of all who wish to reign in a popular state. The Tribunes themselves advanced by this art. Florus, book 3, chapter 13.

§ 4. The Tribunician Power stirred up the causes of all seditions. In appearance, indeed, it sought the favor and support of the people through Agrarian, grain, and judicial laws, for the protection of the plebs, for whose aid it had been instituted; but in reality it was acquiring domination. In all these things there was an appearance of equity. For what is so just as for the plebs to recover its right from the fathers, lest the people, victor over nations and possessor of the world, live as an exile from altars and hearths? What is so equitable as for the needy people to live from its own treasury? What is more effective for the right of equalizing liberty than that, while the Senate governs the provinces, the authority of the equestrian order should at least rest upon the dominion of the courts? But these very things returned to destruction. The wretched state was the merchandise sold for its own ruin: judicial power transferred from the Senate to the equestrians suppressed the revenues, that is, the patrimony of the Empire; and the purchase of grain exhausted the treasury, the very sinews of the state. How could the plebs be brought back to the fields without overthrowing their possessors, who were themselves part of the people and who, through long time, possessed the seats left to them by their ancestors as though by hereditary right?

For what else did Gnaeus and Gaius Gracchus ever do? The one carried Agrarian laws and his brother defended them; both were quickly killed by the faction of the nobility. Caesar, proceeding by the same road, was brought after a longer crisis to twenty-three wounds. Apuleius pressed the Gracchan laws more sharply; but after he had now dominated for three years and had killed Gaius Memmius, a candidate for the consulship, the people covered him with stones and clubs after a siege, and he was torn to pieces even in death. Drusus, after bestowing everything and obtaining what he intended, died. All these men acted in the same way as Julius; the only thing lacking was that they did not depart into provinces from which they could purchase the favor of Magistrates.

§ 5. Furthermore, I do not approve commands of Governors which are at once very long and great. By them Governors are rendered powerful, and even more savage and less obedient to command. Provinces must therefore be divided, as was prudently done by the Romans of old. The consular provinces were Nearer Spain, Farther Spain, Gaul on this side of the Alps, Gaul beyond the Alps, Illyricum, Dalmatia, Cilicia, and Syria. The Praetorian provinces, however, were: 1. Sicily; 2. Sardinia and Corsica; 3. Africa and Numidia; 4. Macedonia, Achaia, and Greece; 5. Asia, Lydia, and Caria, with Mysia and Ionia; 6. Pontus and Bithynia; 7. Crete; 8. Cyprus. If this distribution had been preserved, scarcely anyone could have become more powerful than the state. For beyond these provinces stood Rome and the

strength of Italy. Next, all had neighboring Governors as rivals. Third, if any possessed an army, they were harassed by neighboring barbarians. This law was violated in Caesar's case when three provinces were combined into one.

Augustus also produced security for himself by a prudent division. Dio, book 53, page 341:

Ἔθνη τε μὲν ἀσθενέστερα ὥς καὶ εἰρηναιᾶ καὶ ἀπόλεμα τῷ δήμῳ ἀπέδωκε, τὰ δ' ἰσχυρότερα ὥς καὶ σφαλερὰ καὶ ἐπικίνδυνα, ἧ ὅτι πολεμίους τινὰς παροίκους ἔχοντα, ἧ αὐτὰ καθ' ἑαυτὰ μέγα τι νεωτερίζειν δυνάμενα, κατέσχε.

He gave the weaker provinces to the people, as peaceful and secure from war, but retained the strong ones, as doubtful and nearer to danger, or those which had neighboring enemies, or which by themselves could contrive some great revolution.

Those belonging to the People and Senate were Africa, Numidia, Asia, Greece, Macedonia, Dalmatia, Cyrenaica, Sicily, Crete, Sardinia, and Baetica, all the more peaceful provinces. The rest belonged to Caesar. The following Emperors most prudently divided them further so that they might diminish the power of each Governor. Accordingly, there were ten provinces in Egypt; eleven in Asia and as many in Pontus; six in Thrace and as many in Macedonia or Greece; five in Dacia. In Africa there were three consular provinces--Carthaginian, Byzacena, and Tripolitan--and not only these but others also. Justinian divided Africa into seven provinces which obeyed Governors. The *Notitia Imperii* records seventeen in Italy, of which eight were consular; there were also seventeen in Gaul and seven in Spain. Experience taught this multiplication, lest Governors could easily gather strength for rebellion. The King of the Spains now uses no other method: he assigns the West Indies to different Viceroy, one of whom resides at Lima and the other at Mexico; he divided the East Indies among three Governors. For if the individual men are moderately powerful, none will ever equal the other Governors, much less the King himself.

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CHAPTER XI

Lesser Magistrates Must Be Created Who Can Be Promoted to Greater Dignities, and Inferior Honors Must Not Be Despised by Those Who Have Held Greater Ones

§ 1. There are two altogether most salutary laws, the neglect of which has often afflicted the state.

The first is: Let no one be employed in any office, however slight, in which there is honor and dignity, unless there is hope that he will be fit for greater dignities; above all, let him not be admitted to the court and society of the Prince. For in truth those who, induced by favor or a price, admit wicked, imprudent, or pusillanimous men to the beginnings of governing the state expose themselves, others, and those very men to great evils. For they either proceed to adorn and advance them with injury to the state, or leave them in their own place. The former is opposed to the common good; the latter renders them enemies. For when they perceive younger men, and therefore their subordinates, preferred to themselves, forgetting all benefits, they think of revenge, for which they have some opportunity as sharers in power and conscious of secrets. Next, the hope of rising makes men diligent and faithful in office; this hope does not exist in those who cannot rise. Third, an unprofitable crowd--especially in the courts of Kings--cannot better be avoided. For if no one is admitted to private services except one to whom some part of the state can be entrusted for government, the constitution of the kingdom will be most excellent, for there will be an abundance of the best Governors. Such was the assembly of aged Counselors in David's time; such were the Tribunes and Centurions of Philip of Macedon, from whom so many Kings arose.

Furthermore, it is a most ancient practice for the familiars of Princes to be sent from the palace to govern provinces. Daniel's companions were appointed over the works of Babylon, Daniel 3. But they had been educated to stand before the King, Daniel 1. In this matter it is proper to marvel at such skillful care in the King of Babylon for educating the youth who were to be brought to the helm. Behold, that King who devastated the world, at Daniel 1:3, seeks men among the sons of his enemies:

And the King said to Ashpenaz, chief of the eunuchs, that he should bring in some of the sons of Israel and of the royal seed and of the rulers: boys in whom there was no blemish, comely in form, instructed in all wisdom, cautious in knowledge and taught in learning, and who could stand in the King's palace, that he might teach them the letters and language of the Chaldeans.

They were chosen for the dignity of manly form and talent; for the Hebrew calls them **משכילים**, understanding and intelligent; next, cautious in knowledge, **דעת ידע**, knowing knowledge, **γινώσκοντες γνῶσις**. Third, **διανοούμενοι φρόνιμοι**, endowed with prudence; and **φρόνησις τῶν πρακτῶν** is dexterity and knowledge concerning things that must be done.

For these men the King appointed at verse 5 a daily allowance from his own foods and from the wine which he himself drank, so that, after being nourished for three years, they might afterward stand in the presence of the King.

A barbarian King orders talents gathered from the whole kingdom to be cultivated, so that none but prudent and learned men may stand in his presence; meanwhile, the courts of certain Christian Princes are corrupters both of affairs and of morals. That custom was retained among the Persians, 1 Ezra 4:14: "But we, mindful of the salt which we eat in the Palace." The Princes beyond the Euphrates, therefore, had come from the Royal court, and for that reason considered themselves more deeply obligated. The Romans acted much more prudently, if we consider their first institutions--for afterward the dissolute people itself sinned. They wished no one to command in the provinces unless he had held a Magistracy at home, amid so many Magistrates and before the eyes of his own citizens. That this custom also existed among the Emperors is taught both by many other things and by the name of Counts. For because they accompanied the Emperor, they were called Counts, and indeed while the state yet stood. "And among those whom the

state itself has given to you as Counts and assistants, you shall be responsible within these limits which I prescribed above; but as for those whom you wished to be with you from domestic connections or from necessary attendants, who are commonly called members of the Praetor's cohort, you must answer not only for their deeds but also for their words."

Those who had been sent from the court were afterward also named Counts when they administered provinces. Hence arose the dignity of Counts, which was also bestowed upon men who had never been in the retinue of Emperors--indeed, who had never seen the Emperor. Hence the Counts of Italy, Africa, Illyricum, the Spains, and the East.

The custom remains even today that the greatest Princes after Caesar possess and perform Palatine offices as though they were domestics of the Emperor. The Archbishop of Mainz is Archchancellor through Germany; the Archbishop of Cologne through Italy; the Archbishop of Trier through Gaul and the Kingdom of Arles. The King of Bohemia is Archcupbearer; the Count Palatine, Archseneschal; the Saxon, Archmarshal; the Margrave of Brandenburg, Chamberlain. They sometimes publicly perform their offices. Just as these Princes are not placed in so lofty a rank in order to mix wines, offer dishes, or distribute oats--because some of them never and most only once display their office to the Emperor--but so that they may sustain the highest affairs of the Empire with the Emperor, in precisely the same way it is fitting for all Kings and Princes to have as ministers of domestic affairs those who can govern others and undertake the state. Indeed, Joshua son of Nun was the minister of Moses, whom God appointed leader of the people; Samuel was minister of Eli the High Priest; Elisha poured water upon the hand of Elijah. Through sharing in power, these men were afterward honored more greatly even by God.

§ 2. SECOND LAW. Let those who have held greater Magistracies not disdain afterward to undertake lesser ones. Scipio Africanus furnished a distinguished example in the state when he accompanied, by a voluntary legateship, his brother the Consul, to whom the Syrian War against Antiochus had been entrusted. Pompey's camp was called a Senate; Cicero says in *Philippic* 13 that ten former Consuls were in it.

The laws of the Venetians provide that a man who has previously served with greater dignity may refuse a duty in the army. This law was wisely established concerning war; for it is not advantageous to the state for great men who live with authority to be engaged in wars when offended and unwilling. But in civil affairs it is fitting that one who has held the consulship should be Praetor and Aedile and perform other duties. Let him who has governed the Indies, Naples, and Belgium govern a lesser province; let him preside over councils. For if Governors--powerful men--must be changed, although they rightly administer the part of the state entrusted to them,

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it is better that they remain in command than lead an entirely private life.

But in this class of matters it was wisely established in the Empire of Constantinople that honors and titles should be conferred upon those who had been in dignity and had waged wars, by which they might be more honored than the Governors themselves. Certain Kings and Caesars indeed dignified some eminent men with the name of Fathers. Mithridates had adopted Theodorus of Scepsis as Father, as Plutarch is authority in *Lucullus*. But Leo, who was called the Philosopher, made it an established dignity and called it βασιλεοπάτορα, Father of the King, according to Zonaras: Ἐτίμησε βασιλεοπάτορα, αὐτὸς τὸ ὄνομα ἐφευρών--he honored him as Father of the King, having himself invented this name. Cedrenus must be understood in this way when he says that, through love of Zoe, daughter of Tzautzes, he so adorned his father-in-law: Τὸ ἀξίωμα καινουργήσας μὴ πρότερον ὄν--innovating a dignity which had not existed before.

Very well indeed. Previously it had been a name of honor and affection, as when Tiberius called Sejanus father, Gaius called Julianus father, Nero called Corbulo father, and Gordian called Misitheus father, just as a Praetor was regarded as virtually a father to his Quaestor; and as Honorius addressed Stilicho and Arcadius Eutropius in this way. But Leo

wished it to be a peculiar dignity. In exactly this way, being a Count of the Emperor was formerly a title and an honor, while now it is also a peculiar rank in the kingdoms of Europe. Formerly all Patricians were called fathers of the Emperor; for they are said ἐν τοῖς βασιλέως πατράσι τελεῖν, or ἄγειν--to act among the fathers of Emperors. That it was a great dignity is established from Novel 81:

Always thinking upon whatever regards the advantage and adornment of the state entrusted to us by God, we hasten to bring it to effect. Therefore, some time ago we also wrote a law concerning our most glorious Patricians, which shows that the conferral of this dignity frees them from paternal power. For we did not consider it fitting that those whom we advance into the office of our fathers should themselves be under another's power. For if the act of emancipation, formerly performed through what are called actions at law, with insults and slaps, freed men from bonds of this kind, how could the most honorable patents of all, given by him who presides over the universal Empire, be unable to free them from paternal power?

But now, thinking more mercifully and even more honorably in the state, we decree the same concerning the most glorious Consuls, who furnish their own name to the age after the Empire and are honored by consular patents alone, and concerning the girdles which can free men from the Curia--that is, the Prefecture and the office of Master of the Soldiers, provided that these are acknowledged in their own seats and works--namely, that every such dignity, or a girdle of this kind acquired by any whom we have approved, which has the power to free them from the Curia, shall also free them from the power of fathers and grandfathers. For if we decreed that, if a slave with his master's knowledge merits military service or obtains any dignity, he is immediately freed by the Empire and carried off into freedom itself, how is it not just that one who merits so great patents should also be made free from paternal power?

But nowhere is there so great an abundance of honored Commanders and of men who are great without a Magistracy as in Spain. Besides commanderies and other supports of dignities, there are Knights of the Golden Fleece, there are those whom they call *Los grandes*, and there are others whose dignity is no less than that of men who are engaged in affairs and commands. Indeed, they too are most advantageously engaged in council and in the government of regions.

CHAPTER XII

A General Division of Magistrates According to the Practical Mode of the State

§ 1. A twofold order is established among Magistrates who are placed beneath another and who, in kingdoms and states, possess the necessity of obeying joined with the right of commanding. For some are engaged in governing men, others in administering public resources. Among those engaged in governing men are those who direct them toward the end of the state, so that they may live according to virtue and become happy. Their duties are various, because some actions are honorable and are commanded for the public good, while others are depraved and are prohibited. But because controversies and lawsuits frequently arise and it is not established what is equitable or good, in every well-constituted state investigators and Judges have been established to determine doubtful matters. These in truth possess public and great power. Those, therefore, who arrange the other matters and take counsel for the fatherland are simply called Magistrates, such as the Consuls at Rome. Those who decide controversies have as their subjects only those who come to grips by law, and only in that cause which has been entrusted to them as Judges. We call them Juridical Magistrates and Judges; the Praetors at Rome were of this sort.

The second class of Magistrates is occupied in acquiring, increasing, and preserving the resources of the fatherland; this generally pertains to Quaestors, because they expend care upon the gain of the state. They are therefore curators of the public patrimony--that is, of all revenues and income, public buildings, and ports. Every kingdom and every state, therefore, is completed by Consular, Praetorian, and Quaestorian Magistracy, and all offices and dignities are referred to these classes. By these, therefore, the polity is constituted according to the ancient custom; and this care falls upon the Monarch, the aristocracy, or the people: that the designated Magistrates govern rightly and justly, pronounce law accurately, and handle the resources honestly and purely. I shall therefore speak concerning these matters from ancient and modern customs and laws.

But because, amid so great a variety of affairs, there is need of stable and wise counsel--which in an Aristocracy and Polity we call a Senate, in a Monarchy by the common name a Council, elsewhere a Consistory, and elsewhere a Parliament--there is no other distinction among them if all things are lawfully administered, except that the councils of Monarchs depend upon them, in an Aristocracy they are free, and in a Polity they are confirmed by the suffrages of the people. If all these things, I say, are lawfully administered, the state is well governed. For many dangers arise from the vices of those who deliberate and give opinions. The peculiar evil of a free Senate is the oppression of the people and the elevation of the nobility; nor is there less danger of popularity in a popular Senate, by which first Athens and then Rome perished. Until now fear and flattery have been injurious in the council of Monarchs. Let us furnish the state first with counsel, then with its Magistrates, and these with their laws.

CHAPTER XIII

A Suitable Senate Must Be Chosen: Its Laws, and Likewise Concerning Counselors

§ 1. Let the Senate, both in a free state and in a Monarchy, be the chief dignity and

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power. Its dignity indeed derives from birth and census, but more from the selection of prudence and virtue. God gave Moses a Senate. For although God himself taught him, although he instructed him for two periods of forty days and nights on the mountain, and although he spoke to him face to face as to a friend, he nevertheless joined to him seventy Elders, to whom he gave of his own spirit, so that he might show that by a singular divine power and kindness he favors those who are lawfully summoned to public counsel. This is so true that we see the excellent decrees and most holy opinions and laws of even the most wicked men, and daily make use of the state which they instituted.

But because the highest authority is needed in public counsel, it came about from ancient times that those nearest in dignity were Counselors to Kings. Thus there were seven Princes of the Persians, concerning whom Artaxerxes says in 1 Ezra 7:14: “For you have been sent from the presence of the King and his seven Counselors to visit Judea and Jerusalem.” And at verse 15 the King and his Counselors offer gifts. Therefore Ezra says that God inclined his mercy before the King, his Counselors, and all the powerful Princes of the kingdom. God numbers Counselors among the highest blessings, Isaiah 1:25: “And I shall turn my hand toward you, smelt your dross to purity, and take away all your tin.”

And Proverbs 15:22: “Thoughts are dissipated where there is no counsel; but where there are many Counselors, they are confirmed.” Aristotle also says most truly that counsel is the most divine of the things that exist among men. Although the Roman Senate was drawn from Romulus’s dregs, nevertheless to Cineas it seemed an assembly of Kings. It was called the counsel of the whole world, the most ample order, and the glory of the Empire. But if those commendations possessed any appearance of truth in that Senate, they are most true in the present Empire.

For who denies that the Senate of the German Empire is a royal assembly, in which preside the Emperor of the Romans and seven Electors, one of whom displays the power and insignia of a King, while the others possess an almost royal power and three possess the majesty of the Priesthood? To these are added so many Princes, Counts, and Legates of numerous and powerful cities, chosen from their Senates, that I could in no way believe that even the Senate of Rome at its most flourishing equaled them. For that ancient Senate under the Kings, drawn from a gathered people and an asylum, ought not to be compared with the Senate-house of any city today. Formerly that band of one hundred was often a Senate in meadows, when the rustic Senate-house had Fathers with hide-clad hearts.

At first one hundred, then two hundred, and under Priscus three hundred were appointed; in Caesar’s time they exceeded a thousand, when criminal and sordid men from every nation had been thrust into it. The Senate of the Empire therefore represents the dignity of the Empire excellently. Add that, for the advantage of that time and by a good moderation of concord, Senators were chosen from the plebs and through the suffrages of the plebs. Formerly the dignity of Princes and Senators in other kingdoms was not dissimilar, but it endures almost only in Germany.

§ 2. In order that the Senate may retain its majesty, care must be taken that unworthy men are not elected; therefore those who are one day to enter that order must be trained early. Cicero in book 3 of *On the Laws* wishes the Senate to be composed of Magistrates. This is a most excellent plan, for the man most fit to give counsel concerning the state is one who has governed the state or some part of it. Yet a man must not be admitted if he has administered a Magistracy badly. Thus, if he has been charged with treason, extortion, or electoral corruption, let him not sit in the most ample order unless acquitted by judgment. Next, since it is more dangerous for an inexperienced man to command than to be a Senator, it appears no more fitting that one who has held a Magistracy should be in the Senate than that one who is to

command should be taken from the Senate. Hence above I especially approved those who early employ in deliberations the men who are being educated in the hope of governing the state. The great Emperor Augustus agrees with me. Although he kept an unprofitable crowd from the Senate-house, he nevertheless permitted the children of Senators, so that they might more quickly become accustomed to the state, immediately to assume the broad stripe upon taking the toga of manhood and to attend the Senate-house. Thus Augustus acted. Yet I scarcely think those younger men gave opinions; I judge that they were instructed by hearing others.

Formerly the names of unworthy men were erased from the roll; when they were passed over by the Censor, they were said to be removed from the Senate. Yet they did not perpetually lack the Senate-house, but were sometimes chosen by a subsequent Censor; indeed, some were afterward created Censors, as I shall later say of Salinator. We learn that in ancient times there was great virtue among Senators because they were readily removed. Marcus Valerius Maximus and Gaius Junius Bubulcus Brutus removed Lucius Antonius from the Senate because he had repudiated the wife whom he had married as a virgin without summoning any of his friends into counsel. Valerius, book 2, chapter 9.

Thus Marcus Porcius Cato removed Lucius Flaminius from the number of Senators because in his province he had beheaded a certain condemned man with an axe, choosing the time of execution according to the whim and for the spectacle of a little woman by whose love he was held. Regard for the consulship which he had held, and the authority of his brother, the Consular Titus Flaminius, could have restrained him. But both a Censor and a Cato--twofold examples of severity--he resolved to mark him all the more because he had polluted the majesty of the most ample honor by so foul a crime and had not cared that the eyes of a prostitute, delighted by human blood, and the suppliant hands of King Philip were recorded among the same ancestral images.

Why should I speak of the censorship of Fabricius Luscinus? His age has related and posterity will relate that he did not retain Cornelius Rufinus in the Senatorial order, though he had most splendidly held two consulships and a dictatorship, because he had acquired ten pounds of silver vessels, as though luxurious by evil example. By my faith, the very letters of our age appear to me to stand amazed when they are compelled to accommodate their service to such severity and to fear lest they be thought to commemorate deeds not of our City. For it is scarcely credible that within the same sacred boundary ten pounds of silver were both an invidious census and poverty was regarded as most contemptible.

Marcus Antonius and Lucius Flaccus, as Censors, removed Duronius from the Senate because, while Tribune of the plebs, he had repealed a law carried to restrain the expenses of banquets--a marvelous cause of the mark.

For how imprudently Duronius ascended the Rostra to say these things: "Bridles have been imposed upon you, Quirites, which must in no way be endured; you have been bound and constrained by the bitter bond of servitude. For a law has been carried which orders you to be frugal. Let us therefore repeal that dominion encrusted with the rust of savage antiquity. For what need is there of liberty if it is not lawful for those who wish it to perish through luxury?"

This was a most just reason why he should be removed from the Senate; in the case of Flaminius, an even more just one.

Augustus, as Dio relates in book 52, diminished the number and purified it. For he exhorted each man to be judge of himself according to the consciousness of his birth and life, and so persuaded fifty voluntarily to reduce themselves to their proper order. Augustus did not act rightly in this. For he did not purify the Senate by that method. First,

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who, once admonished by Augustus, would dare to enter the Senate-house against his will, if not about to pay penalties, certainly about to hear insults? Next, there were a thousand; of these, the more modest departed, and by this very fact were better than those who remained and hardened themselves against the admonitions. Therefore, a little afterward he reformed the Senate-house by another and more effective remedy. The same Dio says in book 54: **Τριάκοντα ἄνδρας τοὺς ἀρίστους ἐξελέξατο, καὶ ἐκείνους ἐκέλευσε καθὰ πέντε εἰς πινάκια γράψαντες ἐλίσθαι.**

He chose thirty of the best men and ordered them to write names on tablets in groups of five and to choose. I do not understand this as though only five had been written by each man--that is, one hundred fifty--and the best chosen from them; that number is far too small. Rather, since there were more than a thousand Senators, he wished the names of all to be transferred separately from the roll which he had ordered publicly posted onto tablets, five by five, so that the thirty Censors might judge concerning each group of five.

§ 3. The ancients judged it equitable that the power of the Senate should be very great: "Whatever the Senate has decreed, let them do." Yet this was afterward limited, for the provision was changed: "Commands, powers, and legateships--when the Senate has decreed and the people ordered--shall depart from the City." And: "All Magistrates shall possess auspices and judicial power; from these shall the Senate be composed; its decrees shall be valid. But if an equal or greater power has prohibited them, let the written senatorial decrees be preserved. Let that order be free from every vice; let it be an example to the rest."

The power over war, embassies, and treaties belonged to the Senate. The month of February was customarily allotted to hearing embassies. Decrees of the Senate possessed the force of law; afterward the people were asked whether the Quirites willed and ordered it. But when the people's power had been transferred to the Prince, he was accustomed to enact laws, but from the authority of the Senate. Evil Princes, however, were insulting toward the Senate. Julius, while Consul and not yet Dictator, kept it from the Senate-house through fear. Antonius, not yet Triumvir, threatened Cicero in *Philippic* 11 with workmen to demolish his house if he did not attend. Nero fined a Senator under the title that he was infrequent in attendance. The same Antonius surrounded the Senate with armed men so that opinions could not be given freely. But it is shameful to possess a public council and oppress it. Formerly nothing could be done with the people except by the authority of the Senate; afterward seditious citizens, by disparaging the Fathers to the Princes, won the people to themselves, and, having become more powerful, oppressed the people itself.

§ 4. It is not fitting for too many to be chosen into the Senate, for it cannot happen that many unworthy of that order are not admitted. Accordingly, although the Roman Empire extended most widely under Augustus, a thousand Senators was considered too great a crowd. Next, that number cannot conveniently be assembled or asked for opinions. Yet the Venetians are not therefore to be censured because, although they do not possess a twentieth part of the Roman Empire, they have nevertheless constituted a Senate twice as numerous; for they are said to number two thousand on the roll. But it must be said that this Great Council represents an assembly rather than a Senate, although it is an assembly not of the plebs but of the nobility. For in that great meeting of the nobility Magistrates are created, dignities and duties of offices are conferred, and supplements are given to other councils in which the Elders deliberate. Various councils have been instituted. From them one which they call the *Pregadi* is constituted, into which men who excel in prudence and experience are chosen from the Great Council; it generally has no more than two hundred twenty Senators. This properly represents a Senate: they transact all matters of peace and war and the greatest affairs, and decree with great power. Yet at last matters return to fewer men, for whatever the ten Sages establish with the agreement of the Six and the Fifteen is held valid.

§ 5. A Senator had the right not merely to say what and for as long as he wished concerning the matter proposed, but even to speak concerning the state although the Magistrates had not referred that matter. They adorned their tunic with the broad stripe; afterward they used silvered carriages, as is found in Aurelian's concession in Vopiscus. Formerly they could be accused before the people by Tribunes and others; afterward the Prefect of the City alone was their Judge. Alexander Severus wished Senators to be punished only by the Senate. Spartianus in *Severus*.

Emperors and Kings were also accustomed to grant many privileges to Senators, and not undeservedly, for to give counsel is more than to give money: **Βουλῆς γὰρ ὁρθῆς οὐδὲν ἀσφαλέςτερον**--nothing is safer than good counsel. For force without counsel collapses under its own mass, the more swiftly the greater its weight. One who does not wish to err needs counsel, not impulse.

§ 6. I admonish the Prince to employ no less care in choosing his highest Counselors than in entrusting lesser Magistracies. Indeed, if many unsuitable men are chosen, the state is moved more gravely from the very first beginning. Vopiscus says rightly in *Aurelian*:

First of all, excessive license; then an abundance of affairs; moreover, wicked friends, detestable attendants, most avaricious Eunuchs, courtiers either foolish or detestable, and--what cannot be denied--ignorance of public affairs. But I heard my father say that Diocletian the Prince, when already a private man, said that nothing was more difficult than to command well. Four or five men assemble and form one plan for deceiving the Emperor; they say what must be approved. The Emperor, who is enclosed at home, does not know the truth; he is compelled to know only what they say. He appoints Judges who ought not to be appointed; he removes from the state those whom he ought to retain. Why say more? As Diocletian himself said, a good, cautious, excellent Emperor is sold. These are Diocletian's words, which I inserted so that your prudence might know that nothing is more difficult than a good Prince.

Consider, reader, the deeds of our age, and you will grieve that the same things happen in almost every court. In every state and every Empire it has always been possible to find more men ready with the hand and illustrious in war than good in counsel. The lot of Princes is pitiable: they possess armies prepared to undergo dangers for the majesty of the Empire, yet discover few who advise rightly and prudently and whom they may safely trust--so much so that many have possessed three or four, and some not even one, who were both prudent and faithful. Therefore the most prudent Consul in book 1 of *On Duties* prefers Counselors to warriors. And Euripides says well: "The counsel of one man surpasses the hands of many."

§ 7. The marks and endowments of a good Senator and Counselor are as follows.

First, in a Senator and Counselor I require a settled age, or rather old age, exercised in affairs.

The Senate has its mild name from old men.

I wish young men to be employed in counsels, but for hearing and disputing, not for deciding. The greatest states have been shaken by young men, sustained and restored by old men. For when rash and audacious young men approach the helm,

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the greatest and most wretched shipwrecks occur. What Paulus Aemilius said concerning an Emperor--that, if not in age, he ought at least to be an old man in character--also befits the Emperor's council. For there is a most prudent saying of Alfonso the Great: Counselors of Kings ought either to be Kings or to possess the minds of Kings. For if they govern a King, they ought to be endowed with the mind of one who governs. If so great a virtue falls into a youthful mind, it does not readily persevere; the mind is soft, unstable through age, and exposed to deceits. The body of old men is weak with years, but their mind strong with wisdom. In young men there is, to say it in a word, **νέα φροντίς**, youthful care. Yet even if the disposition is good, that saying remains:

Αἱ ἄρισται φύσεις μεγίστης παιδείας δέονται.

The best disposition needs the greatest discipline.

The second virtue is silence, the safeguard of secrets. For we ought not to doubt that a Prince and a state whose counsels are divulged are betrayed by their own Counselors; by this most of those counsels are rendered ineffectual and do harm. Silence is rare in a multitude. Therefore many use few Counselors. The remedy is that many should judge what must be done, few should know what you are about to do, and sometimes no one besides the Prince. For this reason states sometimes entrust secret matters to very few men. "Be silent" is a golden precept. Taciturnity is the best and safest bond for administering an affair.

For this reason I think that the Prince's council in which deliberation occurred was called the *silentium*. Paulus Diaconus says in book 22 of the *Miscellaneous History* that Copronymus held one every day against images. The same author in book 21 says that Leo celebrated a *silentium* in the hall of nineteen couches against the holy images; and in book 23 that Irene, after holding a *silentium* in Justinian's Triclinium, remitted taxes. That place was called the *silentiarium*, Diaconus, book 16; the *silentiarii* kept watch there, and Senators were chosen from them. Accordingly, the council and the place were called *silentium* and *silentiarium* so that all might be reminded of secrecy. Cedrenus says concerning Phocas that Phocas contradicted Maurice in the *silentium*. Among the Persians no one is conscious of the counsels except taciturn and faithful nobles, among whom even a divinity of Silence is worshiped. Ammianus, book 21.

The third virtue is that he should not cling to his own opinion but willingly exchange it for a better judgment. Far from the Senate-house and court be those Laconians--as Tacitus calls them--who are enemies of any counsel, however excellent, which they themselves did not bring, and obstinate against experienced men. They err because they judge liberty to be placed in obstinacy, not in moderation. Spartianus relates that Severus was asked by a Greek what he bore most grievously at Rome. He replied: "When ministers obstinately contradict my opinion, and this upon no foundation whatever."

Fourth, let them take care not to deal privately with the legates of other Princes; rivals easily purchase them for themselves at a small price. I said above that among the Romans it was held a crime of treason to receive privately the legates or Commanders of enemies. Nothing brought so much envy upon Scipio Asiaticus as certain services rendered to Antiochus. Even now, what was charged against Barnevelt besides a certain familiarity with the Spaniards, which he nevertheless excuses?

The fifth and most necessary virtue is liberty of mind, so that they may not be beholden to neighboring, hostile, or rival Princes. This will chiefly be judged from whether they are bound to them by feudal right, whether they possess properties in their territories, whether they are increased with gifts and honors by the opposing party, and whether they court foreign friendships. For it is a sign that they by no means trust their own Prince and therefore--because trust binds trust--that they are not faithful. But if a Counselor is compelled by fear to suppress the best counsels, it is just as if a soldier ready in spirit and robust in body were forbidden by the Commander to free his sword from its sheath when the enemy makes an attack. Princes who order good counsels to be concealed in the Senate-house sin with no less loss than those who order weapons to be concealed in the battle line.

The sixth virtue is that they themselves should know their own condition. They themselves will certainly bear the outcome of bad counsel; for until now no one has been found to whom evil counsels have not given an evil outcome, although for a time they drew some interest from prosperity. Claudian in book 1 glories that evil counsels thus returned upon Eutropius:

How well it has been arranged upon earth
 That the fruit of a counsel presses upon its first authors!
 Thus the seer who, while the river had been dry for many years,
 Advised that the Thunderer be appeased by a murdered guest,
 First stained the altars invented by Busiris;
 And he fell as the victim of the savage rite which he had prescribed.
 Thus the craftsman of the bull and inventor of torments,
 Who had fashioned deadly bronze for a novel suffering,
 First felt the untried work when the Sicilian tyrant compelled him,

And taught his own bull to bellow.

Nero's companions, envying Burrus and Seneca, destroyed the Prince. "Do you endure these things? Do you fear those men? Do you not know that you are Caesar, and that you possess power over them, not they over you?" They said these things before Nero, and afterward were the first to experience the insults and savagery of the bloodthirsty beast.

Let this therefore be fixed: whoever has given counsel for another's destruction should be rejected as guilty. Nero's mother, the cause of so many crimes, at last herself suffered her son's savagery. This has never failed, not even in our own time.

The seventh virtue is that counsels should be timely. Those counsels whose time has passed are generally accustomed to appear best. To give after a disaster the counsel by which it could have been avoided is to reproach the Prince with folly. Perseus in flight stabbed a Counselor who gave counsels too late. Selim acted barbarously and with Ottoman cruelty when he killed the author of a counsel whose outcome had been evil. It is the Counselor's duty to determine concerning a matter to be done, to foretell what evils will arise and by what means they can be guarded against. Anyone can be Prometheus after the deeds.

The eighth virtue is diligent study of political affairs and knowledge of history and examples with great judgment. For it belongs to the highest arrogance or negligence to neglect the judgments of good men. There is an oracle in Tacitus, book 1 of the *Histories*: to advise a Prince what he ought to do is a task of great labor. Therefore remedies for the evils of the state are not found among cups; speech, study, and exercise are needed. Fortune also follows all things done with the highest reason and counsel. Livy, book 5. But if fortune deserts the doer, the fruit of good counsel is nevertheless most salutary in itself.

The ninth virtue is that they should avoid precipitation and employ speed only when there is danger in delay. Whatever is done by impulse rarely grows strong. Therefore they say that Tiberius never deliberated twice about the same matter, because the first counsel was mature and complete. It is not royal to act rashly. Nicetas says: **Μὴ βασιλικὸν τὸ αὐτόματον, καὶ ἀνακριβὲς ἐν ταῖς πράξεσι· τὸ δὲ περισκεμμένον καὶ χρόνιον.**

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It is not royal to act without counsel and inaccurately, but considerately and slowly.

The tenth virtue is to put aside all passions early, for after the mind has changed it is not lawful to recall what has already been advised. Avarice must especially be put aside. Wherever gain shines forth, public safety is sold without regard. Regard for private affairs has always hindered and will hinder public counsels. Livy, book 2. Hope belongs here:

Few honor Kings, not kingdoms;

The splendor of the court summons more.

The second passion is favor or hatred. All men oppose their enemies with greater zeal than they assist their friends, for the spur of anger is sharper, and the desire for vengeance is hostile to counsels. The third is the evil of envy, by which spite commands some men to oppose the advancement of others--an immense evil and, what you may marvel at, sometimes more powerful than their own advantages.

The eleventh virtue is sincerity, which requires him to bring forward that which he judges true and salutary. For the best counsels are not those which are most pleasant but those which are true and salutary, as Solon wisely said. Frederick wished two things to be absent in giving counsel: simulation and dissimulation. Therefore one who so moderates his words that, whatever happens, he may appear to have spoken rightly must not be held in the place of a Counselor. It belongs to a wicked man to conceal the truth at the beginning, speak with the Prince's fortune rather than counsel the Prince, and at last twist his opinion in the direction toward which the affair inclines. Sincerity must therefore be regarded; a man is not always to be heard because he once advised well. Indeed, he is not to be held of

better faith merely because he advised more prudently. Great, though frequently voluntary, is the unhappiness of Princes: although they do everything so that they may possess sincere Counselors and friends, they are nevertheless very often deceived. The cause is that they do not test them sufficiently.

The twelfth virtue is that his reputation should be honorable. For the first judgment concerning a Prince is formed from this: if he chooses good Counselors, a good judgment; if evil ones, an evil judgment. Therefore let him choose good Counselors, men who fear God and love truth, and finally prudent men; for not every friend can be a Counselor. A Counselor of evil reputation stains the best counsel with his own disgrace. Therefore, when a wicked man had given an excellent counsel, the Lacedaemonians ordered the same counsel to be proposed by another man and used the counsel after changing its author. The reputation of the Prince, and much more that of the Senate, consists in the estimation of the individual members. That saying remains perpetually in men's minds:

Τοιοῦτός ἐστιν ἕκαστος, οἷσπερ ἤδεται ξυνών.

Each man is such as are those whose company delights him. Few continually observe the Prince's life, but all observe those of his Counselors, and from them speak about the Prince most willingly and most dangerously.

The thirteenth virtue is fortitude. It is easy to speak bravely among equals in the Senate-house; but if the countenance of Tiberius or the savagery of Gaius threatens the speaker, you will now scarcely find one who advises what is right. Xerxes thanked Demaratus because he alone had spoken the truth; but this was Xerxes' fault, for until then he had preferred to hear pleasant things rather than true ones. Let Princes remove fear if they desire to hear good counsels. Theopompus, when asked what method there was for preserving a kingdom, replied: if the Prince permits his friends a just liberty of speaking and vindicates, so far as can be done, the injuries of his subjects. If Counselors are brave, they will neither shape their opinions according to the royal countenance nor, when harassed by the reproaches of many, depart from what is right. Meanwhile, the King to whom it is dangerous to give good counsel has perished.

Let the Counselor therefore be brave and endure private disadvantages for the public good.

The fourteenth virtue is that, after hearing others, if he judges their counsels better, he should willingly and gladly change his own, and should regard this as the conduct of a wise man. For to change an evil thing into a good or better one is not levity. If, while you were walking on the right road, another informed you of an easier shortcut, you would immediately follow it. Would you not do this for the safety of the state? Above I admonished him not to be an enemy of another's counsel. Here I inculcate again and again that you should not consider a change of counsel unbecoming to a grave, knowledgeable, and experienced man, even in extreme old age. It belongs to the highest felicity to have seen and chosen the best things at first sight; but that man is superior who declares that he has seen less than another. No one can be more faithful in giving counsel than one who, after renouncing his own, approves another's. He wishes provision to be made for the Prince's safety rather than for his own reputation. This is a rare and arduous virtue. You would sooner find one who counsels rightly than one who bears with an equitable mind the rejection of his own counsel. Ahithophel, whose counsel was as the counsel of God, could advise nothing for himself except hanging. Not even Seneca, of the Stoic sect, approves that proud promise in book 4 of *On Benefits*, chapter 24: that a wise man never repents of his deed, never amends what he has done, and never changes his counsel. And in chapter 28: "It is not levity to depart from a recognized and condemned error; and it must be frankly confessed: I thought otherwise; I was deceived. But this is the perseverance of proud folly: What I have once said, of whatever kind it is, shall be fixed and ratified."

The fifteenth virtue is that he should be frequent in attendance and should not seek evasions in odious causes. They took pledges. Cicero lays down the law in book 3 of *On the Laws*: "Let either cause or fault attach to the Senator who is not present." Indeed, if he is faithful, let him thrust himself forward voluntarily, admonish and press, and be troublesome for the safety of the state. Thus acted Cato, concerning whom Plutarch writes in *Caesar*. But to Cato, who frequently foretold impending things, this remained: at first to obtain the name of an importunate and meddlesome Counselor, afterward that of a prudent but unhappy one.

More unhappy than Cato was Harpagus, who paid the penalties of right counsel. Seneca, book 3 of *On Anger*, chapter 15. He therefore entered the number of those who showed by great disasters how dearly good counsels cost the friends of Kings. I do not doubt that Harpagus too advised his King and the Persians of something of this kind, by which the King was offended and set his children before him to be eaten; then he asked whether the seasoning pleased him. Afterward, when he saw him sufficiently filled with his own evils, he ordered their heads to be brought and asked how he had been received. Words did not fail the wretched man, nor did his mouth close: “At a King’s table,” he said, “every dinner is pleasant.” What did he gain by this flattery? That he was not invited to the leftovers.

The sixteenth virtue is that he should not dispute about the state outside the Senate, in circles or at banquets. Cicero says rightly: “Let a Senator speak in the proper place and manner.” That is, in a lawful Senate, lawfully convened, in his own order, setting forth his opinion clearly and briefly and refuting others with modesty, if there is need. The place of the Senate was the Senate-house, sometimes a temple, outside or within the City. Afterward the place in which the Counselors of Princes debated grave affairs of the Empire was called the Consistory; indeed, the Consistory was the very Senate of Princes. Lampridius calls the fifty most learned Jurists under Alexander the “Consistory of the Prince”; with their assistance he made senatorial decrees and edicts. They also call that Senate **θεῖον συνέδριον** and **βασιλικὸν συνέδριον**, as Hesychius does. Their dignity was great; the chief notaries

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who were of the Consistory are mentioned in book 2 of the Theodosian Code. Hence there is frequent mention of Consistorians, Novel 13; hence Counts of the Sacred Consistory and Counts of the Daily Consistory. Afterward it was also called the Sanctuary. In these places, therefore, and in this manner, let a Senator give his opinion. To hawk his opinion everywhere belongs to foolish vanity.

It pertains to place and manner that the one who possesses power should consult the Senate. Formerly this right belonged to the King, Interrex, Dictator, Consuls, Praetors, Tribunes, and Prefect of the City. Cicero says: “The Consul, Praetor, Master of the People and Horse, and the man whom the Fathers appoint for the purpose of directing the election of Consuls shall possess the right of conducting business with the people and Fathers; and the Tribunes whom the plebs shall choose for themselves shall possess the right of conducting business with the Fathers. Let them carry to the plebs whatever will be the Senate’s judgment. Let the business conducted with the people and with the Fathers be moderate.” Here he also names the Master of the Horse. To deliberate about the state without the Prince’s command is deservedly numbered among crimes of treason, because it belongs to the supreme power, or to him to whom that power has entrusted it, to convoke the supreme council. Next, when men deliberate about the highest interests against the Prince’s will, by this very fact they in some measure depose the Prince, for they assume for themselves the right of deciding, whether it pleases the Prince or altogether displeases him.

The eighteenth virtue is that he should be well skilled in law and the state. There is a golden law in Cicero: “Let him understand the causes of the people.” Augustus joined to himself fifteen experienced men illustrious for prudence, as Xiphilinus relates, and with them settled affairs arising daily. Tiberius chose twenty Senators by lot for six months. Not rightly by lot, which often falls upon the worst men; nor ought it to have been for six months, for many lawsuits and many affairs come to different men and need new instruction. It is necessary to hear those who preceded them. Those deliberate best who take examples for future affairs from the past. Dio, book 10. Stobaeus 94 praises a saying of Bias: **Μία ἐστὶν ἀρχὴ τὸ καλῶς βουλευέσθαι, γινῶναι περὶ οὗ ὁ λόγος**. There is one beginning of advising well: that you know the matter about which the discourse is--not only the matter itself, but also its circumstances.

The nineteenth virtue is that he should be intermediate between the highest and lowest rank. Thus he should neither be a rank-and-file Senator, because he neither benefits the state and is despised, nor undertake all things, because he draws the dangers of all upon himself. Those who presided over the Prince’s council were called *Proedri*. Phocas instituted that dignity. The supreme man was called **πρωτοπρόεδρος**; he sometimes governed all things while the appearance of power remained with the Prince. But perpetual experience has taught that this is most difficult. The

highest favor and estimation do not endure long; therefore let him especially maintain the middle. It is permitted him to proceed between abrupt obstinacy and shameful obedience along a path free from ambition and dangers. Let Counselors follow courageous and faithful physicians whose sole purpose is to protect or recover the Prince's health and who are exempt from, and unconcerned with, other matters. A different man whose object is set upon those other things will advance through disasters of the fatherland to wealth and honors.

The twentieth virtue of a Counselor is that he should not offer himself to the Prince. For a man who, through intercessions and prayers, contrives to be able to give counsel to the Prince is convicted of loving the splendor and resources of the court more than the state. The Prince must therefore hold as suspect those who sell counsels for a price, for at the same price they will drag the Prince over precipices. If Princes therefore seek true counsels, let them seek Jehoiadas, Isaiahs, Ambroses--holy men. Those who are prodigal of counsels and speeches, who thrust themselves forward without being asked and instead ask of their own accord, mix in their own advantage. It is indeed marvelous that, although giving counsel is a task of the greatest labor, many possess audacity in giving it but few patience in receiving it. Amid the crowds of men selling counsels, I see few buyers.

The twenty-first virtue is experience and, from it, knowledge. I prefer to hear Hannibal concerning an army rather than a hundred Philosophers. For authority belongs to experience. Knowledge and use possess great power for persuasion. In truth, for the highest governors of Empire those who advise pious and honorable things are the instruments of a good age, as Symmachus says in epistle 16. Such men are the highest resources of a Prince. **Σύμβουλος ἀγαθὸς χρησιμώτατον καὶ βασιλικώτατον πάντων κτημάτων ἐστίν**--a good Counselor is the most useful and most royal of all possessions.

The twenty-second virtue is piety, by which all human affairs are rightly governed. For those who assemble without God and take counsel against the Lord and his Christ meditate vain things.

Hence I admonish the Prince not readily to hear those who know affairs neither by experience, reading, nor hearing, for they pronounce most confidently lest they appear ignorant. No method is more effective for beating them back than to demand the reason for what they say; for the reasoning of an imprudent opinion is commonly much more imprudent.

The twenty-third virtue is to be content with the present condition and hostile to change unless it most manifestly tends toward the better. Change reveals many disadvantages which previously lay hidden. The poor, indebted, ambitious, envious, and imprudent are eager for change. Doubts must sometimes be proposed to test them so that they may open their minds; meanwhile, they must be seriously restrained and, if they are restless, sent away.

The twenty-fourth virtue is not to be a flatterer. If a physician has once mixed poison, you always turn away from him. If a Counselor has ever sinned by praising your vices or extolling your virtues beyond the truth, do not admit him to a second consultation; much less should you hear flatterers alone. The society of men who nourish the Prince's vices by flattery must be avoided; much less, therefore, must their counsels be heard. Although at the beginning they lie hidden, nevertheless what they conceal in the root is disclosed in the branches, and what lies hidden in the leaves shines forth in the fruit. They consider pleasing the Prince their sole fruit.

The twenty-fifth virtue is that he should not be excessively audacious. For audacious counsels are fitter for changing affairs than preserving them. The authors of audacious counsels will be beaten back if they are compelled to pursue with their hand what they advise with their mouth. I therefore prefer a Counselor who is too cautious to one who is too audacious, for the Prince will employ him more safely. Indeed, those who are more cautious and appear timid are braver than audacious men when the matter has been reached. The reason is that they come prepared for outcomes and difficulties; rashness, because it is struck by an unforeseen missile, casts down the spirit more quickly than it assumed it. Boasters are the most timid. Just as inflated wineskins swell more splendidly than full ones but become flaccid at a slight puncture, so men ferocious in words expire at the first blow of danger: in peace they are lions; in battle, deer.

The twenty-sixth virtue, and the truest criterion of a Counselor, is whether, when he can, he assists the Prince not only by counsel but also by deed.

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Πᾶς λόγος ἐστὶ μάταιος, ὁ μὴ τετελεσμένος ἔργῳ.

Καὶ πᾶσα πράξις τὸν λόγον ἔχει.

Every counsel which is not completed by deed is vain; and every deed possesses its rationale.

For example, a Prince of Germany advises the Emperor to wage war against the Turks. If he assists with provisions, soldiers, and money, he is a true friend, who assists by deed in a doubtful affair when there is need of deed. To assist citizens by counsel and aid is most praiseworthy. But if the advocate of war is a veteran military Commander and demands an immense stipend for his own labor, who doubts that he is advancing his own interest, not the public one?

And so much concerning the endowments and office of Counselors. Let us now consider what must be done by the Prince in this matter.

§ 8. The highest prudence of a Prince is that he should persuade himself with certainty that he needs counsel, and that this is a great part of prudence: not to trust in one's own prudence. For true prudence seeks safeguards for itself from elsewhere. God, because he knows and foresees all things of all affairs, does not need counsel; the wisest of men ought to employ another's prudence. This is so necessary that the ancients, ignorant of the divine majesty yet suspecting something concerning divinity, invented the story that Jupiter convened a council of the gods; much more did they judge counsel necessary for Kings. For if, when doubts arise in private affairs, each man consults his friends, how much more is this necessary in the state itself, where the affairs are both greater and more intricate? Nor should the Prince think that he possesses sufficient wisdom in himself. He is a man--that is, ignorant of many things, not rightly instructed concerning many, and, even if he moderates his passions, he has not yet put them off. Many private men surpass the Prince in prudence. Therefore, just as he uses the labor of others and creates lesser magistrates--Viceroys, Governors, Legates, Praetors, and Consuls--so also in directing all these let him join another's prudence to his own. It belongs to supreme majesty not so much to be surrounded by an army and to glory in the splendor of a bodyguard and dwelling, as to make the prudence of the most illustrious and wisest men its own. No Princes have perished except those who neglected the counsels of prudent men. Aristotle spoke truly, but because he wrote to a foolish young man, he admonished in vain:

Εἰ δὲ τὸ βουλευέσθαι τῶν περὶ τὸν ἄνθρωπον θεϊοτάτον ἐστίν, ὥστε οὐκ εἰς τὰ πάρεργα καὶ μηδενὸς ἄξια τὴν σπουδὴν ἐστὶ σοὶ καταναλίσκειν, ἀλλὰ τῷ μέγιστον αὐτὸς καλῶς βουλευέσθαι μαθεῖν βέλτιον· τίς γὰρ δὴ ποτ' ἂν ἀμφισβητήσῃ τῶν νοῦν ἐχόντων, ὅτι τὸ μὲν πράττειν μὴ βεβουλευμένον σημεῖόν ἐστιν ἀνοίας, τὸ δὲ μετὰ τὴν ἀρίστην εὐβουλίαν τῆς διανοίας; Ἐξεστὶ δὲ καὶ ταῦτα τοὺς ἄριστα τῶν Ἑλλήνων πολιτευομένους λόγῳ πρότερον, ἢ τοῖς ἔργοις συγγινομένους πρὸς δὲ τοῦτοις, ἢ τοῖς μέγιστον ἀξίωμα τῶν βαρβάρων ἔχοντας, τοῦτο πρότερον περιμαθήσαντας ἔχειν αὐτοῖς, ὥς ἀκρόπολὶς ἐστὶ σωτηρίας, ἢ διὰ τοῦ λόγου γινομένη τοῦ συμφέροντος θεωρία.

Moreover, among human affairs it is most august to make use of deliberation. Therefore your zeal must not be expended upon superfluous and commonplace matters; rather, you must labor to the extent of your strength both to learn thoroughly and to possess the art itself of deliberating well. For who of sound mind would doubt that, if someone has done something without counsel, this is a sign of madness, but if with reason as his guide, of wisdom? One may also observe that all those who enjoy the best constitution among the Greeks first meet in speech before they meet in deeds. Likewise among those Barbarians who excel in dignity, speech precedes deeds, since they well know that the perception and knowledge of advantage which arises through reason and discourse is a kind of citadel of safety.

Accordingly, that opinion of Antoninus Pius was worthy of the majesty of a ruler: "It is more equitable that I should follow the counsels of so many and such great friends than that so many and such great friends should follow me

alone.” None of the most prudent Princes arranged so great a mass of affairs without great assistants. I have discovered this: all kingdoms, cities, and nations possessed prosperous government so long as true counsels prevailed among them. Wherever favor, fear, and pleasure corrupted them, soon afterward their resources were diminished; then their government was taken away; finally slavery was imposed upon their kingdoms, and death or exile took away the King.

Guevara says in book 1, chapter 43, of *The Dial of Princes*: “I do not know why Princes and magnates, although they are so solicitous in seeking the best physicians for the care of the body, are so negligent in seeking wise men for the government of kingdoms and dominions, since in infinitely many ways the harm of bad government in a state is surely graver than the illness of the Prince himself or of the governor. Until now, indeed, we have neither read nor seen that either a King or his kingdom perished through a scarcity of physicians; but through a scarcity of wise Counselors we have seen innumerable Kings and very many kingdoms desolated, collapse, and be overthrown. Through a scarcity of physicians one man can be endangered; but through a scarcity of a wise man great discord can be introduced among the people. For when some tumult grows among the citizens, one timely counsel is more beneficial than a hundred purgations with rhubarb.”

And a little afterward: “These things are said to this end: that Princes, Prelates, and magnates, persuaded by these reasons, may transfer some part of the very great diligence which they employ in seeking physicians, and of the very large sums which they expend upon their salaries and largesses, to seeking out wise men whom they themselves may consult and may join to the court Senate. For if men understood how greatly it matters to have a wise governor of a household, or even one wise man, they would purchase him with all their resources. Princes and magnates appear greatly worthy of compassion who lose many days in a month and many hours in a day, conversing about wars, buildings, arms, banquets, beasts, hunts, medicine, and other things, yet neglect the counsels of prudent men themselves.”

Rash is the soldier who advances unarmed into the battle line, and no less imprudent the Prince who undertakes the state without counsel.

§ 9. It is fitting that the Prince should know and act upon this: all services are surpassed by that of the man who assists by good counsel. Guevara, *Dial*, book 3, chapter 55, introduces Aurelius speaking thus: “I charge my son Commodus to pay you a reward for your services. But I ask the immortal gods to return thanks to you for your counsels. Nor is it in vain that I say that I charge my son with the former and ask the latter of the gods. For one man can pay the reward of many services; but all the gods are needed to reward one good counsel. The greatest and most excellent benefit with which a friend can affect a friend is this: if he is fortunate in giving him good counsel in a difficult affair. And not without cause do I wish him to be fortunate, not merely to give counsel. For it commonly happens that those who wished to heal us by their counsels cast us into even greater dangers.”

But if the Prince wishes to ascribe all things to himself, he nevertheless ought to remember that counsel is often wanting even to the wisest man:

Καὶ κυβερνήτη ἀγαθῷ ἐνίστε ναυαγεῖν.

An experienced pilot sometimes suffers shipwreck. Matters so hidden often occur that no way out can be found.

Πολλὰ καὶ παράδοξα αἱ καθ’ ἀνθρώπους τύχαι κατεργάζονται.

The things that happen to men produce many and unexpected results. Why should the Prince not waver in such matters? Rather, why should he not employ the highest wisdom, which consists in judging others wiser than himself?

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If he thinks himself wise, let him not believe that experienced and elderly men are foolish. Let him at least persuade himself of this: no one is so wise that greater wisdom is not necessary for him.

Οὐδείς ἄνθρωπος αὐτὸς ἅπαντα σοφός.

No one by himself is wise in all things. Therefore, making use of Bias's answer--when asked about what matter all ought most to be solicitous, he replied that they should seek good counsels and good advisers--let the Prince himself also fortify himself with an assembly of wise Counselors.

§ 10. Finally, so that all things may proceed more rightly, let the Prince consult with many when the matter does not require secrecy. There are many advantages in this. For when some adduce advantages, others disadvantages; some dangers, others arguments for justice, others for the dignity of the Prince; when some are timid, some bold, and they also have rivalries among themselves, truth cannot remain hidden amid so great an agitation. Indeed, the Prince himself will recognize the passions of all. Then all together will strain every sinew to give such counsels that they cannot be censured by others in so great an assembly. But if the counsels turn out badly, the fault will belong to all. A few can conspire to advise advantageously and ambitiously for themselves, not as friends of the state; among many and diverse men, for whom diverse things are advantageous, the same calculation does not exist. For this reason many are more readily trusted than individuals, as Pliny admonished in the *Panegyric*. The counsels of good men are strengthened when they perceive that prudent and faithful advisers hold the same view. Cicero, epistle 13 to Caelius.

§ 11. Let Kings beware lest they seem to convene a council merely for appearance, as Bellus reports in discourse 23 is done in England. "But because certain public matters sometimes arise which concern the good or even the injury of the kingdom and subjects--for example, to establish a new law, to examine or reject other laws, to levy money for a war already resolved upon, or to make provision for similar matters pertaining to the state--then, and in similar cases, Kings have been accustomed, for modesty's sake, to preserve the ancient custom: namely, to convene Parliaments, in which the estates and orders of the kingdom are assembled, that is, the clergy, nobles, and commons, so that, after the business in question has been examined by them, their decrees may then be confirmed or rejected by the Kings. And although in antiquity these Parliaments enjoyed authority and liberty, so that the Kings were political and civil heads rather than Lords and Monarchs, nevertheless from Edward III down to the present times the authority of the Kings has been so fortified that Parliaments are rather certain masks of royal desires. By them, in framing doubtful measures, the Kings evade labor and inconvenience, and in dangerous matters, loss, rather than wishing to moderate their power by them. For in them whatever is advised or decreed is valid only if royal confirmation is added. Indeed, they not only cannot decree anything or perform any act; they cannot even assemble except at the royal nod. Kings are accustomed to admit to them whomsoever they please and remove the same men from them. They have, in fact, become so formidable to all that no one in Parliaments or outside them dares to oppose the royal will even by the slightest word, unless he wishes to procure loss and ruin for himself. Thus, just as those who sit in Parliaments are slaves and subjects, so the actions and counsels proceeding from them must necessarily be servile."

Thus he; yet I fear that he speaks hyperbolically, for it is certain that the nobles of Britain possess their liberty. But however the matter stands, nobles must not be convened merely for custom's sake. For if these men possess dignity and greatness of spirit, they perceive with indignation that they are being mocked and that it is a cruel jest when they must either say all things to gratify the King or undergo danger. The King's familiars also hold them in contempt and derision, and frequently boast that it has already been determined among themselves what ought to be decreed.

§ 12. In great kingdoms, where various nations and peoples coalesce into one body, various councils and colleges must necessarily be instituted. Use has arranged this in various states, but it is now best observed in the most extensive kingdoms of Spain. I have noted these things, which escaped Roman industry.

The first is this. The causes of all men of all nations were brought before the Roman Senate and tossed about among experts and the inexperienced alike; in Spain the councils of the individual peoples are separate. Hence that diversity: there is a Council of Italian Affairs, by which Neapolitan, Sicilian, and Milanese affairs are directed; a Council of Belgian Affairs, of Indian Affairs, and of War; the individual kingdoms of Spain have their own distinct councils. There is the Council of State, which is the most honored; the Council of Religion, which is the most powerful; and the Council of Commanderies and Taxes. It was therefore the highest prudence to assign one people to one college; for in this way men easily become knowledgeable in its affairs and are not disturbed by variety. A man who commanded

troops in India or governed cities there will readily give counsel about governing barbarous nations; yet the same man will not be held expert in Belgian or Neapolitan affairs, because of the diversity of laws and dispositions.

The second is what I regard as the soul of councils: namely, that in the Council of State, where the highest affairs of the kingdom are conducted, the King should have great Princes, or men equal to Princes, whose interest it most greatly is that the authority of the King should remain safe and sound. In that council, however, there are not only Princes but also Archbishops and Prelates, as in Spain the Commander of Alcántara and of the other orders, such as Santiago and Calatrava, who also possess the right of attending the Council of War.

The third is that in these councils affairs are for the most part conducted in the most orderly fashion, though not with the greatest speed. For the King has with him most experienced Counselors, who present the case to the King in person, orally or in writing, generally both orally and in writing. The King then privately rereads and weighs those writings and sends the matter to some college for discussion; he afterward hears the opinion of the Counselors, or they decide it with the King face to face, or send their view to him in writing. For this reason justice is administered with the greatest constancy, and I think that until now there has been no monarchy in which fewer errors have been made in government.

§ 13. But if one must say generally what the Prince ought chiefly to require in councils, I shall speak briefly. It will be of the greatest importance that they be ordered to write their counsels and reasons, to read briefly from the writing, and, if after hearing the opinions of all they wish to remove, add, or change something, that this should be permitted, provided they offer their amended counsel to the Prince in a certain form and manner, so that all can easily be bound together in one booklet. At present, dictated opinions are faultily taken down by notaries, with a loss of time; they do not always grasp the sense rightly; and Counselors form their counsel in the consistory--that is, in the arena itself. If they are ordered to write, they will do it at home and after meditation; they will set forth their opinion quickly; then, when they know that their opinions are to be preserved in the archive and in the mind and hand of the Prince, they will take great

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care to hold an opinion which they understand themselves to be leaving to posterity as a monument of fidelity and prudence. For the written letter remains and exposes an error after many years. Opinions of this kind by Cicero and others survive, from which one may gather with what zeal they delivered their opinions. Nor do I want an effeminate Counselor to whom the labor of writing is burdensome. For if he writes familiar letters in a private matter, why should he not set forth his opinion accurately and diligently with his pen for the public safety?

Augustus did this, and for this reason alone was worthy of government. Suetonius relates it thus in chapter 84: "He practiced eloquence and liberal studies eagerly and with the greatest labor from his earliest age. During the war at Mutina, amid so great a mass of affairs, he is said to have read, written, and declaimed every day. For afterward he never spoke either in the Senate, before the people, or before the soldiers except from a speech meditated and composed, although he did not lack the extemporaneous faculty for unforeseen matters. And lest he expose his memory to danger or consume time in memorizing, he established the practice of reading everything aloud. More serious conversations with individuals, and even with his own Livia, he held only in writing and from a notebook, lest he say more or less extemporaneously. He delivered speeches with a sweet and distinctive tone of voice and continually devoted himself to a voice trainer; but sometimes, when his throat was weakened, he addressed the people through the voice of a herald."

Will a faithful Counselor not be able to do what so great an Emperor did? And so much concerning the Senate and Counselors.

CHAPTER XIV

The Magistrates Who Are Customarily After the King in a Monarchy

§ 1. Since ancient profane histories, if compared with sacred history, are judged to possess no antiquity, I have determined at the outset to dispute concerning magistrates from Scripture, so that we may examine the form and magistrates of the first Monarchy, which is that of the Chaldaeans. They are described in Daniel 3:2: “Therefore King Nebuchadnezzar sent to assemble the Satraps, Magistrates, Judges, Tyrants, and Prefects, and all the Princes of the regions, so that they might come to the dedication of the statue which King Nebuchadnezzar had erected. Then the Satraps, Magistrates, Judges, Commanders, Tyrants, and nobles who had been placed in authority, and all the Princes of the regions, were assembled, so that they might come to the dedication of the statue which King Nebuchadnezzar had erected; and they stood in the sight of the statue which Nebuchadnezzar had set up.”

From these words the constitution of the most ancient Monarchy is in some manner understood; for the Greek writers vary and deceive. Daniel himself teaches us that this arrangement was approved: although he says that wisdom was in him beyond that in all men, and although he was Prince of the wise men and magistrates, he wished to approve that administration. Darius also resolved to institute this arrangement in chapter 6, verse 1. Let us therefore behold this first Monarchy furnished with magistrates: that great tree, the golden head of the mystical statue.

§ 2. In this Empire one man after the King possessed the highest authority, and three others beneath the King and beneath that man, although they had diverse provinces subject to them. This is explained in chapter 2, verse 48: “Then the King raised Daniel on high and gave him many and great gifts; and he appointed him Prince over all the provinces of Babylon and Prefect of the Magistrates over all the wise men of Babylon. But Daniel petitioned the King, and he appointed Shadrach, Meshach, and Abednego over the works of the province of Babylon; Daniel himself, however, was in the gates of the King.”

Although he is said to have been appointed over the provinces of Babylon and over the wise men of Babylon, and this could be restricted to the province of Babylon alone, I nevertheless understand it of all the Magistrates of the whole kingdom, however widely it extended. That the Monarchy was very great we understand from the fact that the Persian was smaller. Daniel 11:37 calls that man King of Kings, and in 4 Kings 25:27 he commands many kingdoms. Wherever Daniel says, *מלכא אנת*, “you, O King,” and *מלכיא מלך*, “King of Kings,” he places the Hebrew between two Chaldaic words, to show that he was an eminent King even of the people of God. That many Kings were with him in Babylon is evident from the same words, for he placed the throne of Jehoiachin above the throne of the Kings who were at Babylon. From Jeremiah 37 we are taught that there were Kings of Edom, Moab, Ammon, Tyre, Sidon, and Egypt, many nations and great Kings. I affirm that Daniel presided over all these. For he presided over the Magistrates and wise men of Babylon, and they were the head of the whole Monarchy, just as, if someone presided over all the Roman Magistrates, he would be judged also to command Proconsuls and provincial Magistrates. Pompey was such when the care of the grain supply and the Piratical War were entrusted to him; for, as Cicero testifies, by the people’s bill he possessed more power over all the provinces than those who held them with imperium. If therefore he was Prince of those who governed all things, there is no doubt that he was also Prince of all.

Then the Chaldaic words indicate this: *רב רבנין*, “Prince of great Princes.” For *רב* signifies a great Prince, a word which the Hebrews also employed after receiving it from the Chaldaeans. Rabbi David interprets it “great Prince”; on Isaiah 42:25 the same David interprets it “Kings of the nations,” and on Jeremiah 20:1 Rabbi Saadiah, “Princes of the army.” Finally, the Perso-Median Empire arose from the Chaldaean or Babylonian, and it possessed Daniel as its wisest lawgiver, as is evident from chapter 6, verse 1: “It pleased Darius, and he appointed over the kingdom one hundred and twenty Satraps, that they might be throughout his whole kingdom; and over them three Princes, of whom Daniel was one, so that the Satraps might render account to them and the King might not sustain trouble.”

The counsel of Daniel, a most wise man, under Darius was such as it had been under Nebuchadnezzar: namely, that three should be appointed over all the affairs, and one of these should be Prince. Their power extended through all parts of the kingdom. No one doubts that the Persians borrowed very many things from the Babylonians. And God brought it about that, although the Persians and Medes were the most ferocious of nations, they had Daniel as governor, lest by the cruelty of ruling they should altogether violate human society. By this it came about that the Persian Empire was constituted at its beginning by the best laws.

Josephus therefore deservedly calls Daniel:

ἀπάσης ἐπίτροπον βασιλείας

curator of the whole kingdom. The Persian custom of appointing a Surena confirms this opinion; he takes his name from *Sar*, שר, which signifies a Prince. Plutarch describes his dignity in the *Crassus*:

Οὐδὲ γὰρ ἦν τῶν τυχόντων ὁ Σουρήνας, ἀλλὰ πλούτῳ μὲν καὶ γένει καὶ δόξῃ μετὰ βασιλέα δεύτερος, ἀνδρεία δὲ καὶ δεινότητι τῶν καθ' αὐτὸν ἐν Πάρθοις πρῶτος· ἔτι δὲ ἐξήλαυνε καθ' ἑαυτὸν αἰὲ χιλίας σκευοφορούμενος καμήλοις, ᾧ διακοσίας ἀπήγετο παλλακίδων, ἵππεῖς δὲ κατάφρακτοι χίλιοι, πλείονες δὲ τῶν κούφων παρέπεμπον· εἶχε δὲ τοὺς σύμπαντας ἵππεῖς ὁμοῦ πελάτας τε καὶ δούλους, μυρίων οὐκ ἀποδέοντας.

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Nor was Surena one of the common people; rather, in riches, family, and glory he was second to the King, and in courage and keenness first among those about him among the Parthians. A thousand camels carried his baggage; two hundred wagons conveyed his concubines; there were a thousand cuirassed horsemen, and more lightly armed horsemen; his cavalry, clients, and servants together were not fewer than ten thousand.

Darius therefore intended to make Daniel Surena and adorn him with that power which he had formerly possessed under Nebuchadnezzar, whose memory was then celebrated. Those words of verse 49 also show it: “But Daniel was in the gates of the King,” מלכא בתרע, “in the gate”; the Seventy have ἐν τῇ αὐλῇ, “in the court.” He was not the supreme officer of admission such as existed later among the Emperors of Constantinople, nor like the Persian φύλακες, “guards,” or ἀγγελιοφόροι, “messengers”; rather, he was Prince of those who judged and gave counsels to the King. He was therefore the head of both the domestic and the external Princes, not a bodyguard or keeper of the royal person. For it was an ancient custom that the greatest Princes should be about the King, both for dignity and for counsel and safety. In Xenophon, books 1 and 2, they are called παῖδες. The Princes of the Persians, whom they call ὁμοτίμους, “peers in honor,” were always in the court of the palace; and in book 8:

Ἐπίτιμος αἰὲ παραγένοιτο ἐπὶ θύραις καὶ παρέχειν ἑαυτὸν εὐθὺς χρὴ εἰ βούλεται ὁ Κῦρος, ἵππεύειν σὺν ἵπποις καὶ ὄπλοις.

Men honored in rank were always to be present at the door and make themselves available for what Cyrus wished, if he desired it, and indeed with horses and arms.

In the same manner Haman was second to King Ahasuerus, Esther 3:1: “After these things King Ahasuerus exalted Haman, son of Hammedatha, who was of the stock of Agag, and placed his throne above theirs. And all the servants of the King who were present in the gates of the palace bent their knees and adored Haman, for so the Emperor had commanded; Mordecai alone did not bend his knee or adore him.” And his successor, chapter 10: “But King Ahasuerus made all the land and all the islands of the sea tributary; and his fortitude and Empire, and the dignity and sublimity with which he exalted Mordecai, are written in the books of the Medes and Persians; and how Mordecai, a man of the Jewish nation, was second to King Ahasuerus and great among the Jews and acceptable to the people of his brethren, seeking good things for his people and speaking those things which pertained to the peace of his seed.”

§ 3. Whether it is expedient for a Monarch to furnish one man with so great a power is debated not without cause. I have often taught that all things must not be conceded to one man and that the counsel and labor of one man alone must not be used. Here, however, the question concerns some Magistrate of the dignity next after the King, who can exist even though he does not possess great power by which he can rebel. I judge thus.

Nebuchadnezzar and Darius, with most prudent counsel, placed over the entire kingdom Daniel, whom they had known to be full of the Spirit of God and of wisdom, since they feared no rebellion from him and were certain that Daniel would order all things most wisely. I think the same concerning Mordecai.

Next, good Persian Kings followed this mode by their example; for the advantage in this matter is evident, both because an account of the sum of all affairs can be demanded from one man and reported to the King, and because greater care in discharging office is instilled into all when they know that an account must be rendered to many. For the King cannot attend even to all great matters; therefore another whom the King greatly trusts more readily performs his functions.

Nor will it be difficult to provide against the possibility that this man rise against the King or seize a tyranny. If the King himself is vigorous, prudent, and active; if he himself hears the provincial Governors and visits the armies and cities, the general Prefect will not easily be able to contrive anything. But if, after the example given by Ninyas, son of Ninus and Semiramis, among the Assyrian Kings, he is rarely seen by his subjects, grows old among his household servants, and gives replies through intermediaries, not only the Prefect second to the King but even a **τῶν εἰσαγγελιῶν χλῖαρχος**, such as appears in Aelian, book 1, chapter 21, will without difficulty crush the King. Thus the Kings of the Franks perished through indolence, when the Mayor of the Palace, after usurping power, seized even the title of the kingdom. Haman assuredly would never have thought of transferring the kingdom to the Macedonians unless he had judged Ahasuerus a savage, hated, luxurious, and foolish King. Besides, what came into Ahasuerus's mind, that he raised a Macedonian, a man of a hostile nation, to such power?

I therefore judge that the least danger threatens from the man himself; for even if he enjoys the highest dignity, he will not easily transfer the kingdom to another when he cannot obtain a greater honor. For why should he transfer the government, with disgrace and the mark of betrayal, to another, when he himself receives the second share of its fruit? A prudent Emperor can readily prevent him from arrogating power to himself: if he furnishes him neither with an army nor with excessive riches; if he decides nothing in greater affairs except by the consent and command of the King; if the court itself is exempt from his command; finally, if he chooses a modest, elderly, and learned man. In Spain some Archbishop is generally President of the supreme council or in the highest power. When Charles departed, he placed Adrian, afterward Pope, over Spain. In ecclesiastics the administration is generally uncorrupted, and there is no fear of danger.

In the Roman Empire there was scarcely any use of this dignity. Men were called Caesars when the Empire was already declining, but they were those who were being trained in hope of the kingdom or had received the nearest hope of succession. Aelius Verus, adopted into Hadrian's family, was the first to be called Caesar in this manner. Diocletian called Maximian and Constantius Caesars. But they were rather partners in the Empire; nevertheless, when the Senate named Titus and Domitian Caesars, it did not grant them partnership in the kingdom. Constantine created his three sons Caesars; Constantius created Gallus and Julian Caesars. Not without reason was that honor instituted by prudent men: both that they might cut off the wicked hopes of aspirants, and that by the enticement of honor they might attract to the safety of the state men of great spirit and those who relied upon some right.

§ 4. It is therefore fitting that there should be one supreme man; next to him among the Chaldaeans were three, as is evident from Daniel 3:49: "But Daniel petitioned the King, and he appointed Shadrach, Meshach, and Abednego over the works of the province of Babylon." I understand "works" as every office and labor, and at the same time understand them to have been placed over the province of Babylon in such a way that their power extended throughout the whole Monarchy. For as a consolation of the Jews exiled throughout the entire kingdom, God granted this: that so

great a government should be ordered by captives. Darius afterward appointed three, to whom he permitted power in the whole kingdom, chapter 6. Afterward there were seven. Hence it is that those first Monarchies were better constituted at the beginning than the Roman Monarchy.

§ 5. The words of Daniel show that the Monarchy of the Chaldaeans was most orderly, for they are not placed idly. Let us therefore examine in them the Chaldaean Magistrates.

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In the first place are set **אחשדרפניא**, which, if one wishes to explain *Achaschdarphenaio* separately, will be literally “a great man dwelling before the face,” because they dwell before the face of the King. In one word, it signifies a great companion of the King, or a familiar of the King. The Seventy translate it **ὑπατοι**, “Consuls,” “powerful men,” whose honor and power will be great; for among the Greeks Consuls were so called from their power. Our translator renders it “Satraps”; others “magnates,” others “Princes.” This alone appears to stand in the way: that Satraps did not dwell before the face of the King in the provinces over which they were placed. But those who reason thus are mistaken. For the Satraps possessed great dignity and were generally sent from the face of the King in the manner in which I spoke concerning Counts; then they possessed the right of approaching the King and dining with him, as I indicated concerning the **ὀμοτίμοις**, “peers in honor.” For those ancient Satraps must not be compared with our own, but with Viceroy and Princes, or with the Turkish Bashas and the Consuls and Proconsuls of the ancient Romans; hence the Seventy deservedly translated them **ὑπατοι**.

Rabshakeh proclaims their power in 4 Kings 18:24, saying that the Jews could not resist one Satrap among the least servants of his Lord. Although in that place the Hebrew calls him **פּהַת**, the Chaldaic **שלטנין**, and the Seventy **τοπάρχας**, men who were lesser than the *Achaschdarphenaio*, they were nevertheless so powerful that Rabshakeh preferred them to Hezekiah, King of Judah.

Herodotus, book 7, Ctesias in the *Persian History*, and Xenophon, book 1 of the **Ἀναβάσεως**, demonstrate their power also from this: that Satrapies were conferred upon the sons of Kings. And Justin, book 5, says that Cyrus was appointed by his father Darius as Satrap of Ionia and Lydia. Diodorus Siculus, book 11, says that Hystaspes, son of Artaxerxes, was Satrap in Bactria. Indeed, Cyrus, when dying, speaks thus in Xenophon, book 8 of the *Education of Cyrus*:

Σὺ μὲν ὦ Καμβύση τὴν βασιλείαν ἔχει, σοὶ δὲ ὦ Ταναοξάρη σατραπεύειν δίδωμι Μήδων τε καὶ Ἀρμενίων καὶ Καδουσίων.

“You, O Cambyses, possess the kingdom; but you, O Tanaoxares, I appoint Satrap of the Medes, Armenians, and Cadusians.” Thus Alexander, according to Plutarch, made Porus Satrap of his own kingdom. Aemilius Probus, in the *Datames*: one man is Satrap of Lydia and Ionia. Oroetes likewise is Satrap of these regions and of Phrygia, Herodotus, book 3. But Phrathrophernes in the same Herodotus is **Παρθυαίων καὶ Ὑρκανίων**, “of the Parthians and Hyrcanians,” that is, of two great kingdoms. Josephus, book 11, chapter 8, relates that there was one Satrap of Syria, Phoenicia, and Samaria. There were therefore in this Monarchy **ἐπαρχοι**, “governors,” with great power; for Plutarch also calls them this in his *Sayings*. Nor did they command merely over a broad region; rather, provinces were committed to their trust and power. For this was their first and highest law: to administer the state as they judged proper according to the common interest, fidelity, and religion.

Great majesty was also added to them. Oroetes in Herodotus, book 3, has a bodyguard of a thousand men; others had far greater ones. Every year an inspector was sent to them, whom they called the King’s brother or the King’s eye; the Satraps themselves frequently assembled at court. It is evident that the inspectors were **ἐξάρχους**, or former Satraps, who had been in the King’s council. From what has been said, it is evident that all these things were most wisely constituted.

§ 6. I said above that so great a power of the Satraps, when they are placed over several kingdoms, is dangerous unless restrained in another manner, yet salutary against an external enemy. And certainly it was not according to Daniel's institution. For with him as Counselor Darius divided the Monarchy into one hundred and twenty provinces and placed the same number of Satraps over his kingdom, chapter 6, verse 1, where both the Greek and the Latin translate "Satraps," and this is the word *Achascharphenaio*. The Persian kingdom, however, was not so extensive that it could have one hundred and twenty Satraps ruling over such broad territories, since it comprised not all Asia, together with Egypt and certain regions of Europe. This is nevertheless evident: if we consider the fertility and population of Asia, and if the provinces are divided among one hundred and twenty, the individual Satraps would be equal to Kings of moderate power. For Asia at one time indeed possessed as many powerful Kings, each of whom led two or three hundred thousand men into battle.

In the second place are those who in Hebrew, chapter 2, verse 48, are called **סגניא**; our translator renders them "Magistrates" and "Prefects," and others in the same manner. The Seventy have **στρατηγούς**, "Commanders of war." Among the Persians, as also among the Romans, it was a most honorable thing to possess an army; therefore military provinces were sought by brave and ambitious men. The text itself teaches us that these were military Magistrates: **משכנא** signifies tents, and **נסא**, a standard. It therefore indicates great Commanders of war, who defended all things in their provinces. They were not appointed by the Satraps or subject to them; indeed, they were suitable for restraining them. At Memphis one hundred and twenty thousand men were in garrison in the White Wall in the time of the Persians. To some it has appeared peculiar to the Persians, as also to this Monarchy, that the Satraps and military Commanders were distinct. Yet although this was preserved in part in the Persian Monarchy, that custom is not evident to have existed in Chaldaea from the words of Rabshakeh, who indicates that the Satraps engaged in war; and the Satraps of the Persians also administered war. Then it cannot happen that one military Magistrate and another civil one of equal power administer an affair harmoniously and advantageously in the same province. This was therefore peculiar to the **τοις φρουράρχοις**, namely, to those who guarded the fortifications; for the Satraps possessed no power over them.

Next follow the **פחאבא**, *phathavata*, **τοπάρχαι**, "regional rulers"; others translate them "Governors," others "Commanders," and some "Praetors." These men were not under the Satraps; indeed, they were Princes, but lesser ones. The word is common to Syrians, Chaldaeans, and Persians. Haggai 1:1 calls Zerubbabel **יהודה פחת**, *Phachath Iehuda*, "Commander of Judah." And Nehemiah 5:14 calls Nehemiah a Commander and summons the former Commanders. When Nehemiah asks for letters to the Commanders beyond the river in chapter 2, verse 7, it is evident that there were several through whose dominion he was about to travel. Likewise Ezra 8:36, Esther 8:9, and 9:3 join them with the *Achaschdarphenim*, for letters are given to them by the King. I judge that they should be compared with Roman Governors and with our Counts--our Counts, I say, for formerly the dignity of Counts was greater than that of Dukes.

With these are joined **אדרגזריא**, *Adargazraio*. This office properly pertains to Judges; for they are so called as though confirmers of an opinion, decree, or statute, or men strong and magnificent in opinion or decree, whose decrees were ratified. They were therefore Presidents of the courts who administered justice, and tribunals were established in the individual provinces, as we now also see throughout Europe. The Greeks call them here **ἡγεμόνας**, "governors"; others **νομοφύλακας**, "guardians of the laws." Our translator renders them "Commanders," whose office was employed not only in war but also in peace.

Our translator renders "Tyrants," whom the Chaldaic calls **גדבריא**, *gedabraia*; the Seventy interpreters agree. **גדד**, *gadad*, is to make an incursion, plunder, cut, and divide; **גדוד**, a troop or band of raiders.

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They are therefore Prefects of taxes to be collected from tithes, pasturage, and forests; for this reason they went about the fields and cities with a military force. Hence they are also named **גדברין**, *gedabrin*, who requisitioned **בר** *bar*,

grain, and dispensed other things. Above all, however, they requisitioned grain for the army. Their office was especially hateful.

The Magistracy of those who are called דתבריא, *detabraia*, μεγάλαι ἐπ' ἐξουσιῶν by the Seventy, was not very different. There is no doubt that they were γαζοφύλακας, “guardians of the treasury,” and Quaestors and curators of the treasury. I prefer to follow the interpretation of the Seventy rather than that of the Rabbis, because Rabbi Saadiah derives the meaning from דת, *dath*, “law,” and בריא, *berhia*, “purity.” I therefore think they were named from grain--that is, every tax on produce--because they exacted the canon or fixed assessment. But our translator understood it of the nobles in general and joins דפתיא דתבריא, *detabraia diphthaia*, “and the nobles who were placed in authority”; he then adds the Princes of the regions, שלטנים, *Schultenim*, who governed cities and their territories. Thus the whole state, furnished with its Magistrates, is briefly described in this passage; and in this manner, if anyone weighs these Persian affairs, he will easily find everything arranged.

CHAPTER XV

Caesars and Other Magistrates Nearest to Monarchs

§ 1. The men of Constantinople changed the name of Caesars while retaining the dignity. For either the sons of Emperors or those upon whom they had conferred that title were called Caesars. Tacitus, book 1, calls Drusus Caesar. Titus and Domitian were called Caesars by the Senate; Galba called Piso Caesar; Nerva, Trajan; Hadrian, Aelius Verus; Diocletian and Maximian, Constantius and Maximinian and Dalmatius; Antoninus Pius, Marcus Antoninus; Severus, Bassianus; Carus, his sons; Philip, his son; Copronymus, his two sons; and others called other men Caesars.

Afterward they called those who were nearest the Emperor *Despots*: his sons, especially his firstborn, the heir of the kingdom, and likewise his sons-in-law; thus Ducas, according to Gregoras, book 2. Michael Palaeologus elevated his son above the Despots. What the noblest man called Caesar by the Emperor is, that is the Dauphin in France, except that there were several Caesars but there is one Dauphin. Humbert gave the Dauphiné, a province of the Allobroges, to the King of France in the year of salvation 1349 on this condition: that the King's firstborn and successor should take his title from it. Formerly even the sons of Kings were themselves called Kings, and they divided France into kingdoms. Louis III wisely wished to change this, lest he exhaust the strength of the individual men; he gave a kingdom to Lothair and returned Lorraine to Charles.

In Cedrenus, Monomachus appoints Stephen Commander of the forces, **σεβαστοφόρος**, as though he bore the Emperor, while by prudence and fortitude he guarded the Empire. As the Empire increased and ambition grew, a **Σεβαστοκράτωρ** also was appointed, as though “possessing the power of Augustus.” This dignity was less than that of a Despot. In Gregoras, book 3, the brother of Michael Comnenus is appointed **ὁ σεβαστοκράτωρ**; likewise in Nicetas. Isaac, book 1, was encircled with a crown and possessed the name of the dignity without government. Alexius invented **Σεβαστοκράτωρ**, **πρωτοσέβαστος**, **σεβαστός**; and, lest anything remain beyond the titles, **πανυπερσέβαστος**, which means “as though altogether above Augustus” or “altogether venerable.” These were bare names, not governments. Yet all these were below Caesar.

The name **ὁ μέγας ἄρχων, καὶ ὁ τὰς τάξεις** was also great, but, Codinus says, **οὐδὲν ὑπουργήμα κέκτηται**: he has no ministry. The rationale of the patriciate was nearly the same. It was not the name of nobility, but of dignity and benefice. They were so called as though fathers of the Emperors; their power also matched the name. Belisarius acquired eighteen thousand soldiers together with the dignity of the patriciate. Aemoinus, book 2, chapter 6. Charlemagne was made Roman Patrician before he was Emperor. This was useful for preserving the nobility, just as, where it is oppressed, slaves are assumed into offices. I see that this pleased the ancient Franks, and that the Turk now approves it: that Kings should employ bondmen at court. Marileif, the chief physician, was a bondman of the Church of Tours; Proculus, the King's tutor, was sent away to rustic labor; Septiminia, to the mill; thus Gregory of Tours. But I censured this above. Meanwhile, the later Greeks were excessive in the names of honors.

§ 2. The Curopalates was at first the Architect; his office concerned the repair and maintenance of the palace and its foundations. Cassiodorus, book 7: “We judge that Your Sublimity ought to undertake the care of our palace, so that you may both preserve ancient works in their former splendor and bring forth new works in similar antiquity, if you frequently read the geometer Euclid, if his figures described with marvelous variety, and so forth. Let Archimedes also, together with Metrobius, always assist you. But if we rebuild a city or wish to found a new fortress, or if the charm of a praetorium to be constructed pleases us, what is discovered by us in thought is brought before the eyes under your direction. Whatever the builder of walls, sculptor of marbles, caster of bronze, turner of vaults, worker in plaster, or mosaicist does not know, he prudently asks you.”

From this the estimation and rank of the Curopalates increased. For Aetius began to exercise care of the palace after being Count of the Domestics. Indeed, the office was conferred upon fathers-in-law and kinsmen of the Emperors, and they were placed over provinces. For Adranaser governed Iberia. In Liutprand the Emperor's brother is Curopalates; in Photius's *Library* no one's glory is greater than that of the Curopalates. So too in Corippus, book 1:

Your uncle confirmed you as lord of the sacred court,
 And Baduarius, appointed organizer of the new sacred court,
 Successor of his father-in-law, was soon made Care of the Palace.
 Who had not foretold that you would be lord of the sacred court,
 When you governed the divine palaces of your great father?
 Standing equal in cares, unequal only in the diadem,
 Called Care of the Palace according to the order of affairs.

The man of respectable rank called *Castrensis*, under whom were all the ministries of the palace--pedagogues, record keepers, servants of the table, and domestics--was also called Curopalates. For because the Prince's retinue was called **στρατόπεδον**, "camp," all the ministers were therefore called *Castrensiens*, although they had never seen any camp. At length this office appears to have been altogether changed, and among the Greeks those were called Curopalates who among the Franks were called Mayors of the Palace; for the same men were also called Prefects of the Palace. They were therefore nearest the Emperors.

It is evident that the Seneschal afterward occupied the same place. William of Tyre, book 4, chapter 5, is a witness that the Seneschal is the same as the man called Great Domestic among the Greeks. And since he says that the Great Domestic is second to the Emperor, he appears to assign this dignity also to the Seneschal. Among the Franks, certainly, the office of the Seneschal, or *Seneschalcus*, increased in the same manner. For he was placed over the table by Pepin. Since the King himself was skilled in waging wars, this was advantageous for the protection and authority of the new kingdom.

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They exercised care of the whole house, its ornaments, and even the horses. He was therefore the Steward and is so called by Robert, Abbot of Rheims; he carried the scepter, the mark of jurisdiction. He is called the Vicar of the King and second to the King. He signed the edicts and constitutions of Kings and whatever matters were of greater importance. His authority therefore increased so that it was little removed from the power of the Mayor of the Palace. Theulpus, in the *Chronicle of the Monastery of Marigny*, makes him the same as the Mayor of the Palace and assigns him also the office of administering war; therefore he also led a horse to the King. Later Kings, however, diminished that power.

§ 3. The Master of Offices stands at almost the same height, for from small beginnings he arrived at the highest power. The Master of Offices presided over the Schools of Shield-bearers, the *agentes in rebus*, and others; the discipline of the palace was entrusted to him.

His function concerned ordering the Schools and promoting the Scholastics, chapter 1, *On the Office of the Master of Offices*, title 31: "The privileges long since granted to your School being reserved entire, let no one arrive at the ducenariate, centenariate, or biarchate through canvassing, but each through labor; but let him obtain the principate as the register runs its course, so that those whom the order of military service and of its labors summons may go forth to conduct the services and the cursus. Moreover, in order that the condition of the School and the safety of the Master may be established more securely, let a suitable man, furnished with uprightness of character and good arts, be offered to our notice through the Master, so that he may be appointed according to our judgment."

He also took care that ambition did not anticipate military service. Thus Valentinian and Theodosius Augustuses to Patricius, Master of Offices: “Let no one of the *agentes in rebus* anticipate the order of military service and stipends, even if through deception he has produced an indulgence of our Divinity; and if anyone is shown to have offered a warrant of an admission of this kind, let him return to the place from which he indecorously emerged, so that the man whom better stipends or longer labor has caused to advance may precede the others in rank.”

Theodosius and Valentinian Augustuses assign to Pleitius, Master of Offices, the right of scourging Senators and Ducenarii: “The devotion of our Scholastics, approved by our parents, has shone forth in affection toward Our Greatest Serenity. Hence we have immediately believed that whatever is requested for fostering and preserving their privileges must be granted. Therefore, approving the recommendation of Your Eminence, we deny to the men of spectable rank, the Counts of the Schools, license to scourge or degrade Senators and Ducenarii. For we have willed that those things which are worthy of such punishment should be referred to the notice of Your Sublimity.”

The same men extended his command to the camps: “We believe that it must be enjoined upon the care of Your Perpetual Eminence that each year you take care to signify to us by your own report how the number of soldiers stands upon every frontier established under your jurisdiction, and how the care of the camps and barriers proceeds. Given on 2 September at Constantinople, Maximus for the second time and Paterius being Consuls, 443.” This was done because he was a participant in all councils, as Priscus admonishes in the *Gothic History*. At length it began to be reckoned among the highest dignities. Longinus, brother of Zeno, was made Master of Offices. Evagrius, book 3, chapter 9. From this it is evident how great the dignity of this office was.

The Goths imitated these things also. Cassiodorus, book 6, formula 6: “To the Master of Offices pertains the discipline of the palace. He auspiciously restrains the tempestuous manners of insolent Schools within the bounds of his moderation. So many orders are arranged without any confusion, and he alone sustains the burden of all which the multitude possesses in division. Through him a Senator who comes is presented to our gaze; he composes the speaker and is even accustomed to insert words, so that we may fittingly hear all things. The sight of the King is not ineffectual; he is the glorious promiser of our conversation, the giver of the court Consistory. Moreover, we deposit the greatest weight of causes within the bounds of his hearing with the best security. He guards the suitable speed of the post-horses, so that he may dispatch by the benefit of speed the concerns which he assists by counsel. Through him the coming of ambassadors, however much they hasten, is announced to us; through him a warrant in our name is given. No Judge assumes the fasces throughout the provinces unless he himself also decrees it. He does not possess the troubles of exacting money; by means of assessors he appoints the suppliers of provisions in the royal city according to his own will. The officials who have discharged the service of his corps are called Princes and hold primacy among the Praetorian cohorts and the soldiers of the urban Prefecture. An Assistant of the Master is presented to our gaze, so that in the vicarious allotment of a benefice we may choose the protection of the man who offers us faithful consolation.”

Hence it happened that, with so many affairs heaped together into one office, an assistant, or **βοηθός**, was appointed to him by the Prince; he judged in place of the Master of Offices.

Those nearest the first throne were therefore formerly Caesars, afterward called **Δεσπότες**, “Despots”; as those who would succeed their parents, in Spain they are called Princes, in France *Monsieur* properly and strictly, and finally Dauphins after the Dauphiné was given to the Crown. Paulus Aemilius, book 9. The Allobroges also called their Princes Dauphins.

CHAPTER XVI

The Constitution of the Royal Court

§ 1. How greatly it concerns the Prince--indeed, the whole state--to have brave, faithful, and prudent men about him and to remove slanderers, avaricious men, and the ambitious far away, the course of many centuries and the destruction of the best-known Kings have taught.

In the court there are two kinds of companions of Princes: either they assist the industry of rulers in counsel and government, or they attend upon the Prince's person and affairs. For this is a distinction of offices, not of men, since many offices are frequently conferred upon one and the same man.

The chief officer in the imperial court was indeed the Prefect of the Praetorium, concerning whom it has been spoken elsewhere.

Equal to the Prefect of the Praetorium in France was the Mayor of the Palace, or Mayor of the Household. His offices were small at the beginning: to administer justice at home among the courtiers and attend to Palatine discipline. From this he acquired authority among his peers; and because they were elected by common suffrage, and possessed esteem with the King, with whom they were continually present, they were gradually brought into the state until, through the sloth of the Kings, they drew the whole power of the kingdom to themselves. Hence Pepin possessed the kingdom and appointed not a Mayor of the Palace, but a Count to adjudicate the controversies of the household. Cedrenus wrote various things concerning these men in his account of Leo the Iconoclast, which may be consulted.

Justinian gave recovered Africa a Prefect of the Praetorium and assigned 396 ministers to his office. Code of Justinian, *On the Office of the Prefect of the Praetorium of Africa*, title 25, law 2 G: "And by him, with God assisting, let seven provinces be ordered with their Judges: of these, Tingitana, which was previously called Proconsular, Carthage, Byzantium, and Tripolis shall have Governors of consular rank; but the rest--that is, Numidia, Mauritania, and Sardinia--shall be governed by Governors with God's assistance. And in the office

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of Your Magnitude, and of the magnificent man who is for the time being Prefect of the Praetorium of Africa, we decree that three hundred and ninety-six men shall serve in the various bureaux and offices. But in the offices of the Consular Governors and Governors we ordain that there shall be fifty men in each office.

"The schedule annexed below declares what emoluments either Your Magnificence, or the Consular Governors and Governors, and each person from their office, ought to obtain from the public treasury.

"We desire, therefore, that all our Judges should strive to govern their administrations according to the will and fear of God and according to our election and ordinance, so that none of them is either devoted to avarice, or himself inflicts any violence, or permits it to be inflicted by their Judges or offices, or by any other tax collectors. For although, with God assisting, we hasten throughout all our provinces to keep the taxpayers unharmed, we nevertheless take especial counsel for the tributaries of the African diocese, who after the captivity of so many ages have deserved, with God assisting, to behold the light of liberty through us. We therefore command all violence and all avarice to cease, and justice and truth to be preserved toward all our tributaries. For thus God will be propitiated, and they can more quickly, like the other contributors of our state, be relieved and flourish."

§ 2. The court of the Emperor has great Princes as ministers. The first office is that of Cupbearer, ὁ ἐπὶ τοῦ κρατήρος, a great and favored dignity among Kings. For great fidelity is necessary in those in whose hand is the life of the Prince. Nehemiah discharged this office under Artaxerxes. Among the men of Constantinople the Cupbearer was greater than the Curopalates; and now the King of Bohemia, who excels among the seven Electors, is Cupbearer of the Emperor.

§ 3. There were various Domestics, such as the Domestic of the Table, of the Schools, of the Walls, and so forth. The man placed over the table was of no lesser dignity.

In the Roman Empire the Margrave of Brandenburg is Archchamberlain, concerning whom the Golden Bull, title 25, *On the Offices of the Princes at the Solemn Courts of the Emperors*, speaks thus: “Then the Margrave of Brandenburg, Archchamberlain, shall approach on horseback, having in his hands silver basins with water, weighing twelve marks of silver, and a beautiful towel; and, descending from his horse, he shall give water to the Emperor, or King of the Romans, for washing his hands.” The Chamberlain in France, whom they are accustomed to call *Camlerlan* and *Camerling*, was held in such honor that even the relatives by marriage and kinsmen of Kings occupied that dignity. Under Louis the Pious, Bernard, brother of the Queen, administered this function.

In the same Empire the Palatine is Archsteward. The Elector of Saxony carries the sword, which formerly the ἀρχισπαθάριος performed, who, bareheaded and next to the Emperor’s kinsmen, carried the sword. Thus it appears that the ancestors wished those who were themselves Princes to be about the Prince.

§ 4. There are very many other Magistrates of the palace or court, all of whom are called by the single name *Palatines*. The lesser men were so called: the memorial secretaries, *agentes in rebus*, and attendants; *obsequium* was the name of the entire body of attendants, which served equally for protection and honor. But because at court there is frequent mention of a School and Scholastics, I judge that something must be said concerning them.

Scholastics are indeed commonly said to be those who devote themselves to learning and philosophy. Jerome testifies that Serapion was called a Scholastic because of the elegance of his intellect; Salvian joins Scholastics with discerning men. Augustine, *On Dialectic*, says that properly and originally those who are still in Schools are called Scholastics, yet that all who live among letters employ this name.

But Schools and Scholastics had an altogether different meaning in the state. Scholastics were present in council with the Prefects of the Praetorium and the Governors of Provinces.

Schools were orders of soldiers. They were so called by antiphrasis because they were by no means at leisure, as many think; but I think that in truth they were so called because of leisure, for training in arms was not so great that they could appear not to be at leisure. A soldier spends a large part of his life at leisure. In Vegetius, book 2, chapter 21, a School is a century.

The laws themselves sufficiently indicate that the labors of the military Schools were not excessive. For service in the eleven Schools was easier than that of men who endured service under the exalted Masters of the Soldiers. Indeed, two Schools served without arms: those of the Silentaries and the *agentes in rebus*. The others were armed and were as though in Praetorian military service--that is, affluent, soft, and idle, which is seen more in pomp than in dangers. Hence there were two Schools of Candidates, Seniors and Juniors, whom a later age called *Ostensionales*, because they stood beside the rulers for the display of Majesty, commended by height and form. Yet the number of Schools varied at different times.

To these belong the Ducenarii and Centenarii, which are dignities of the legions but were transferred to Palatine offices. They presided over one hundred and two hundred members of the cohorts. *Ducena* and *Centena* were the names of the dignity itself. Paul of Samosata wished to be called Ducenarius rather than Bishop. They were in the School of the *agentes in rebus*. Augustus first instituted Ducenary Procurators, Dio, book 53, who collected taxes; they were so called because they possessed two hundred thousand sesterces in the census. The man who governed the order was called Primicerius: the Primicerius of the court εὐτακτεῖ τοὺς ἐν αὐλῇ πάντας, “sets all those in the court in good order.”

§ 5. These too were chief offices in the royal court. The Protovestiaris presided over the inner wardrobe and kept precious treasures; but the Protovestiarites was President of the treasury, and his dignity was great and not unequal to

the Count of the Largesses. Under him was the Vestiarius and the man who was called Avestiarius in the imperial tireme.

The Great Shield-bearer is the King's groom. He offered the belt and sword to the King as he mounted or dismounted his horse, and formerly also the shield.

The Protallogator, who presided over the horses destined for the public post, is subject to the Great Primicerius.

The **Λογαριαστής** exercised care of all the courtiers, lest anyone lack his stipend.

The Sacellarius presided over alms. Zonaras, volume 3, page 76. Nevertheless he also exacted payments and decreed punishments. They were generally eunuchs and powerful.

The Great Master of the Hospice has under him eight arrangers of the table and tasters.

The Provost of the Hospice punishes those who offend in courtly service or wherever the King acts.

Other nobles were present in the palace and were created by letters patent; they enjoyed honor and titles without labor or emolument. Cassiodorus, book 6 of the *Variae*.

Among the French a Magistrate whom they called the King of the Ribalds presides over cleansing the courts. Ribalds are strong men, **σακκοφόροι**, "burden bearers," such as the ancient

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Egyptians. Accordingly, they called wanderers and vagrants, worthless men, and rogues by this name. That King therefore drove this whole kind of dregs from the court, lest, like flies, they cling to the royal banquets and befoul the palace.

§ 6. An ordinary fault of ancient courts was an excessive multitude of men. The Proconsul of Africa and his Legates had four hundred attendants. Arcadius and Honorius, Code, book 12, title 56: "We judge that four hundred must be assigned to your staff and that of your Legates, from those only whom the members of the state do not complain have been taken from them."

The Count of the East had six hundred, under Theodosius and Arcadius: "In the office of the Count of the East let there be no more than six hundred attendants, whom we know to be abundantly sufficient for public necessities."

§ 7. The Franks were much more moderate: one hundred nobles, to whom one hundred gold pieces were given monthly; one hundred others were added to them.

The privilege of all Palatines, given by Constantine, is that they should possess what they have acquired as though it were military peculium. "We command," he says in chapter 12, title 31, "that all Palatines upon whom certain privileges of our edict have long since been poured should possess as military peculium any property which, while they remain in our palace, they have acquired by their own economy or obtained by our gifts. For what is so truly from the camp as that which is acquired with our knowledge and almost beneath our eyes? Nor are those men strangers to the dust and labor of camps who accompany our standards, who are always ready for duties, whom the length of journeys and the difficulty of expeditions exercise, intent upon and instructed in their studies. Therefore let our Palatines, who have been able to use the privileges of the edict, retain as their own their peculia which, while appointed in our palace, they have acquired either by their own labor, as has been said, or by our donation. Posted ten days before the Kalends of June, Constantine Augustus for the sixth time and Constantius Caesar being Consuls."

Finally, there was also the Tribune of Shining Things, who possessed this function: that the palace and all public things should be cared for and kept shining.

CHAPTER XVII

A Consideration of Counts

§ 1. Zasius, Rulandus, and Cluverius have without cause invented the claim that Counts had their beginning among the Germans; for they were companions first of Proconsuls, and then of Emperors, and this before the manners and institutions of the Germans were known.

The dignity of Counts has now increased beyond measure. Formerly they were so called because they accompanied the Prince. The Prince's court itself was called the *Comitatus*, nor did "to be sent to the Prince" signify anything other than "to be sent to the *Comitatus*." Socrates, *Ecclesiastical History*, book 2, chapter 23. Ammianus, book 28, calls it the Sacred *Comitatus*; Symmachus, book 2, chapter 8, and book 9, chapter 8. The *Comitatensian* Legions or Vexillations took their name from it. Law *Nemo*, Code, *On Military Affairs*. The man who ordered the *Comitatus* was also called Count.

§ 2. The dignity of Counts now exists partly in the greatest Princes, partly in the vilest men, and partly in men of moderate station. The Count Palatine of the Rhine, an Elector, the Count of Flanders, and the Count of Tyrol are great Princes. Certain worthless men, who, endowed by the letters patent of Caesars with the honor of the *Comitatus* or Palatinate, wander about and boast in the title of honor; nevertheless, many honorable and military men are distinguished by that dignity. They were indeed at one time true companions of the Emperor; but now, when they bear it as a dignity, they ought not to be called Counts from custom alone.

Yet the beginning and origin of the name is from that custom. For Hadrian transferred the Senate into the court and enrolled the most select of the nobles into a company of friends, which was called the *Comitatus of Caesar*. Spartianus, *Hadrian*. Afterward the title of honor was given to others also, such as professors who had lectured publicly for twenty years. But now, since there are in Germany Counts Palatine, Landgraves, Margraves, and Burgraves--that is, Counts of the Palace, Borders, and Burgs, that is, of fortresses or towns--those wandering pretenders employ only the name "Counts Palatine."

The Count Palatine is so called from the Palace, not from the Capellatian region, which takes its name from Palas and over which the Count Palatine presides, called in the ancestral language *Pfaltzia*, as the most learned Peter Gregory of Toulouse thinks, book 6 of the *Syntagma*, chapter 8. For the Count Palatine is truly named from the Palace of Caesar and from the dignity which he possesses in it. First, he is Archsteward, which is a Palatine office; second, when the Empire is vacant he is Vicar of one portion; third, he is Judge in causes in which the Emperor is accused, which is an eminent dignity.

Thus it stands in the Golden Bull, title 5, *On the Right of the Count Palatine of the Rhine and the Duke of Saxony*: "Whenever, moreover, as is premised, the Sacred Empire happens to be vacant, the illustrious Count Palatine of the Rhine, Archsteward of the Sacred Empire at the hands of the future King of the Romans, in the regions of the Rhine and Swabia and where Frankish law obtains, by reason of the privilege of his Principality or County Palatine, ought to be Provider of the Empire, with power to exercise judgments; to present to ecclesiastical benefices; to collect revenues and proceeds; to invest with fiefs; and, in the place and name of the Sacred Empire, to receive oaths of fidelity. Nevertheless, all these things must in due time be renewed by the King of the Romans afterward elected, and the same oaths must be offered anew to him, excepting only the fiefs of Princes and those which are commonly called *Fahnlehen*, the investiture and collation of which we reserve specially to the Emperor alone, or the King of the Romans. Let the Count Palatine himself, however, know that every kind of alienation or obligation of imperial property is expressly forbidden to him during the time of this provision.

“And we will that the illustrious Duke of Saxony, Archmarshal of the Sacred Empire, enjoy the same right of provision in those places where Saxon laws are observed, under all the modes and conditions expressed above. And although the Emperor or King of the Romans, in causes in which he has been accused, must answer, as is said to have been introduced by custom, before the Count Palatine of the Rhine, Archsteward of the Sacred Empire and Prince Elector, nevertheless the Count Palatine himself may exercise that judgment nowhere except in the Imperial Court where the Emperor or King of the Romans is present.”

When the Empire of the French and Germans flourished, Counts presided over cities; they were Judges and, as it were, Praetors. Beatus Rhenanus, book 2 of *German Affairs*. But when, either through merits or the outcomes of wars, administrations of counties were sometimes made perpetual and hereditary, from this arose Counts and Marquesses, of whom there is now in the Empire a great multitude, dignity, and power.

§ 3. Arcadius and Honorius made Counts equal to Proconsuls: “We decree generally that those who have deserved to be called Counts of the Consistory of Our Tranquillity should be made equal to Proconsuls of respectable rank. Given seven days before the Kalends of October at Constantinople, Theodorus, a man of clarissimate rank, being Consul.” Code, book 12, title 10. This concerns Consistorians.

Concerning Counts of Military Affairs, title 12, Honorius and Theodosius confirmed the power of adoring the Prince:

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“The Provosts and Tribunes of the Schools who are admitted to the banquets of our leisure and from antiquity have deserved the faculty of adoring the Prince--among whom the Counts of the Sacred Stable and the Care of the Palace are also numbered--if they have deserved a Countship of the first order together with the Provostship, and by chance have not arrived at higher honors, when their oath has been laid aside we command that they be held among those who have been Counts of Egypt or of the Pontic Diocese, whose dignity is equal. Others who, with the honor of a Countship, have obtained a government, when released from military service we order to be numbered among those who have been Dukes of Provinces. Given seven days before the Kalends of April at Constantinople, Lucius, a man of clarissimate rank, being Consul.”

After faithfully completing their service, the Decurions of the Palace could be enrolled among the Counts. Code, book 12, *On Silentaries and Decurions*: “After faithfully completing their service and after laying aside the oaths of military service, let the Decurions of our Palace possess the choice either to prefer to obtain a dignity from Our Majesty from the Master of Offices, like the *agentes in rebus*, or to be enrolled among men of illustrious rank as Counts of the Domestics, namely among the *agentes*, so that honor may be reserved to them in every respect, both in adoring Our Serenity and in saluting Administrators, and in the other privileges of the aforesaid honor, and also in our Consistory. Given the day before the Kalends of November at Constantinople, Honorius for the tenth time and Theodosius for the sixth time, Augustuses, being Consuls.”

The chief physicians of the Palace were also endowed with this dignity. Thus Honorius and Theodosius: “If the rank of a Countship of the first order has ennobled the chief physicians serving within the Palace, we command that they be enrolled among the Vicars, whether they laid aside military service long ago or shall lay it aside afterward; so that between the Vicars and Dukes who have administered office, and those who have deserved a Countship of the first order, there shall be no distinction except the time when each administered office or obtained the insignia of a Countship. Given twelve days before the Kalends of April at Constantinople, Lucius, a man of clarissimate rank, being Consul.”

§ 4. It is evident that the Count of the Stable possessed great authority, for Valentinian adorned his brother Valens with that dignity. In Germany it is an ordinary dignity among men of moderate station; in France it is among the highest, indeed the most dangerous. By a corrupted word they call him Constable or Conestable. Formerly, when there was war, the cavalry was committed to him; afterward the whole army. He possessed jurisdiction over all soldiers and

commanded even the King's brothers and kinsmen. His authority then increased when the office was made perpetual. His dignity is therefore the greatest, and the other Marshals are subject to him; for this reason he even possesses the King in his power. The Marshals serve in place of the Count of the Stable and Master of the Horse. Formerly there were four; afterward their number was increased, in order to divide the power, so that there were eight. The Master of Foot is properly the Vicar of the Constable.

§ 5. The authority of Dukes and Counts under Charlemagne was not singular; they were like Roman Governors, whom Emperors at their judgment either removed or restored to the place of dignity, just as the friends of Kings are now worth a talent, now a denarius, according to the place the King assigns them.

After the time of Diocletian Dukes possessed some rank of dignity, and their first mention is in Ammianus. In France they were nearest the Kings. Walafrid Strabo, book *On Ecclesiastical Affairs*, chapter 13. But they presided over Prefectures rather than hereditary lordship.

The kinsmen and brothers of Kings were called Peers; afterward twelve were so called, though elsewhere even parents are thus named.

Bullinger relates that he read in an ancient codex that a King ought to have two Patricians; a Patrician, four Dukes; a Duke, four Counts; a Count, four Barons; a Baron, four Castellans; and a Castellan, four Vassals. In another codex: a Count should preside over ten Marquesses, and a Marquess over ten Barons. I believe that this was written; I think it was never observed. I do not doubt that Marquesses take their name from borders. In German *Marc* is not a noble horse, but *Maer* is a mare, and perhaps a horse; but *Marck* or *March* is a border.

§ 6. The Count of Private Affairs was at first the procurator of Caesar and afterward the Count of the Lord's Estate. There was another Count under him, the Count of Private Largesses. Afterward he judged concerning escheated goods, incest, and violators of tombs. The Count of the Sacred Patrimony was also distinct from him, although they appear to have been under him.

Afterward the same office which had belonged to the Count of the Sacred Largesses was given to the Protovestiarus, who guarded all precious things and even the treasury itself; for this also was afterward added.

§ 7. Some think that Barons are *Varones*, that is, servants of soldiers and camp followers, who are the most foolish of men. The Germans say that they called wise men "Barons," that is, men. Now the Germans call them *Freyherrn*, not because they acknowledge no superior, but because they are under only the supreme Magistrate. I think the word is German, but the institution taken from the Romans. The Romans called Senators "Fathers"; it was a name of dignity, whence also came "Patricians." But among the ancient Germans, and now also, father is called *Vaar*, by contraction from *Vader*, for *Vatter* is more recent. Barons, therefore, or *Varones*, were so called as though fathers.

I am not ignorant that there are other opinions of others concerning Barons. Some think that they are called from **βαρεῖν**, or rather **βαρύνειν**, because they excel in gravity and dignity. Others who derive them from fortresses, which later Greeks called **βάρεις** from the Hebrew, or from **ברא**, that is, "creating," depart farther from the right course. For what would bring it into the mind of Germans and Frenchmen to distinguish a new dignity by a Hebrew name, and indeed one so general? Yet if a name must be sought all the way from Heber, we shall more rightly say that Barons are called *Barionim*, **בריונים**, as though from **ברר**, "chosen, serene, pure," for the Hebrews employ it more commonly in this meaning. But since that dignity exists among Germans and Frenchmen, I prefer to seek its meaning from their own ancient language rather than from foreign ones.

In certain cities, as in golden Mainz, some Masters of artisans whose care it is to provide for and direct foreign workmen who arrive are called Fathers. Yet it is useful to hear others also. Some think Vassals and Barons the same, but Peter Gregory of Toulouse shows that they are different, book 6 of the *Syntagma*, chapter 10. Hector Boethius testifies that among the Germans and Scots Barons are called the same as Royal Vassals. Blondus wished them to be included under that name. And some think that the captains and magnates of the kingdom were so called by that name:

all Dukes, Counts, and Marquesses. Otto of Freising also numbers William, Marquis of Montferrat, among the Barons of Italy. Among the ancients in France also it sometimes pleased them that Counts should be called Barons, as Renatus Chopinus teaches at greater length. Baldus, however, notes that the Lombards call this man a great Castellan; and Boerius says the same in France and that he is the man who, by concession of the Prince, has obtained in a certain fortress the right of lower, middle, and highest coercion. Others suspect that the man called a Baron is the one who is called a great *Valvassor* and Captain of the King in fiefs, whom the Prince has invested with some commonalty or portion. But it pleased others that anyone below a Count who possesses some dignity should be called a Baron. For they wished

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a County to be more worthy than a Barony. Nor is the opinion of those who confuse these dignities commonly approved, because both are often named together in law as distinct.

Some attribute to the Baron even the supreme power after the royal power in matters pertaining to feudal rights, and assert that these men are called Barons from the Greek word βαρεῖν, because they ought to precede the other Beneficiary Lords in gravity and dignity. As testimony for this they cite Cicero to Atticus: "I have placed you in the highest favor with the Patron and the other Barons," and so forth. Others, however, read "Varones" there.

Others derive Barons from the form of a feudal building, because houses enclosed on every side and raised upon towers are called *Bareis* by the people of Palestine, according to Rhodiginus. But if it is permitted to interpret our word from other languages, the derivation from the Hebrew speech appears truer to me: that a Baron should be called, as it were, a new creature and creation which is neither a Duke, Marquess, nor Count, but some new thing. For thus the Hebrews say ברא, "he created," and בריאה, a formation, a new creature; or from ברר, "he chose," so that a Baron is called "chosen." And among the Rabbis also *Barion* is a bodyguard, who is commonly called *spatharinus*, "swordsman."

And in chapter 11 he shows that greater Princes are called Vassals, *Valvassores*, and *Valvasini*. His words are: "They think *Valvassores* are so called because they stood at their Lords' doors, as was also done among the Kings of the Hebrews. Lesser *Valvassores* they also called *Valvasini*. And in turn those who received a fief from the lesser *Valvassores* were called the least *Valvassores*. Thus there were three ranks of *Valvassores*: greater, lesser, and least. By common law the lesser were free to take away from the least a fief, after restoring the price, if they had sold it to them; this was nevertheless not permitted by the custom of Milan, because the least possess the same right as the greater. In relation to all these, Dukes, Counts, and Marquesses, who received a fief from the King and gave it to others, are called Seniors, as though first Feudatories before the greater *Valvassores*. From this word *Seniores* is derived the word *Seigneur*. *Valvassores* are also called soldiers of the Seniors."

For so Conrad I often employs the word in a law added to the Frankish and Lombard laws, in the title *On Benefices and Tributary Lands*. Pepin also employed it in the law concerning property under dispute, which he enacted in this manner: "Let no one purchase a horse, ox, pack animal, or any other thing unless he knows the man who sold it, or from what district he is, or where he dwells, and who his Senior is." The Franks spoke of Vassals and *Vassi*, as appears in the title *On the Lord's Vassi*. Aemoinus says that Charlemagne appointed throughout all Aquitaine Counts and Abbots, and very many others, "whom," he says, "they commonly call *Vassi*, from the nation of the Franks." And elsewhere he relates that Tassilo, Duke of the Bavarians, came with the chief men of his nation and, after the Frankish custom, commended himself with his own hands into the King's hands in vassalage; and promised by oath upon the body of Saint Dionysius fidelity both to King Pepin himself and to his sons Charles and Carloman; and so forth. In like manner also all the chief men and elders of the Bavarians.

Some say that Vassals were named from *vas vadis*, because in the form of fidelity they swore an obligation to their Lord. Others say from the Frankish word *Vassi*, which signifies "brave," namely because Lords granted fiefs to chosen brave soldiers. In the Turkish language *Bassalar* means eminent men--if one may speak thus, "heads"--who always

accompany the Prince for counsel. Thus Satraps and men of greater dignity are also called Bashas among the Turks, some of whom are greater than others. Thus Bashas are honored by other Bashas according to dignity. And perhaps **βάσσαι** also were so called, as though *Vassi*.

Others say that Barons and *Baros* mean men, namely brave men, so that it is a name of virtue. Thus certain glosses. The Picards thus call husbands. Among Spaniards *Varon* means an eminent man. Indeed, the German word *Bar* has the notion of liberty; for this reason some think that children, that is, sons, were also so called. Matthew Paris, in the *English History*, calls the council or assembly of France the *Baronagium*.

CHAPTER XVIII

A Consideration of the Roman Consulship

§ 1. After the Kings had been expelled, the Consulship was the principal office in the Roman state. In the creation and adornment of this Magistracy I find many things instituted most wisely and some less prudently--not because they lacked wisdom, but because through fear, rivalry, and desire they overstepped the bounds of what was right.

§ 2. In the beginning the creation of Consuls was conducted with the greatest integrity. In the two hundred and forty-fourth year from the foundation of the city, two were created by the Prefect of the City from the registers of Servius Tullius: Lucius Junius Brutus and Lucius Tarquinius Collatinus; and this was done in the Centuriate Assembly.

Servius preferred the Centuriate Assembly, lest the elections be in the hands of the lowest men. For although the poor were the greater part, the Magistracies were nevertheless in the power of the wealthiest. There were six classes: the first was of the wealthiest, the second of the rich. There were one hundred and ninety-three centuries; in the first class were ninety-eight centuries, in the second twenty. Those two classes, therefore, when they agreed, designated the Magistrates. Lesser Magistrates were created in the Tribal Assembly, in which the people had greater power; accordingly Quintus Fabius and Publius Decius cast the rabble of the Forum, which had been mingled through all the tribes, into the four urban tribes. Thus the elections were always in the power of the principal men. This must be attended to with the greatest care in a free state, lest wicked and needy men designate as Consul one to whose advantage it is that the state be afflicted and overthrown.

§ 3. The consular age was forty-two years, and an ordinary return to the office was not permitted except after an interval of ten years. This also was observed: access to the highest dignity was made through the grades and through other Magistracies well administered. Yet all these things were sometimes changed either through ambition or through the necessity of the state. Afterward the rule of age was neglected, and Honorius as a boy was raised to the Consulship. Claudian:

A Consul amid your cradle-clothes,
 You advance, marking the fasti merely by your name,
 And the year which brought you forth is given to you.
 Your mother herself clothed you, still small, in the Quirinal robe
 And taught you to crawl toward your first curule chairs.

§ 4. The honor of the Consuls was great. First, his chair was ivory, altogether royal. Hence it is called the most ample dignity, is preferred to all dignities, and was an honor sought even by Emperors. Statius, book 4 of the *Silvae*:

Every honor takes its light from the Consul.

Next came the bordered toga. In the later age it was customarily given by Emperors. Vopiscus, in *Probus*: "The palm-embroidered Capitolian robe awaits you." Valerian wrote to Aurelian: "Receive, therefore, for your achievements four mural crowns," and so forth, "a bordered toga, a palm-embroidered tunic, a painted toga, a deep under-tunic, and an ivory chair; for today I designate you Consul, and I shall write to the Senate that it assign you a scepter and also assign you the fasces."

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In this matter they were liberal, while observing the precept of Maecenas: “Preserve honor for the Consuls; take away their strength.”

Third, the year was inscribed with the name of the Consuls. For this reason the names of wicked men were sometimes erased from the fasti, and Claudian deservedly complains:

Through the cities an old woman in the consular robe

Is displayed and effeminates the title of the year.

Libanius describes that dignity, which long afterward remained without power: “What could be more venerable than to encompass the whole world, after the manner of the sun, by the appellation of one’s name, and for the name given by one’s parents to be in the mouth of all men--a name whose remembrance attends many necessities: judgments, marriages, the forum, harbors, debts, sales, those contracting, those making agreements, litigants, those establishing credit by letters, those entering into association, those separating, and the birthdays of wealthy sons?”

§ 5. The power of the Consuls was altogether royal. Livy speaks truly in book 2: “You may reckon the origin of liberty from this rather--that the consular government was made annual--than from the fact that anything was diminished from royal power. The first Consuls retained all the rights and all the insignia. This alone was guarded against: lest, if both possessed the fasces, terror should appear doubled. Brutus first possessed the fasces with his colleague’s consent; and he had not been a more vigorous vindicator of liberty than he was afterward its guardian. First of all he compelled the people, greedy for their new liberty, by an oath that they would permit no one to reign at Rome, lest afterward they could be bent by the entreaties or gifts of Kings.”

The summit of their power was nevertheless bestowed chiefly for the conduct of wars, after the example of the Lacedaemonians, among whom there was a King and two annual Commanders. Hence came the fasces and Lictors, all after the royal manner. Later, in the time of the Emperors, scarcely any wars were entrusted to Consuls. It was extraordinary that Belisarius, after being made Consul, conducted the war in Sicily and laid down the Magistracy in the province, although by then it was not a Magistracy but the empty mask of an honor.

§ 6. First, their power was diminished by the addition of a colleague with equal power, so that, if one were wicked or seditious, he might be restrained by his colleague, since they held the fasces by turns.

Next, the government was annual, so that they might rule more moderately over men who were sometime to possess the Magistracy over them. This is still the custom in many cities, though in another and happier manner than among the Romans.

But since not even in this way was the imperious pride of certain men sufficiently restrained, it was afterward established that they should judge and act according to the Senate’s opinion. Indeed, an appeal from the Consuls to the people was granted. At length they reached such a pitch of contention that they broke the Consuls’ fasces and refused to answer to their name. Livy, book 2, under the Consuls Aulus Verginius and Titus Veturius.

At length the Tribunes were opposed to them. Hence came all those conflicts of a divided state. Hence in book 2 they threaten Claudius with bonds; in book 5 they command that the military Tribunes be under the Senate’s power; in book 7 they compel Manlius to resign the Dictatorship; and in book 4 they stir up the people against the Consuls. Amid these struggles between the Fathers and the plebs the state passed a great part of its life, because it possessed governments contending with one another.

§ 7. They possessed an army only by a decree of the Senate or a plebiscite. Julius Caesar was proclaimed Consul and Dictator for ten years; when the first opportunity came, those who had been compelled to do this reclaimed their authority. Augustus also, just as he began to possess tribunician power, likewise possessed Proconsular command. Dio says:

ἀνθύπατον ἐστὶ καθάπαξ, ὥστε μήτε ἐν τῇ εἰσόδῳ τῇ ἔσω πωμηρίῳ καταλῦσαι τὴν ἀρχήν.

He was created Proconsul--that is, he possessed consular power always and perpetually--so that not even by entering the Pomerium did he lay down his power. Otherwise, upon entering the city, he lost Proconsular command. The plebs conferred a perpetual Consulship upon the elder Africanus because of his immense services to the state, but with greater moderation he refused it. Domitian numbered seventeen Consulships, not without ridicule.

§ 8. The management of public money was in the hands of the Consul. Hence Caesar, when Consul, stole golden ingots and substituted gilded bronze ones in their place. This indeed was a great power, but afterward that charge was entrusted to others. On his first entrance Caesar opened the treasury and threatened the Tribune who forbade him with death. He brought forth twenty-six thousand golden ingots and three hundred thousand in coined money; the sum was twenty-six million.

§ 9. The Consul possessed the ordinary right of consulting the Senate. This was observed so strictly that the Emperor did not possess the power of convening the Senate except by a special privilege. Accordingly, we read that it was granted to Vespasian by decree of the Senate: "That he be permitted to hold the Senate, make a motion, remit a matter, and make a decree of the Senate by motion and division," and so forth. "That whenever the Senate is held according to his will or authority, by his command or mandate, or in his presence, the law of all matters should be regarded and observed in the same way as if the Senate had been summoned and were held according to law."

This right was therefore customarily given to Princes. The Consul who possessed the fasces in that month made the motion. This was the ordinary rule; nevertheless, Senators were sometimes accustomed to ask that they might refer a matter to the Senate and themselves speak at length about urgent affairs. It is evident from the beginning of the eighth *Philippic* and elsewhere that the Consul nevertheless possessed great weight.

§ 10. Military Tribunes with consular power were created in the 309th year of the city; after the year 396 they ceased to exist. During that time they did not enter the Magistracy continuously, but almost alternately with the Consuls. The reason for creating military Tribunes with consular power was that the Fathers refused to make plebeians Consuls, while the Tribunes demanded it. They therefore preferred Tribunes who might be taken from both plebs and Fathers. At first three were elected from the Fathers, and the plebs was content because account had been taken of its members; afterward four, and finally six, were made, partly patricians and partly plebeians. At length there were eight. Livy, at the beginning of book 5. I marvel that some regard that passage as corrupt and think that there were never eight, since Livy refutes this: "Peace had been obtained elsewhere; the Romans and Veientes were in arms, with such anger and hatred that it appeared the end awaited the vanquished. The elections of the two peoples were held by very different methods. The Romans increased the number of military Tribunes with consular power. Eight, as had never been created before, were elected: Marcus Aemilius Mamercus for the second time, Lucius Valerius Potitus for the third, Appius Claudius Crassus, Marcus Quinctilius Varus, Marcus Julius Tullus, Marcus Postumius, Marcus Furius Camillus, and Marcus Postumius Albinus."

Yet the moderation of the plebs in this matter was great, because for forty-four years no man from the plebs was created military Tribune in the camps, although they contended that plebeians should be Consuls. Thus it appears that the pride of the nobility, not the ill will of the plebs, was the reason why Magistracies were shared with the lowest men.

§ 11. In the creation and administration of this supreme Magistracy there are many things which I find wanting. In truth, poor provision was made for the ancient state.

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The source of the evil was that annual power, by always instilling new hopes into men eager for change, possessed too little authority and too little strength to restrain the people. The Romans themselves concede this to me. Livy, book 2: "From this point I shall relate the deeds of the Roman people, now free, in peace and war; their annual Magistrates; and the commands of laws more powerful than those of men. The pride of the last King had caused this liberty to be

more welcome. For the earlier Kings reigned in such a manner that they are not undeservedly all numbered thereafter among the founders of the parts of the city, because they added new settlements for the multitude which they themselves had increased. Nor is it doubted that the same Brutus, who earned so much glory by expelling the proud King, would have acted to the greatest public harm if, through desire for an immature liberty, he had wrested the kingdom from any of the former Kings. For what would have happened if that rabble of shepherds and immigrants, fugitives from their own peoples, having obtained liberty--or at least impunity--under the protection of an inviolate sanctuary, had, when royal fear was removed, begun to be agitated by tribunician storms and to sow conflicts with the Fathers in an alien city before the pledges of wives and children and love of the very soil, to which men become accustomed over a long time, had united their spirits? The still immature state would have been scattered by discord. The tranquil moderation of government fostered it and brought it, by nourishing it, to the point that, with its strength now mature, it could bear the good fruit of liberty."

He plainly admits that a free people could not have grown under those conditions. Indeed, while Tarquin, so savage and so proud a King, was still alive, they wished there to be a Dictator because of fear of the Latin war. Livy explained this excellently in book 2: "After a Dictator--Lartius--was created for the first time at Rome, when they saw axes carried before him, great fear seized the plebs, so that they were more intent upon obeying his command. For there was not, as under the Consuls who possessed equal power, the aid of the other; nor was there appeal; nor was there any help anywhere except in careful obedience." A little afterward Postumius the Dictator fought with Tarquin. Then, when the Kings had been removed, tyranny was doubled and a sedition of the plebs soon arose. Livy, book 2: it began when Appius Claudius and Publius Servilius were Consuls. "It was already near the point at which not even the majesty of the Consuls could restrain the passions of men." And a little afterward: "From that point one Consul and the Fathers raged; but the courage of the plebs had increased, and they proceeded by a very different path from that which they had first begun. For, despairing of aid from the Consuls and Senate, when they saw a debtor being led to court, they rushed together from every side. The Consul's decree could not be heard because of the din and shouting; and when he had decreed, no one obeyed. The matter was conducted by force, and all fear and danger to liberty, when individuals were assaulted by many in the Consul's sight, had turned from the debtors upon the creditors." At length a secession was made, and, lest they be bound by the military oath, they resolved to kill the Consuls.

§ 12. The reasons why the Consulship is not a suitable Magistracy are manifold: it belongs to canvassers; it is annual; it belongs to the inexperienced and to rivals; and it is exercised over men whom the Consul fears and whom for many reasons he cannot offend.

The first source of weakness in that Magistracy is that, although the Consulship was sometimes given as a reward for virtue, constancy, and integrity, it more often yielded to flatteries and ambition. First, it was very frequently given to eloquent men. Cicero, *On Canvassing for the Consulship*: "The man who is regarded as a worthy advocate of Consulars cannot be thought unworthy of the Consulship." Accordingly, supports were procured even through the greatest injustice, and favor privately. The same Cicero: "Then let both the multitude and the kinds of your friends appear. For you possess those things which new men have not possessed: all the publicans, almost the entire equestrian order, many municipalities besides, many men of every order defended by you, several colleges, and in addition very many young men conciliated by devotion to speaking, and the daily attendance and frequency of friends. Take care to retain these by commending, asking, and contriving by every means that they understand both what they owe you, as an occasion for returning favor, and that those who wish to oblige you will have no other time." He then advises him to commend himself to the Optimates and nobles.

Hence we see that no man was so wicked that through his crimes he lost the hope of attaining the Consulship. The things which Cicero writes concerning Antony and Catiline, Galba and Cassius are astonishing; nevertheless they were competitors for the Consulship. They induced the tribes to support them by promise, hope, and gift. Hence came greeters, escorts, attendants, and friends who referred everything to the candidate's ambition and nothing to the safety of the state. Hence, in popular solicitation and handshaking, came those enticements and deceits: knowledge of names,

flatteries, assiduity, liberality, rumor, and hope. Hence came that rule of candidates: they were not to permit anyone to be able to say that he had not been asked, or had not been asked earnestly and diligently. Honorable and lavish promises and most profuse largesses often brought it about that they made Consul a man whom no good man would wish to have as a son. Hence came those plagues of the state: intermediaries, agents, and distributors.

Since very many therefore came to dignity by money and crimes, they could not administer with dignity or for the public good the state which they had been unable to obtain by virtue. Blinded by money, they rejected distinguished men. Quintus Aelius Tubero, because he had spread Punic couches with kidskins and had set out Samian ware instead of silver vessels, was rejected from the Praetorship. Paulus Aemilius, after being rejected, wearied the Campus and could not by the splendor of his nobility or the goods of his spirit prevent the Quirites from being adverse to him. The same envy drove the sorrowful Metellus from the Campus. But the greatest disgrace of the Roman people was that Vatinius was preferred to Cato in the Praetorship.

A greater evil arose from this: those Magistracies were very often conferred upon needy men who had poured out all their resources upon largesses. How, therefore, could authority, vigor, or esteem exist in men who, unless by injustice, sold opinions, corrupted judgments, and plunder of the provincials they amassed enough booty for themselves and their judges, would be dragged into bondage as soon as they laid down the Magistracy?

§ 13. Even if the Consuls were good, brave, equitable, and experienced in affairs, the brevity of their term nevertheless frustrated all the force of consular command. For this very fact--that the Magistracy lasted only a year--blunted the courage and confidence of the ruler; and those who obeyed unwillingly or were offended counted each day precisely. A Consul-designate also was often hostile; or, even if benevolent, a successor nevertheless loomed over him. But nothing hindered equally with the inexperience of those who were created. For every year they chose a new Ruler. This is just as if some Prince or city should every year choose for itself a new physician who had never healed anyone and should hazard his art at the risk of its life. The madness would be judged still greater if, captured by favor or gifts, they entrusted their health to an inexperienced man.

For this reason most free cities in Germany, although they change the Consulship, nevertheless permit it to remain among experienced men. The laws of Cologne have made excellent provision that a continuous Consulship remain among six men, in such a way that it returns to each one every third year.

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From this they obtain the advantage that neither does excessive power belong to one man nor are affairs governed by the inexperienced. In place of a deceased Consul the Senate by decree substitutes a Senator of proven fidelity, virtue, and prudence. In his year that man enters the Magistracy with a colleague who has served before; thus they are governed by experienced men. No one aspires to the Consulship through ambition, because there is one access alone: if he has proved to the Senate his prudence, vigilance, constancy, justice, and dexterity in ruling.

§ 14. But what was the origin of all disasters was that in the Roman Consulship there was no force by which the injuries of powerful men could be restrained. For, first of all, Consuls were agitated by great personal hostilities, so that they sometimes betrayed their fatherland and army. Thus it happened at Veii, as Livy testifies in book 5. Sergius and Verginius were military Tribunes with consular power, each hated and was hostile to the other. "When it was reported to Verginius that most of the forts had been attacked, the defenses overcome, and the enemy was entering from both sides, he kept his soldiers under arms, repeatedly saying that, if there were need of aid, his colleague would send to him. The obstinacy of the other equaled this man's arrogance: lest he appear to have sought any help from an enemy, he preferred to be conquered by the enemy rather than conquer through a fellow citizen. For a long time soldiers were slaughtered between them; at last, after abandoning the defenses, a very few made for the greater camp, but the largest part, and Sergius himself, for Rome. There, when he shifted all blame upon his colleague, it was resolved that Verginius be summoned from the camp and that the Legates command in the meantime. The matter was

then debated in the Senate, and the colleagues contended with insults. Few supported the state; men supported one or the other according as private zeal or favor had seized each.”

Many examples teach that no Senator could be restrained by a Consul if only he possessed the spirit to resist. For the faction of the Patricians allowed nothing to be done for the advantages of the plebs, and the object was that the Consul should strengthen the domination of the nobility. But if anyone sought the favor of the plebs, he assuredly possessed an easy refuge against all patrician commands. Other things were then present by which justice could not be defended or injuries restrained: the conspiracy of the nobility, relationships by blood and marriage, the succession of others to the same dignity, and reciprocal hopes of concealment. No noble Consul was ever found who administered the Magistracy in such a way as to arouse against himself the hatred of his peers by impartial justice and the defense of the plebs. Nor were there lacking those who secretly and openly plotted snares and death. I therefore praise more highly the Veientes, who, weary of annual ambition, the cause of discord, created a King.

§ 15. Excessive expenses were also made in the Consulship, so that the purple of a single year reduced many to poverty. Lest anyone think that the lords of the earth are undeservedly censured, let him hear the most prudent judge Lipsius, book 2, chapter 11 of *The Greatness of Rome*: “I shall state the chief heads of expenditure. Lactantius speaks thus concerning them generally: ‘What is to be said of those who, led by popular fickleness, expend upon the presentation of shows resources sufficient even for great cities?’ Likewise Ambrose: ‘A Magistrate bestows and squanders his entire patrimony upon theaters, mimes, athletes, gladiators, and other kinds of men of this sort, so that he may acquire the favor of the crowd for a single hour.’ The Fathers deservedly condemn this ruinous madness, which strips private men of their goods through play and diminishes and saps Princes themselves. You may learn this both from the frequency of the shows and from their apparatus. Augustus alone says that he gave games twenty-four times in his own name and twenty-three times for other Magistrates who were absent or lacked the means. I scarcely think any of those princely games cost less than five hundred thousand or even a million sesterces, as their equipment and pomp will readily persuade us. For behold, how great were often the expenses in adorning the theater itself, the amphitheater, or the circus, since some charm and enticement of novelty was always sought in the very form. Nero, for example, overlaid and covered the entire theater--not merely its stage--with gold. Whatever was brought in, and every instrument and item of stage equipment, was likewise golden; and the awnings stretched above against the sun were wholly purple and interwoven with golden stars. Hence even that day was called Golden. Dio Cassius relates this concerning Nero. Pliny likewise signifies the same thing: ‘Nero covered Pompey’s theater with gold for one day, on which he displayed it to Tiridates, King of Armenia.’

“What of Julius Caesar before Nero, when he was not yet Prince? As Aedile, in the funeral show for his father, he was the first to use silver for all the equipment of the arena; and beasts being assailed with silver spears were then seen for the first time. Soon afterward, in something which even municipalities emulate, Gaius Antonius gave games with a silver stage.” Afterward the Consulship was a mere name; yet those shadows of Consuls did more to irritate spirits than to pacify them, since in this manner dignity was not added to citizens, but the memory of lost dignity was renewed, not without reproach. Pandulf Petrucci, the tyrant of Siena, imitated the same thing in the creation of Six Men.

And afterward: “But you will say that these things belonged only to principal men. You are mistaken. Cicero long ago said of Milo that he poured out three patrimonies upon these things; Vopiscus speaks of a certain Messala when he relates these things with indignation: ‘Let Junius Messala read this passage, whom I dare freely to blame. For he gave his patrimony to stage-players and denied it to his heirs; he gave his mother’s tunic to a female mime and his father’s cloak to a mime--and rightly so, if a tragic actor were to use his grandmother’s gold-and-purple mantle and trailing robe! Why should I speak now of linens sought from Egypt, or of those from Tyre and Sidon, translucent in their fineness, gleaming with purple, most celebrated for the difficulty of their embroidery? Cloaks sought from Arras were given; cloaks from Canusium were given; African riches never before seen appeared upon the stage. I committed these

things to writing so that shame might touch future producers, lest, after disinheriting lawful heirs, they assign patrimonies to mimes and babblers.””

The expense of all was immense, for the consular and triumphal banquet had passed into custom. Pliny, book 14, chapter 15: “Did not Caesar the Dictator also distribute amphorae of Falernian and Chian wine at the banquet of his triumph? At his Spanish triumph he likewise gave Chian and Falernian wine; but at the banquet in his third Consulship, Falernian, Chian, Lesbian, and Mamertine. It is established that this was the first time four kinds of wine were set out. Afterward, therefore, all other wines came into distinction, around the seven-hundredth year of the city.”

Let this, however, be granted to the congratulations of friends. Consuls gave games at the greatest loss to themselves and the public. But this surpasses all madness: even when the Consulship was only an honor and not also a power, many nevertheless purchased the mask of a dead Magistracy by the loss of their patrimony. Whoever does not know the expenses of the games is ignorant of Roman antiquity. Consuls exhibited a hunt. Claudian, book 3, *On the Praise of Stilicho*:

Beasts to be held with death delayed by nets and enclosures,
And beasts to be led forth--restrain your eager arrows;
Spare the monsters destined to fall for the Consul's applause.

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It was a matter of great expense and not suitable for a man who was about to return to private life. Thus, while they competed in expenditures at home, the spoils of the provinces were purchased in the Assembly much more ardently than monstrous beasts:

Then he gathers green leopards and the other prodigies
Of the south, and together with them Latona's monstrous tusks.

Nor do I censure the madness of expenditure without cause, for popular Emperors alleviated it. Aurelian gave the Consulship at public expense; he would not have given a benefit if he had not himself supplied an expense ruinous to a private man. Other, more prudent Emperors afterward reduced the expense, as Alexander Severus did. Yet ambition most wretched in its desire was not lacking: many judged it more tolerable to be ruined by expenses than to lack the Consulship.

The laws themselves agree with me. Valentinian and Marcian forbade it, Code, book 12, title 3: “We have recalled the order of the Consulship to the ancient ordinance, so that the throngs of the people may follow the chair of our honor for its merit, not through eagerness to seize gifts, and, laying aside desire for gain, may behold the venerable attire of our fathers and the ornaments of most fortunate antiquity. We therefore wish the Consuls to precede all others by this example also, and do not permit them to expend without effect. Thus, when this advantage of scattering gifts has ceased, let the most ample Consuls henceforth abstain from the error of ruining themselves as they proceed; and by the best counsel let that which was to be incompetently thrown away benefit a necessary work. Therefore let one hundred pounds of gold be furnished under each Consulship for the restoration of the aqueducts of this most ample city, so that the Consul may know that he has given to his fatherland and that it may be known that what is given will remain perpetually. Given when Sporacius and Herculani were Consuls.”

Not even antiquity could endure that, after the power of making war and peace had been taken away--as the Emperor speaks in Novel 105--Consuls should exhaust themselves by largesse alone. Marcian altogether forbade the scattering of coins; Justinian permitted them to scatter silver but forbade gold. Yet it is useful to hear the laws: “What the Consul ought to scatter among the people in these seven processions we have determined better than the constitution of Marcian of divine memory declares. That law indeed altogether denied munificence; but we correct that provision, arranging it according to the will of the man who possesses the honor of the Consulship. For if he wishes to scatter

nothing, we do not compel him; but if he again wishes to come to this and honor the people with gifts of silver, we do not forbid this either. Nevertheless, we do not permit him to scatter gold of any stamp or weight whatsoever, whether smaller, larger, or intermediate--but silver, as we have said."

Let these things have been said concerning the office, honor, and power of the Consuls. When that power failed, the Romans supported it by the Dictatorship, concerning which I shall speak in its place.

CHAPTER XIX

Magistracies Similar to the Consulship

§ 1. The military Tribunes were altogether equal to the Consuls and were therefore called military Tribunes with consular power. The Decemvirs for writing the laws employed the same absolute power, although a greater power was given to them by which they might compose and enact laws. But their power was abolished in a tumult because, although they promulgated the most equitable laws, they treated the citizens most injuriously and judged most unjustly.

§ 2. The Prefect of the City was nearly equal to, and afterward superior to, the Consuls. It was an ancient Roman Magistracy and instituted by the Kings themselves, for when the Kings departed for war they appointed a Prefect for the city. This afterward continued, except that under the Emperors their power was greater and they discharged their office even when Augustus was present. Tacitus, *Annals*, book 6: “At the same time Lucius Piso the Pontiff--something rare amid such distinction--died by fate. He was voluntarily the author of no servile opinion and, whenever necessity pressed, wisely moderate. I have related that his father was a Censor; his age advanced to his eightieth year. He had earned triumphal distinction in Thrace. But his chief glory came from this: that, as the recently appointed Prefect of the City, he wonderfully moderated a continuous power, made more burdensome by the insolence of obedience. For formerly, when the Kings, and soon afterward the Magistrates, departed from home, lest the city be without government, a man was chosen for a time to administer justice and govern the subjects. They say that Denter Romulus was appointed by Romulus, then Numa Marcius by Tullus Hostilius, and Spurius Lucretius by Tarquin the Proud. Afterward the Consuls gave the commission; and its image remains whenever, because of the Latin Festival, a man is appointed to assume the consular function.

“But during the civil wars Augustus placed Cilnius Maecenas, of the equestrian order, over all at Rome and throughout Italy. Soon, having gained possession of affairs, because of the size of the people and the slow assistance of the laws, he selected from the Consulars a man to restrain the slaves and that element among the citizens which was turbulent in its audacity unless it feared force. Messalla Corvinus was the first to receive that power and relinquished it within a few days, as though ignorant how to exercise it. Then Taurus Statilius, although of advanced age, bore it excellently. Next Piso, equally approved through twenty years, was celebrated by a public funeral by decree of the Senate.”

§ 3. Under the free state the office of Prefect of the City was not of long duration. For after Praetors were created, command, when the Consuls were absent, was transferred to them. It nevertheless remained when the Consuls had departed from the city because of the Latin Festival. Dionysius, book 4, speaks thus concerning the Latin Festival: “So that this treaty might remain perpetual, Tarquin proposed to assign a common sanctuary of the Romans, Latins, Hernici, and Volsci--of those, that is, who had been received into alliance--at which they might assemble for a market each year, feast together, and enjoy common sacred rites. This pleased all. A place for the gathering was appointed almost in the midst of these nations, a high mountain overlooking Alba; there each year the festival was to be celebrated, and during that interval, because of the sanctity of the place and the law enacted concerning it, all were to abstain from every conflict, sacrifice together to Jupiter Latiaris, and devote themselves to feasts, after it had first been determined how much each people ought to furnish for those rites and how great a portion it ought to receive. Forty-seven peoples participated in that festival and sacrifice; the Romans celebrate it in our own age also and call it the Latin Festival. The peoples participating in the rites contribute to it: some lambs, some cheeses, some a fixed measure of milk, and some milk-cakes. The victim is one bull common to all; of its entrails each people receives its portion. The sacrifice is made on behalf of all, and the Romans preside over it.”

So great was that superstition--or rather renewal of the treaty--that it was regarded as impious and ominous for Consuls to go to their provinces unless they had first proclaimed the Latin Festival on the Alban Mount. Livy frequently notes

this. Livy speaks of the repetition of the Latin Festival in books 32, 37, and 41. The officer created because of the Latin Festival was therefore called Prefect of the City; at first he possessed consular power and, before the Consuls, viceregal power.

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After the Praetorship was instituted, a Prefect of the City was appointed only for the sake of religion; Tacitus calls this an “image.” Hence arises what Aulus Gellius records in book 15, chapter 8: whether the Prefect of the City for the sake of the Latin Festival possesses the right of transacting with the Fathers or the people. Formerly he possessed it; but when he was the image of a Magistrate, he did not. Indeed, he was an image of a Magistrate precisely because the right of convening the Senate and summoning the people of the Quirites was denied him.

At first the Magistracy lasted a few days, for one day had been instituted by Tarquin; afterward there were more. Dionysius, book 6: “The Senate decreed supplications because the plebs had returned to favor, and added a third day to the Latin Festival, although previously there had been only two: the first consecrated by King Tarquin at the time when he conquered Etruria; the other added by the people when, after the Kings were expelled, it obtained liberty; but the third was then added after the plebs had been reconciled with the Fathers.”

Afterward, when disputes about admitting the plebs to the Consulship had been settled, a fourth day was added. Thus, if you consider the departure and return of the Consuls, you will assign six days to that imaginary Prefect. All rightly censure this care for superstition. But I add this also: although the Consuls were absent for a lawful reason--the renewal of friendship and confirmation of the treaty through the cheerfulness of banquets--a sudden and brief Magistracy was nevertheless not expedient. First, because he was named not by any votes but by the voice of the Consuls; then, because authority could not become established in so brief a government. This reason therefore moved the Romans to entrust the care of governing the city to the Praetors, for theirs was an annual Magistracy and next to the Consul.

Yet an error was made in this: that afterward they bestowed the name of Magistracy upon the Prefect for the sake of the Latin Festival. To number dead images among dignities by the name of Magistracies and fit insignia to them is not only ridiculous but insulting even to true powers. For as soon as the force of some government begins to be diminished, or a spirit unequal to the government begins to arise, men soon possess something with which to compare it and ridicule a dignity necessary to the state in its image. A Dictator for the purpose of instituting the Latin Festival--Quintus Ogulnius with Marcus Laetorius Plancianus as Master of Horse--is no less ridiculous than a Prefect of the City for the same festival.

§ 4. The Prefect of the City was instituted by Augustus on the advice of Maecenas; for it had seemed best to leave honor to the Consuls and take away their power, although it was not proper to leave the city *ἄναρχον*, “without a ruler.” That new and then ordinary Magistracy was therefore created. The first was either Maecenas, the author of the advice, or Agrippa; then Messalla, Taurus, and Piso. He judged cases to which appeal applied and capital causes; heard the complaints of Patrons, Freedmen, Slaves, and Masters; took cognizance of offenses by tutors and curators; judged monetary and banking affairs; cared for the meat supply; provided for quiet among the people; restrained unlawful associations; and supervised the discipline of spectacles. He possessed the right of excluding a man from Italy and the city and of deporting him to an island.

His dignity was equal to the honor of the Praetorian Prefect and the Masters of Horse and Foot. Code, book 12, title 4: “We regard the Prefect of the City, the Praetorian Prefect, and the Masters of Horse and Foot as possessing undistinguished dignity--to such a degree that, when they have withdrawn to private life, we will that the place of the man who preceded the others at the time of promotion and receipt of his letters patent be superior.”

The Digest, however, book 1, title 12, describes his duties for us. “The Prefecture of the City claimed altogether all crimes for itself: not only those committed within the city, but also those committed outside the city within Italy, as is declared by the epistle of the Divine Severus sent to Fabius Cilo, Prefect of the City.

“He shall hear slaves who have fled to statues, or who, having been purchased with their own money so that they might be manumitted, complain of their Masters.

“He shall also hear needy Patrons complaining of their Freedmen, especially if they say that they are sick and desire to be supported by their Freedmen.

“He has license to relegate and deport a man to the island which the Emperor has assigned.

“At the beginning of the same epistle it is written thus: ‘Since we have entrusted our city to your fidelity, whatever is committed within the city therefore appears to pertain to the Prefect of the City.’

“But if anything is committed within the hundredth milestone, it pertains to the Prefect of the City.

“If it is beyond that milestone, it has passed outside the cognizance of the Prefect of the City.

“If anyone says that his slave committed adultery with his wife, he must be heard before the Prefect of the City.

“He may also hear cases under the interdicts *What Is Done by Force or Secretly* and *Whence by Force*.

“Tutors or curators who have conducted themselves badly in a tutelage or curatorship are customarily remitted to the Prefecture of the City when they need a graver punishment than the infamy of being suspected: those who can be proved to have obtained the tutelage by money given, or, after receiving a reward, to have labored so that an unsuitable tutor should be given to someone; or deliberately to have diminished the amount in rendering the account of a patrimony; or by evident fraud to have alienated the ward’s goods.

“What has been said, however--that the Prefect should hear slaves complaining of their Masters--we shall understand thus: not that they accuse their Masters, for this is by no means to be permitted to a slave except for accepted causes; but that they respectfully remonstrate. If they complain of savagery, harshness, hunger by which they are oppressed, or obscenity into which they have been or are being compelled, let them set it forth before the Prefect of the City. This office also was given to the Prefect of the City by the Divine Severus: that he protect slaves from being prostituted.

“Furthermore, the Prefect of the City will have to take care that money-changers conduct themselves uprightly in all their business and refrain from those things which are forbidden.

“When a Patron says that he is held in contempt by a Freedman, or complains that his Freedman is insulting to him, or that he himself, his children, or his wife has suffered abuse from him, or alleges something similar, the Prefect of the City is customarily approached; and according to the measure of the complaint he is accustomed to correct him, threaten him, chastise him with clubs, or proceed farther in his punishment.

“For Freedmen generally must be punished. Certainly, if the Patron proves that he was informed against by a Freedman or that the Freedman conspired against him with enemies, even the punishment of the mines must be imposed upon him.

“The care that all meat be furnished at a just price pertains to the Prefecture, and therefore the swine market is under his care. The other livestock or herds which relate to a supply of this kind likewise pertain to his care.

“The quiet of the populace and the discipline of spectacles also appear to pertain to the care of the Prefect of the City. He ought indeed to have stationarii soldiers disposed for guarding the quiet of the people and reporting to him what is done in the city.

“The Prefect of the City can prohibit a person from the city and from the other customary regions, from trade, profession, advocacy, the forum, and spectacles, both for a time and

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perpetually; and if he relegates anyone from Italy, he may remove him from his own province also.

“The Divine Severus declared by rescript that those accused of assembling an unlawful association must also be prosecuted before the Prefect of the City.”

The Prefecture, therefore, was an Urban Magistracy which also took cognizance as far as the hundredth milestone outside the city. Dio, book 52, where the most learned Lipsius, in his commentary on Tacitus, correctly reads **πεντήκοντα καὶ ἑξακοσίων σταδίων** in place of **πεντήκοντα καὶ ἑξακοσίων σταδίων**--seven hundred and fifty stadia.

It appears that, at the beginning and while the servitude of the nobles was still raw, the Emperors took care to choose men who were faithful and by no means ready for revolution: thus Agrippa and Maecenas; Supinus; and Messalla the Tranquil, whom Eusebius in the *Chronicle* wishes to have been the first and to have resigned on the sixth day, complaining that that Magistracy was uncivil. I think that for this reason others omit him. Tiberius appointed Piso because he seemed to him to have deserved it by drinking continuously. Pliny, book 14, says: “I believe that Lucius Piso was chosen by him for the care of the city of Rome upon this recommendation: that in the Prince’s company he had continued drinking without interruption for two days and two nights.” Suetonius says the same in chapter 42. Piso was Prefect of the City for twenty years--or ten, as Lipsius corrects it. His successor also was almost always drunk. Seneca, epistle 84: “Lucius Piso, guardian of the city, was drunk from the moment he was once made such. He spent the greater part of the night at a banquet and generally slept until the sixth hour; that was his morning. Yet he administered most diligently his office, in which the protection of the city was contained. Both the Divine Augustus gave him secret instructions when he placed him over Thrace, which he subdued, and Tiberius when departing for Campania, although he left behind in the city many matters both suspicious and hated.” I think that, because Piso’s drunkenness had turned out well for him, he afterward made Cossus Prefect of the City--a grave and moderate man, but submerged and soaked in wine.

The power of the Prefect of the City was therefore under the Prince, as that of the Consul was under the Senate and people; it was not annual but at the Prince’s pleasure, and almost always longer than a year. Yet the honor of the Consulship was regarded as greater, although without strength. That it was not unlike it, though differing in some things, is evident from the fact that Sidonius calls him Prefect of the Senate; for he consulted the Fathers, judged concerning them, and protected them. Cassiodorus, book 6. Sidonius administered the Prefecture:

Receiving the honor

Which once alone governed together

The rights of Fathers and plebs.

And Rutilius:

If it did not displease that I governed the rights of Quirinus,

If I cultivated the sacred men and consulted the Fathers.

The Prefect of the City was regarded as next to the Emperor. Statius:

The neck nearest stands beneath

The burden’s immense weight.

And Ausonius:

Whether the peoples of Italy or the north-born Britons,

They held beneath the second title of Prefectures;

Whoever ruled the head of affairs, Rome, its people and Fathers,

Almost under the first name.

Cassiodorus, book 6, formula 4: “Not only Rome is entrusted to your dominion, although all things are contained in it, but ancient laws willed that you extend your power to the hundredth milestone. You also take cognizance of appeals from the provinces designated by law. Above all Consulars you deliver your opinion first, and in that hall of liberty you are beheld with reverence, in which you are approved to hold the principal men entrusted to you.” Hence he possessed the chair, fasces, and other ornaments.

§ 5. The power of the Interreges was the same as that of the Kings and Consuls, except that, outside the ordinary order, they discharged the office while an ordinary Magistrate was being created. It began at the death of Romulus. Dionysius, book 2: “In the following year no one reigned at Rome, the administration of the state having been transferred to the new Magistracy of Interreges in this manner: the two hundred Conscript Fathers, from whom the Senate had been constituted by King Romulus, were distributed into decuries and entrusted the government of the city by lot to Decemvirs. These men possessed the Lictors and the other royal insignia not simultaneously, but one after another for five days each; these were handed on, as it were, from hand to hand, from the first continually to the last. Then that five-day Magistracy passed to the next decury, and in turn to another.”

Interregna were also frequent in the time of the Consuls when elections were obstructed or Consuls had been irregularly created. If anyone asks what I think of the Prefect of the City, I answer that his government was better and more moderate than that of the Consuls, although altogether less and more subject to another Magistrate. With greater prudence the Lacedaemonians, by the institution of Lycurgus, chose a King, but one with consular and prefectorial power. Xenophon says concerning them:

Καὶ ἔφορας δὲ πάντες ὑπανίστανται βασιλεῖ πλὴν οὐκ ἔφοροι ἀπὸ τῶν ἐφορικῶν δίφρων. Καὶ ὄρκους δ’ ἀλλήλοις κατὰ μῆνα ποιοῦνται ἔφοροι μὲν ὑπὲρ τῆς πόλεως, βασιλεὺς δ’ ὑπὲρ ἑαυτοῦ· ὁ δὲ ὄρκος ἐστὶ τῷ μὲν βασιλεῖ, κατὰ τοὺς τῆς πόλεως κειμένους νόμους βασιλεύσειν, τῇ δὲ πόλει ἐμπεδοῦντι ἐκεῖνον ἀνυπεύθυνον τὴν βασιλείαν παρέξειν. Αὗται μὲν οὖν αἱ τιμαὶ οἴκοι ζῶντι βασιλεῖ δέδονται, οὐδὲν ὑπολὺ ὑπερφέρουσαι τῶν ιδιωτικῶν. Οὐ γὰρ ἐβουλήθη οὔτε τοῖς βασιλεῦσι τυραννικὸν φρόνημα παραστήσαι, οὔτε τοῖς πολίταις φθόνον ἐμποιῆσαι τῆς δυνάμεως.

All rise from their seats before a King, except that the Ephors do not rise from their official seats. Each month the Ephors and King exchange oaths: the Ephors on behalf of the city and the King on his own behalf. The King swears to reign according to the established laws of the city; the city, if he abides by his oath, swears to preserve his kingship unshaken. These honors are paid to a living King at home and exceed those paid to private men by very little; for Lycurgus wished neither to implant a tyrannical spirit in the Kings nor to engender envy of their power in the citizens.

The government of the Athenians, however, was always turbulent because every Magistracy was beneath the power of the Roman Consuls and was therefore unequal to the vices of the people.

§ 6. The highest Magistrate of the Carthaginians was the *Sufes*. Livy, book 30. They therefore called the *Suffetes* the Senate, because among them it possessed, as it were, consular government. They administer justice, book 34. In other cities of the Phoenicians also, with a change of Magistracy, they called the highest Magistrates *Suffetes*. Livy, book 28, attributes *Suffetes* to the people of Gades. When Mago had returned to Gades, was shut out from it, and had sailed with his fleet to Cimbis--a place not far from Gades--he sent Legates to complain that the gates had been closed to him, an ally and friend. When they excused the act as caused by a gathering of the multitude, hostile because certain property had been carried off by soldiers embarking on the ships, he enticed their *Suffetes*, the highest Magistrate among the Phoenicians, together with the Quaestor, to a conference, mangled them with scourges, and ordered them to be affixed to crosses.

I think they were so called as though from סוף, which in Isaiah 43 and Joshua 22 signifies an end, extremity, or corner; for it is the highest summit of Magistracy. I do not doubt that the *Sophim* of the Persians were so called in the same manner; nor badly from ἦς, which signifies an edge, order, or threshold, whence *Sophiat* of the Persians, as many pronounce it. Yet if one prefers to derive it from the Hebrew הוּב, which also means to add or abound, I shall not contend against it.

§ 7. The **Πρυτανεία** was an Athenian Magistracy; and although the **πρυτάνεις**, “Prytanes,” were more numerous than the Consuls, their power was nevertheless almost the same--that is, supreme, but dependent upon the people. In Demosthenes **πρυτανεύειν** means to rule or govern. Nazianzen calls God **τῆς ἀληθείας πρύτανιν**, “the governor of truth.” They wish **Πρυτανεῖον** to have been said as though **τοῦ πυρὸς ταμεῖον**, “the treasury of fire.” Whether this is so or is a dream of grammarians, it is established that the Prytanes were accustomed to feast in the Prytaneum and that it was the highest honor if food in the Prytaneum was decreed to anyone. Cimon, because of his magnificence and hospitality, is said to have maintained, as it were, a **πρυτανεῖον**, a Prytaneum, at home. Plutarch, in his life.

Plutarch likewise confirms that the house of Lucullus was **ὅλως ἐστίαν, καὶ πρυτανεῖον ἑλληνικόν**, altogether a hearth and Greek Prytaneum. But let us return to the Prytanes. After the Thirty Tyrants had been expelled, ten were appointed by Thrasybulus; when they had been rejected, fifty others were afterward placed over the city. Harpocration:

πρυτάνεις πεντήκοντα ἄνδρες ἀπὸ μιᾶς φυλῆς, οἱ διοικοῦντες πάντα τὰ ὑπὸ τῆς βουλῆς ταττόμενα

Prytanes are fifty men from one tribe who administer all things decreed by the Senate. The Magistrate of the Rhodians also is called **πρύτανις** by Livy, book 42; Hegesilus then bore that office. The same author in book 41 testifies that the Cyzicenes also possessed a Prytaneum and calls it the inner sanctuary of the city. Yet its use was the same as at Athens, for those to whom that honor had been given feasted in it. Perseus placed upon it the golden vessels of one table.

That Athenian method of governing the state was altogether useless, as Xenophon shows in their *Constitution* and Aristotle in book 2, chapter 12 of the *Politics*. “Some indeed think that Solon was a good lawgiver. For they say that he abolished the domination of the few, which was unmixed and immoderate; liberated the enslaved people; and constituted the ancestral and hereditary liberty and power of the people by suitably arranging and mingling in order the various kinds of administering the state. For the Areopagite Senate pertained to the rule of the few or Oligarchy; Magistrates being created by election, to the government of the best or Aristocracy; and the courts being popular. Yet Solon appears not to have abolished the things that existed before--the Senate and election of Magistrates--but to have established the liberty of the people afresh by granting to all citizens, if selected by lot, the power of judging affairs.

“For this reason some also censure him, saying that he dissolved and enervated the other part of the state by transferring all authority and power to a judgment entrusted to lot. For after this acquired force, men who granted and indulged all things to the people for the sake of favor, as to a tyrant, reduced the condition of the state to the present power of the people. Ephialtes and Pericles mutilated and curtailed the Areopagite Senate; Pericles made the courts salaried. In this way each of the flattering leaders of the people, by augmenting the majesty of the people, advanced and promoted it to the present state of popular power.

“Yet this appears not to have arisen from Solon’s counsel but rather to have happened by chance. For because the people was the cause of dominion and naval victory in the Persian War, it assumed greater spirit than usual and accepted wicked and turbulent flattering Orators as leaders and teachers in place of good and moderate administrators. Solon, indeed, appears to have granted the people a most necessary power: that of choosing Magistrates and demanding accounts from them. For if the people does not possess even this power, besides being enslaved it will also be hostile. Yet he created all Magistrates from distinguished and wealthy citizens: namely, from those who received five hundred medimni each year from their fields; from those who were bound to a yoke, called Zeugitae; and from the equestrian order, which belongs to the third assessment and third class. The citizens of the fourth class are wage laborers and workmen, participants in no Magistracy. Zaleucus, moreover, was lawgiver to the Locrians dwelling

toward the west, whom the Greeks call Epizephyrians; and Charondas of Catana to his fellow citizens and the other Chalcidian cities throughout Italy and Sicily.”

The multitude is therefore deservedly censured in these matters, for it is hostile to the accomplishment of affairs and the preservation of concord. Then men selected by lot judged concerning all these things, which was to subject the Magistracy to the judgment of every most worthless man. Their object therefore had to be not that they should administer well, but that they should not displease the people.

If, therefore, we consider the matter, we shall find the Magistracy of the Carthaginians constituted much better than that of the Athenians. For it possesses more supports for defending itself against enemies and seditions. I do not know whether any state equaled its duration together with liberty and power. Aristotle describes that state in book 2, chapter 11 of the *Politics* in this manner: “The Carthaginians also appear to employ a right and excellent method of administering the state, exceptional and outstanding in many things when compared with others, yet in some respects very similar and almost twin to that of the Lacedaemonians. For these three forms of administering a state are in some manner similar to one another and far excel the others: the Cretan, the Laconian, and, third, the Carthaginian. Many things constituted among the Carthaginians are excellent. An argument that this state has been well designed is that, although it possesses a people having power over affairs, it remains within the design and ordering of the state, and no sedition worthy of mention has ever arisen in it, nor has any tyrant existed.

“It has the following things similar to the Laconian state: first, the banquets of the associations correspond to the Phiditia; next, the government of the Hundred and Four to the power of the Ephors, except that the government of the Hundred and Four is better than that power. For the Ephors consist of men presented by chance and fortune; these men are chosen for this government according as each excels in virtue and dignity. Finally, it has Kings and a Senate corresponding by a certain comparison and proportion to the Kings and Senate of the Lacedaemonians. It is indeed better that Kings be taken neither perpetually from the same family nor from any family presented by mere chance, but from some distinguished family; and that they be chosen not because they excel in age, but in virtue. For when men who are despised, abject, and of no worth are made lords and possessors of great affairs, they inflict great injuries, and have already inflicted them upon the city of the Lacedaemonians.

“Most of those things which have been censured because of deviations from the right state were common to this state and to the other forms of administration which we have mentioned. Of the features which have the rule of the best and constitutional government as their proposed end, some incline more toward the power of the people and others toward the domination of the few. For the Kings together with the Senators possess power to refer one matter to the people and not another; and if all are of one opinion in deciding some matter, it is ratified, but if not, judgment and power rest with the people. The matters which they bring before the people they do not merely announce, so that the people may hear what the Princes of the city have decreed; rather, anyone of the people is also permitted to speak against the proposals, which is not so in other forms of administering states.

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“But the fact that the Five Men, who possess and judge many great affairs, choose themselves and elect the Magistracy of the Hundred, which is the most ample, and that these men administer their Magistracy longer than the others--for they govern the state both after discharging a Magistracy and before entering it--pertains to the power of the few. But the fact that they are appointed without payment and without lot must be judged to pertain to the rule of the best, as must anything else of this kind. The fact that all disputes and controversies are judged by the men who hold a Magistracy, not different cases by different men as at Lacedaemon, likewise touches the rule of the best.

“The constitution of the Carthaginian state departs most from the rule of the best toward the power of the few because of a certain thought and opinion of the multitude. For they think that Magistrates ought to be chosen not only from virtue but also from wealth. They suppose that a man who lacks the resources of a household cannot rightly discharge a Magistracy and enjoy leisure. If, therefore, choosing Magistrates from wealth and assessment pertains to the power

of the few, but choosing them from virtue to the rule of the best, this will be the third method and design by which the Carthaginians administer their state. For in choosing Magistrates, and especially the greatest--Kings and Commanders--they look to these two things."

Kings are not otherwise mentioned; but Aristotle thus calls their *Suffetes* because they possessed a government as though royal, just as the Consuls at Rome were said to possess royal government.

§ 8. It is admitted that the state of the Lacedaemonians possessed Kings in addition to a Senate and Ephorate. But the King possessed consular power. Both histories teach that the Kings of the Spartans possessed a meager and curtailed power, and Aristotle gives the reason:

Καὶ διὰ τὸ τὴν ἀρχὴν εἶναι λίαν μεγάλην, καὶ ἰσοτύραννον, δημαγωγεῖν αὐτοὺς ἡναγκάζοντο καὶ οἱ βασιλεῖς.

Because this Magistracy of the Ephors was great and not unequal to the kingdom, even the Kings had to flatter them. For the Ephors, thinking that the accounts of all affairs pertained to themselves, demanded them from all men. There were five Ephors; besides them there was a Senate; the King was, as it were, Commander in war. Accordingly, if they had chosen Ephors distinguished by prudence and probity, they would have constituted the state well. But this could not be done by the corrupted votes of the people. Aristotle, book 2, chapter 9 of the *Politics*: "Furthermore, those things which pertain to the Ephorate also are not well arranged. For since the government of the Ephors itself possesses power over the greatest affairs, all the Ephors are created from the plebs. Thus very poor and needy men are often unexpectedly advanced to this power, and because of their need they were venal and purchasable. They have often shown this before, and most recently in the banquets of the men which they call *Andria*. For certain Ephors, corrupted by money, destroyed the whole city so far as lay in them."

From this it is evident that, according to its first institution, the state of the Lacedaemonians was ordered more prudently than that of the Romans. For they possessed a Senate after the Roman manner; then Ephors furnished in some fashion with the power of Consuls, Censors, Judges, and Quaestors; finally, a Commander in war, or King, who administered all external affairs. Thus there was not so great a change as at Rome; they were not agitated by seditions or in danger of tyranny. Aristotle shows this beautifully:

Δεῖ γὰρ τὴν πολιτείαν τὴν μέλλουσαν σφύζεσθαι, πάσας βούλεσθαι τὰ μέρη τῆς πόλεως, εἶναι καὶ διαμένειν ταῦτά. Οἱ μὲν οὖν βασιλεῖς διὰ τὴν αὐτῶν τιμὴν οὕτως ἔχουσιν· οἱ δὲ καλοὶ κάγαθοι διὰ τὴν γερουσίαν, ἄθλον γὰρ ἡ ἀρχὴ αὕτη τῆς ἀρετῆς ἐστίν· ὁ δὲ δῆμος διὰ τὴν ἐφορείαν.

For that form of administering the state which is to remain safe must be one which all parts of the city wish both to exist and to remain the same. The Kings are so disposed because of the honor with which they have been adorned; honorable and good men because of senatorial dignity, for this Magistracy is the reward of virtue; and the people because of the Ephorate.

§ 9. Yet nothing is more similar to the Roman Magistracy than the Cretan. They possessed a Senate, which they called **βουλὴν**. Next there were ten men with supreme power called **κόσμοι**, "Cosmi," who ordered affairs; they were so called just as the Carthaginians had *Suffetes* and the Romans Consuls or military Tribunes with consular power. They next possessed a King who conducted wars; but, when royal power had been abolished, like the Romans they employed the **κόσμοις**, the Cosmi, as Commanders in war. The Senate is most usefully ruled by those who have discharged the office of **κόσμου**, a Cosmus.

Finally, the Cretans struggled with the same disadvantages as the Romans. "But what is useful to the condition of the state there," Aristotle says in book 2, chapter 10, "is not so here. For there, because the election is made from all, the people, being a participant in the highest government, desires that the state remain. Here, however, the Cosmi are not chosen from all but from certain families, and the Senators from those who have discharged the office of Cosmus. One could say the same things concerning them as concerning those created at Lacedaemon. For not to be held to the judgment of rendering accounts and to administer a Magistracy throughout life is a greater honor than accords with

their dignity; and for a man to govern not according to a prescription of written law but at his own judgment is dangerous.

“The fact that the people remains quiet even though it does not participate in this Magistracy is no argument that the state is well ordered. For no opportunity of profiting from the Magistracy is given to the Cosmi, as it is to the Ephors, since on an island they are far removed from those who would corrupt them. But the remedy which they apply to correct and preserve this error is both absurd and not even constitutional, but consonant with the power of one or a few--that is, with a dynasty or oligarchy. For certain men, either colleagues or private persons, frequently form a conspiracy and expel them. A man is also permitted to resign the Magistracy before his term. It is better that all these things be done by law than by the will of men, for this is not a safe rule.

“The worst of all remedies is the vacancy of this most ample Magistracy and the disturbance of the whole condition of the state, which powerful men frequently introduce when they do not wish to undergo judgment or pay penalties. From this one may understand that in this design for administering the state there is something of a constitutional state--that is, a polity--but that it is nevertheless not a constitutional administration of the state, but rather a power of a few, that is, an oligarchy, or the power of one, that is, a dynasty. For they are accustomed, after distributing and disposing the people and their friends, to subject the whole state to the government of one, excite sedition, and fight and contend with one another.”

§ 10. In free states also there are Magistrates who represent the Consul, but in different ways. Venice has a Duke, but one who possesses neither a distinguished court nor power. For he cannot leave the city, open letters, or decree that anything be increased; all things depend upon the Senate, which consists of forty Senators, among whom the principal men are the nine who are called Procurators of Saint Mark. They also possess perpetual government and therefore are in the highest authority, for a government which quickly ends is deserted even while it exists. Other Magistrates are joined to them, and the Great Council generally appoints them. They prudently deprive their Duke of power because in this manner he cannot invade a tyranny.

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The perpetuity of the six Procurators also prevents error from inexperience in affairs. This is dangerous: that they wage wars through hired Commanders who, because they fight for money and not for their fatherland, conduct all things slowly. The Prince therefore occupies the place of the Consuls, although with less power; the others sit and judge as though they were the Senate.

§ 11. The state of the Genoese has made provision still more carefully than all others. It chooses a Duke, neither annual nor perpetual, but for a government of two years. For the same period eight Governors joined to him possess control of affairs. The office of the Duke is very similar to the consular function: he convenes the Senate and refers matters to it; all things are transacted through him; and in the government of the city he possesses much greater authority than the Venetian. For the Venetians took authority from their Duke because they added to his term; the Genoese permit theirs much because, on account of the brevity of his government, he cannot seize a tyranny.

Two Governors, however, dwell with the Duke in the palace by turns, so that pairs are absent from home for three months and all perform their turns in the course of a year. Their method of election contains great caution. On the third day of January the Greater and Lesser Councils assemble. The man who was Duke in the preceding years does not attend; for when his two-year term has elapsed, on the Kalends of January he withdraws to his home and, as a private man, is called only a Procurator for the rest of his life. From each of these councils twenty-eight nobles--one, that is, from each family--are chosen. Those chosen are enclosed in a certain place of the palace and, together with those Senators who are ineligible for the ducal dignity either because of age or the disgrace of their family, choose eighteen from their own number, but not more than one from one family. Those eighteen in turn choose another twenty-eight, who, together with the aforesaid Senators, select the men whom they wish to propose to the Greater Council for elevation to the ducal dignity.

But here it must be noted that no more than four may be proposed to the Greater Council, and in the election those twenty-eight men together with the aforesaid Senators must agree by a two-thirds vote. When this act is finished, before they leave the conclave, the same men choose another twenty-eight, one from each family. These vote together concerning those four and may remove two-thirds from their selection and substitute in place of those rejected one or more men who are nevertheless Senators. When these things have been completed, the Council or Senate is convened and the four are proposed; the man who receives the most votes is created Prince or Duke.

Yet the government is not altogether changed. For Procurators are made from the Governors and even from the Dukes, but in such a manner that those who are Procurators from among the Governors are numbered in the College of Procurators for two years, while those from among the Dukes are numbered in it for life. Thus the state always abounds in a great number of experienced men, since first they are in the Greater Council, then in the Lesser, afterward are designated Governors and Dukes, and finally discharge for two years or perpetually the authority of Procurators, by which all affairs are transacted.

§ 12. The communities of the Helvetians and Rhaetians who dwell in the Alps are most similar to the Athenian state. Their ancestors, harassed by the nobility, introduced popular government. Their histories speak thus: “The mountain Helvetians are so democratic--the Uri, I say, the Schwyzers, Unterwaldeners, Zugers, Glarusers, and Appenzellers--that not only is the highest power of the state in the hands of all men, provided they are of age, but all Magistracies and all the greatest governments are also assigned to artisans and craftsmen; and the cities are not even fortified with walls, villages, or strongholds. The others are less democratic. For although the people of Bern and Zurich constitute their Senate chiefly from craftsmen, they nevertheless are accustomed to create the highest Magistrates in the state from patricians or at least from those who are more distinguished by the antiquity of their family. Thus these men are more stable and less exposed to seditions than the former. But the assemblies of the Rhaetians, being excessively democratic, are governed with the greatest difficulty and, once disturbed, scarcely pacified.

“For this is the summit of popular liberty: that all men can be made equal to all and are unwilling to obey except on condition that they in turn may command those whom they obeyed. Not even so can they be retained in duty unless they are soothed by very necessary and just commands, by largesses, or by the enticements of words. But since many cannot excel many others in virtue, resources, and nobility, it generally happens that the multitude persecutes the noble, wealthy, and virtuous with a certain envy and with a spirit suffused by ill will. Then, if anyone of generous and excellent spirit dares to place restraints upon the passion of a plebs intemperately abusing liberty, they do not hesitate to condemn him to a fine, exile, proscription, and finally death--especially if he is wealthy, so that he may appear to aspire to government. This tendency flows from the utterly corrupt Athenian state.”

Satrapas or *Amptmanni* therefore occupy the place of Consuls. They are chosen in the assemblies, not after the Roman manner--that is, by centuries--but by the Athenian *χειροτονία*, “show of hands,” so that it lies in the judgment of every most worthless man to give a Magistrate to his fatherland. Hence the same history relates that, when a Consul is readily enticed by money and other means, the whole nation is led away. Hence, since their magnates are not very wealthy, neighboring Kings who desire to obtain something contend by gifts.

So much concerning Consuls and Magistrates constituted by consular laws or not greatly unlike the Consulship. I am not ignorant that excellent provisions have been established elsewhere, but these suffice for knowledge of politics.

CHAPTER XX

A Consideration of the Dictatorship and Censorship

§ 1. The Dictator possessed greater government than the Consul; the Censor possessed honorary government and also some power over the Consul. The Dictator was also called Master of the People. The cause for naming a Dictator was a great necessity of the state. Cicero, book 3 of *On the Laws*: “But when a more serious war or discord among citizens arises, let one man possess for no more than six months, unless the Senate shall decree otherwise, the same law which the Consuls possess; and, the auspices being favorable, let him be named Master of the People. Whoever commands the cavalry shall possess equal law with the man who will be the administrator of justice.” Livy, book 2; Dionysius, book 5.

When the state was oppressed by the Latin War and domestic sedition, it seemed best that all Magistrates lay down their command. One man, chosen by the Senate and approved by the votes of the people, possessed for six months a power over all affairs greater than that of the Consuls. Livy also, book 4: “When these things were reported at Rome with a tumult greater even than the affair warranted, the Senate immediately ordered a Dictator to be named, which was the final counsel in perilous circumstances.” The Dictator afterward began to be hated by the Tribunes of the plebs and the people. The Tribunes complained that the thunderbolt of the Dictatorship was directed against them. For when the Tribunes harassed the Senate by intercessions and did not permit a levy to be held, and employed that weapon most fiercely against the nobles, the thunderbolt of the Dictatorship was opposed to them.

These things belonged to the Dictator: twenty-four axes were carried before him.

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Sulla was the first to do this, as appears in the Livian Epitome, book 89. When the Decemvirs at first possessed the fasces one at a time, on the first day of the second year after entering the Magistracy, each came forth with twelve bundles, and one hundred and twenty Lictors filled the Forum. Livy, book 3.

The Dictator possessed command without appeal. For from the other Magistrates there was appeal to the Senate, Tribunes, and people. Once this had been established, confusion similar to that of Athens arose, which the Fathers always deservedly feared. Under that law no noble or good man would have been permitted to remain at Rome. The Dictator was named by a Consul; sometimes a particular man of proven virtue was demanded by name by the Senate.

He named the Master of Horse, who employed the right formerly possessed by the Tribune of the Celeres and afterward by the Praetorian Prefect. Cicero makes him equal to the man who administers justice--that is, the Praetor. Nevertheless, when a Master of Horse was first created from the plebs, the Dictator excused himself on the ground that that Magistracy was not greater than the consular Tribune.

This was novel and neither of good example nor outcome: Minucius, Master of Horse, was made equal to Fabius the Dictator. If Fabius--a Commander who loved his fatherland and endured insults--had not administered the Dictatorship, the state might have received an incurable wound. For Minucius led the army into danger; Fabius liberated it.

It is established that the Dictatorship was excellently instituted, for a hundred times the state would have perished by sedition or war if it had lacked a Dictator. The government of the Consuls, as I have shown, was not sufficient for conducting affairs and restraining seditions. The Dictators down to Sulla were also most moderate. Lartius laid down the Dictatorship after the Consuls had been designated, with no citizen killed by him, driven into exile, or punished more severely. Thus Dionysius, book 5.

This is indeed astonishing: although so many raised tumults and sought tyranny through Consulships and tribunician power, no Dictator ever behaved uncivilly or cruelly, although the power of all had been gathered into one man; none even gave a beginning to tyranny. Sulla indeed exercised it tyrannically, but he was nevertheless more cruel before the Dictatorship. Before the Dictatorship he performed the deeds contained in the Livian Epitome, book 88: “After defeating Carbo’s army at Clusium, Faventia, and Fidentia, Sulla expelled him from Italy. He fought beside the city of Rome before the Colline Gate with the Samnites, who alone among the Italian peoples had not yet laid down their arms. Having recovered the state, he stained the most glorious victory with a cruelty such as never existed in any man. He slaughtered eight thousand men who had surrendered in the public villa; posted a list of proscription; filled the city and all Italy with slaughter; among these killings ordered all the unarmed Praenestines to be cut down; and killed Marius, a man of senatorial rank, after breaking his legs and arms, cutting off his ears, and gouging out his eyes. Gaius Marius, besieged at Praeneste by Lucretius Ofella, a man of Sulla’s party, when he sought to escape through a tunnel, was surrounded by the army and took his own life in the tunnel. When he perceived that he could not escape, he ran with drawn sword against Pontius Telesinus, his companion in flight; after killing him, he himself, wounded, obtained from a slave that the slave kill him.”

“But after being made Dictator,” says the epitome of book 89, “which no one had ever done, Sulla came forth with twenty-four bundles. He confirmed the condition of the state with new measures, diminished the power of the Tribunes of the plebs, and took away their entire right of proposing laws. He enlarged the colleges of Pontiffs and Augurs so that there were fifteen; replenished the Senate from the equestrian order; deprived the children of the proscribed of the right to seek honors; and sold their goods, from which he plundered very much. Three thousand five hundred million sesterces were collected.”

Even Caesar’s perpetual Dictatorship was not so merciless that it was not better for it to remain than for Rome to experience greater cruelty afterward. If Sulla’s conduct certainly has no cause or excuse, it had at least a pretext--to omit everything else. Livian Epitome 87: “Lucius Damasippus the Praetor, by the will of Gaius Marius the Consul, after convening the Senate, slaughtered all the nobility present in the city. From their number Quintus Mucius Scaevola the Pontifex Maximus was killed while fleeing in the vestibule of the temple of Vesta.”

What wonder is it that Sulla blazed against the authors of these deeds? Yet he laid down the Dictatorship, which Julius did not do; nor was it safe to submit to the laws after so many crimes had been committed.

§ 2. Julius therefore acted prudently: when he saw that he could no longer depart from the Magistracy without destruction, he retained the Dictatorship. Augustus rejected the name of Dictator but retained all its force. Suetonius, *Augustus*, chapter 52: “When the people offered him the Dictatorship with great force, he knelt, cast the toga from his shoulders, bared his breast, and begged to be excused.”

He rejected not only the Dictatorship but at first tribunician power also, although the power of the Tribunes was otherwise not removed by a Dictator. A perpetual Dictatorship together with tribunician power is, however, enough for a perfect Monarchy. A Dictator is *δυσύπατος*, furnished with the power of two Consuls, *μονάρχης προσωρινός, ἀνεύθυνος*, a temporary Monarch--but afterward a perpetual one--who can be corrected by no one and is bound to render an account to no one.

§ 3. A Dictator was frequently named for the sake of elections. Livy, books 8 and 25, and elsewhere. This was necessary lest through interregna the state should be deprived of the care of Magistrates. It must never be permitted that certain men possess so great a power that they can impede the creation of ordinary Magistrates. The Venetians therefore prudently enacted a law that no man should depart from a provincial Magistracy before his successor had been given. For when the Senate called the Great Council, whose function it is to assign Magistracies, suffered from discord, cities were without Rulers and justice was suspended to the detriment of the state.

§ 4. It has often been asked why the Dictatorship was salutary to the Roman people but the Decemvirate ruinous. For the power in both was equal and without appeal, but it was more concentrated, and therefore more efficacious, in the

Dictator. Some think the reason to be that the power of the Decemvirs was greater, for there were no Consuls or Tribunes under the Decemvirs; but once a Dictator was instituted, the majesty and name of the Magistrates remained, even though they were compelled to obey the Dictator.

Yet if we consider that time, the matter, and the circumstances, it was not the Decemvirate but the character of Claudius that invaded tyranny. For at first, as Livy says in book 3, “The government of the whole Magistracy was in Appius’s hands through the favor of the plebs, and he had put on a character so new that he suddenly became a protector of the plebs and a hunter after every popular breeze, in place of a savage and cruel persecutor of the plebs. Every tenth day each administered justice to the people. On that day the man presiding over the law possessed twelve fasces; to the other nine colleagues appeared one orderly each. The singular concord among them, which among private men might sometimes be harmful, was the highest equity toward others. It will suffice to note as an argument of their moderation the example of one affair. Although they had been created without appeal, when the body of a murdered man was found buried in the house of Publius Sextius, a man of patrician family, and brought forth into the assembly, the matter being manifest and atrocious, Gaius Julius the Decemvir appointed a day for Sextius and appeared as his accuser before the people, although he was the lawful Judge of the affair. He withdrew from his own right so that what was taken from the force of the Magistracy might be added to the liberty of the people. While that ready law, as though from an incorrupt oracle, was administered equally by them to the highest and lowest, attention was given to composing laws.

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“With the ten tables displayed amid the great expectation of men, they summoned the people to an assembly and ordered them to go and read the proposed laws, which they prayed might be good, favorable, and fortunate for the state, themselves, and their children. They said that, so far as could be provided by the abilities of ten men, they had made the laws equal for all, highest and lowest; but that the abilities and counsels of many possessed greater force. Let the people turn over each matter in their minds, then discuss it in conversation, and bring into the open whatever was excessive or deficient in each matter. The Roman people would possess laws which the consensus of all appeared not so much to have commanded after they were proposed as itself to have proposed. When the laws appeared sufficiently corrected according to men’s reports concerning each head, the laws of the Ten Tables were enacted in the Centuriate Assembly. Even now, amid this immense heap of laws piled one upon another, they are the source of all public and private law. A report was then spread that two tables were lacking, by the addition of which the whole body of Roman law could be completed. As the day of elections approached, this expectation created a desire to elect Decemvirs a second time. By now the plebs, besides hating the name of Consuls no less than that of Kings, did not even seek tribunician aid, since the Decemvirs yielded by appeal to one another.”

Behold the Decemvirs already popular; behold Demagogues tending toward tyranny by the customary path. Appius courted the popular breeze as though he studied the advantages of the plebs, with such artifice that he persuaded them without becoming suspect to the Fathers. For they thought that these measures tended to remove the protections of the plebs--that is, the Tribunes of the plebs. Next they administered justice every tenth day with the highest agreement and equity. One man possessed the fasces; the others, with a single orderly, displayed the Magistracy rather than administered it. They yielded to the people and flattered it more than the Tribunes did. They proposed the Ten Tables for the people’s judgment. All these things were thought to pertain to the safety of the fatherland; Claudius alone meditated something else: that, after being reelected Decemvir, he might possess more power than all.

Accordingly he now returned to his own character. Livy says: “After the elections for creating Decemvirs were proclaimed for the third market day, so great an ambition blazed forth that even the principal men of the city--through fear, I believe, lest possession of so great a government, if the place were left empty by them, should lie open to men not sufficiently worthy--went about soliciting men and humbly sought from the plebs, with which they had contended, the honor which they had opposed with all their strength. The hazard to dignity at that age and after those honors had been discharged goaded Appius Claudius. You would not know whether to number him among the Decemvirs or the

candidates. He was sometimes nearer to seeking than to administering the Magistracy: he accused the Optimates, extolled each most insignificant and lowborn candidate, flew about the Forum in the midst of the former Tribunes Duellius and Icilius, and through them offered himself for sale to the plebs. At last even his colleagues, who until that time had been singularly devoted to him, fixed their eyes upon him, wondering what he intended. It appeared that nothing was sincere; certainly such affability amid so great a pride would not be gratuitous. To force himself excessively into the common order and associate familiarly with private men belonged not so much to one hastening to depart from the Magistracy as to one seeking a path to continue it.”

These were the actions of Claudius, who labored to possess colleagues who were attendants and subject to him. In this alone he erred: although he attempted so great a thing, he did not court the Fathers sufficiently instead of the plebs. To one considering these matters it is clear that not the Decemvirate but popularity, just as with Marius, Caesar, Saturninus, and the Gracchi, was the cause of his power: namely, so that he might be reelected, reject illustrious men, and choose unequal men. Appius did this as Decemvir; he could have done far more as Dictator or Consul. As Dictator he could without danger have added to himself as Master of Horse the fiercest and bravest of the Tribunes of the plebs, and arranged that the Dictatorship be continued until equality of liberty had been established by laws. Nor could a Consul have attempted less, since he possessed the highest power of transacting with the people and Fathers. In the Decemvirate the multitude of colleagues could resist; in a Dictatorship all things were in the hands of one man.

For since the name of Consuls was hated no less than that of Kings, and the oppressed plebs detested the assembly of Senators no otherwise than the offspring of the Tarquins, nothing was easier for a Consul or Dictator than to acquire the highest power and oppress the Senate. Since the government of the nobility over the citizens was proud, harsh, and avaricious, the hatred of the plebs was therefore immense, so that they declared that they would not remain in a city in which they participated in no good. All were continually in danger: whichever Consul or Dictator presented himself to the plebs as leader against the Fathers could obtain possession of affairs. The Senate could resist that power in no other way than either by killing the man or by deserving well of the people, so that it might venerate and love the Senate rather than one man as author of its advantages. Caesar as a young man possessed more power than the whole Senate, and afterward more than the people.

Machiavelli is therefore mistaken when, in book 1 of *The Republic*, he thinks that the magnitude of the power, its annual term, and the cessation of the other Magistracies were the causes of decemviral insolence. For the Dictator’s power was equal and greater because more united. Its term was sometimes annual: Camillus, Papirius, and Fabius Maximus possessed Dictatorships longer than six months; and Cicero wishes the law to provide: “Let one man possess it for no more than six months, unless the Senate shall decree otherwise.” The cause of the power was therefore favor toward Appius, by which he chose colleagues according to his judgment. For if even one had judged the affair otherwise or dissented, at the beginning of the Magistracy what finally happened after bitter conflicts would have occurred.

§ 5. The state has need of a Censor if this office cannot be discharged by Consuls or princes. Livy describes the beginning of the censorship at Rome in book 4: “This same year”—namely, 310--“was the beginning of the censorship, a thing which arose from a small origin but afterwards grew by so great an increase that the governance of Roman morals and discipline, the distinction of honor and dishonor among the Senate and the centuries of knights, the right over public and private places, and the revenues of the Roman people were under the sway of that Magistracy and subject to its nod and judgment. The origin and beginning of the thing was that the census could neither be deferred among a people not assessed for many years, nor did the Consuls, when the wars of so many peoples were threatening, have leisure to conduct that business. The Senate introduced the proposal that this laborious and by no means consular matter should be conducted by its own proper Magistracy, to which the service of scribes, the keeping and care of the records, and the determination of the formula for making the assessment should be subjected.”

The primary work of the Censors was the assessment, for they assessed the number and resources of the citizens. So that the labor of the Censors may appear, I shall give several census totals. Livy, in book 3 and thereafter, reports: 124,214; 132,319; 262,000; 273,000; 278,222; 221,224; 317,227;

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251,222; the diminution caused by wars and the establishment of colonies, 270,020; 137,108; after many had been killed in the Second Punic War, 265,029; 143,704; at the end of the Second Punic War, 268,308; 269,015; 327,022; 324,000; 428,342; 323,000; 823,000.

From this it followed that, since the classes were established from the census, they divided the whole state into its members and parts. No one who has treated antiquity has failed to write about the six classes established by Tullius. That division was afterwards neglected. Tertullian, chapter 4 of *On the Pallium*: “Indeed, now, with the brow of censorial sternness dispersed, whatever passive labeling offers is doubtful: freedmen among the equestrian classes, persons browned by the sun among the liberal, surrendered enemies among the freeborn, rustics among city-dwellers, buffoons among men of the Forum, countrymen among soldiers. The corpse-bearer, the pimp, and the gladiatorial trainer are clothed along with you.”

He uses *epischynium* for the brow; he shows that he was clothed in the same garment. Afterwards Syrians and Phoenicians came into the Senate, nor could this appear unworthy when Felixes and Narcissuses were adored even by Consuls.

But because uprightness of morals was also required in the state, without it the orders could not be established by a census. An examination of morals was therefore conducted, and there survive many distinguished examples of a censorship which is sometimes lacking today among Christians. Livy, book 24: “The Censors, free from the care of contracting for public works because of the poverty of the treasury, turned their attention to the morals of human beings and to chastising the vices which, having arisen from the war, were generating themselves just as bodies sick with long-lasting diseases do. First they summoned those who were said to have wished to desert the state and depart from Italy after the battle of Cannae; foremost among them was Lucius Caecilius Metellus, who happened then to be Quaestor. Then, after these men and the others accused of the same offense had been ordered to plead their cause and had been unable to clear themselves, the Censors pronounced that they had spoken words and delivered a speech against the state so that a conspiracy might be formed for abandoning Italy. After them were summoned the excessively subtle interpreters of how to discharge an oath: having returned from the captives’ journey, they secretly went back into Hannibal’s camp, supposing that the oath by which they had sworn to return had been discharged. From these and the former men the horses were taken away if they possessed a public horse; all were removed from their tribe and made *aerarii*. Nor did the Censors’ care confine itself merely to regulating the Senate or equestrian order.”

It therefore pertained to the censorship to choose the Senate on the basis of property and morals. Once the census was completed, the names of the Senators were read out. Those who had been passed over were judged unworthy of that order, yet were not infamous; for sometimes they were marked on reputation alone and were afterwards promoted not only to a Magistracy but to the Consulship and even to the censorship. This practice doubtless introduced a great stain into the city, for a censorial mark which could be cast against the best men was no disgrace to the wicked.

They therefore removed unworthy persons from the Senate. Dio says that the censorship had very great power: **ἐκβαλεῖν δὲ ἔξεστι συγκλητικὸν ἀπρεπῶς ζῶντα, ἐγγράψαι δὲ τὸν ἄριστον.** “To remove from the Senate one living disgracefully, and to enroll the best man.” This remained in the age of the Emperors. Trebellius in *Valerian*: “You will judge who ought to remain in the Senate,” and so forth. He nevertheless excepts the Prefect of the City, ordinary Consuls, the King of the Sacred Rites, and the chief of the Vestal Virgins, provided that she has remained incorrupt. They took away a horse if the horse was lean, if it was insufficiently sleek, or if the knight was not of good morals. Ovid concerning Augustus:

But I remember that you approved my life and morals,

When I passed before you with the horse you had given;

and:

And I had published poems when, as you marked offenses,

I passed before you so often, an unquiet knight.

They removed men from their tribe. This was a great ignominy, by which they were deprived of the right of voting. This too was done because of morals: if men were bad, the Censors removed them not only from the Senate but also from their tribe; indeed, they sometimes marked entire tribes.

They made men *aerarii*. Aulus Gellius, book 4, chapter 12: "They make him an *aerarius* who has permitted his field to become foul, or has kept his vineyard in neglect." To make a man an *aerarius* was more severe than to enter him on the tablets of the Caerites. For to make him an *aerarius* was to leave him no right in the city or tribe except that he should contribute bronze for his own person: he was deprived not only of the vote but also of military pay. The Caerites possessed citizenship and all its rights except the casting of a vote.

They added tribes. At first there were three--the Ramnes, Tities, and Luceres. Tullius wished there to be four. Others were then added before the Censors, and in years 366, 395, and 421 of the city. Great was that power by which they held in their hand even the offices and elections of other Magistrates, since by their censorship they could not only choose the Senate but also mark the Consuls and other Magistrates.

To be transferred from a rural tribe to an urban one was ignominious.

They cared for temples, roads, harbors, aqueducts, and all public buildings. These things were omitted during the Second Punic War because of the poverty of the treasury, but were accomplished by the magnificence and liberality of the orders, since before the end of the war they declared that they would accept no money.

They farmed out the revenues. The speech to Valerian also contains these words: "You will set a measure for assessments, establish the revenues, divide the condition of persons, and review the states."

They framed laws. Trebellius: "Authority to frame laws will be given to you." Laws had to be proposed by Magistrates--not, however, by all but by the greater Magistrates, such as the Consul, Praetor, Dictator, Censor, Interrex, Decemvirs, Military Tribunes with consular power, and Tribunes of the plebs.

They completed the lustrum. This was begun by Servius, of whom Livy writes in book 1: "When the census, which he had hastened by a law passed concerning those not assessed, had been completed, he proclaimed under threat of chains and death that all Roman citizens, knights and infantrymen, should be present at first light in the Campus Martius, each in his own century. There he purified the whole army, drawn up in formation, with the sacrifice of a pig, sheep, and bull. This was called the completed *lustrum*, because an end had been made in the assessment."

Sometimes the census was conducted, yet the lustrum was not completed. Livy, book 3. The Censors also possessed the right of dealing with the people and Fathers, which was common to all the greater Magistrates.

They also made inquiry into the morals of married couples. For the Censor exacted a solemn oath from husbands. Varro, book 5 of *On the Latin Language*: "Do you, according to the judgment of your mind, have a wife?" If he had answered that he did not, the Censor had cognizance of his morals. Nor could an agreement be made that no inquiry into morals should occur. If husband and wife mutually accused one another, neither was heard. They also made inquiry concerning contempt for marriage. They dealt with usury. Thus the Censor possessed the greatest authority over private persons.

§ 6. The Censors possessed excessive authority in the free state. Marcus Livius and Gaius Claudius demonstrated this in Livy, book 29: “The lustrum was completed later because the Censors sent men through the provinces to report how great the number of Roman citizens in the armies was everywhere. Gaius Claudius Nero completed the lustrum after 265,000 men had been assessed with them. Then they received the census returns of twelve

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colonies--something which had never previously been done--when the Censors delivered them, so that records of how strong they were in number of soldiers and in money might survive in the public tablets. Then the assessment of the knights began, and both Censors happened to possess a public horse. When they came to the Pollian tribe, in which the name of Marcus Livius was listed, and the herald hesitated to summon the Censor himself, Nero said, ‘Summon Marcus Livius’; and, whether from a remaining and ancient quarrel or puffed up by an untimely display of severity, he ordered Marcus Livius to sell his horse because he had been condemned by the judgment of the people. Likewise, when Marcus Livius came to the Narnian tribe and the name of his colleague, he ordered Gaius Claudius to sell his horse for two reasons: first, because he had given false testimony against him; second, because he had not returned into favor with him in sincere good faith. Thus there occurred a foul contest to stain the other’s reputation at the cost of one’s own reputation. At the end of the censorship, after Gaius Claudius had sworn to the laws and ascended to the treasury, among the names of those whom he was leaving as *aerarii* he entered that of his colleague. Marcus Livius then entered the treasury and, excepting the Maecian tribe, which had neither condemned him nor made him Consul or Censor after his condemnation, he left the whole Roman people--the thirty-four tribes--as *aerarii*, because they had both condemned him when innocent and made him Consul and Censor after his condemnation. They could not deny that they had offended once by a judgment and twice in elections; among the thirty-four tribes, Gaius Claudius too would be an *aerarius*. He said that, if there were a precedent for leaving the same man twice as an *aerarius*, he would have expressly left Gaius Claudius among the *aerarii*. This petty contest of censorial marks between the Censors, and this chastisement of the people’s inconstancy by censorial gravity, was worthy of those times. Since the Censors were objects of hatred, Gaius Baebius, Tribune of the plebs, supposing that from this he had an opportunity to increase his standing, appointed a day before the people for both. The matter was dismissed by agreement of the Fathers, lest henceforth the censorship be subject to the popular breeze.”

First, indeed, there was the foul persecution of colleagues and mutual defamation. Next came the marking of the people because of an unjust judgment, as though a man were a suitable judge in his own case. Finally came the reproach that they had conferred an honor. All these things were full of severe folly; to make the whole people *aerarii*, with one tribe excepted, was entirely insane, for it was a consolation to the wicked and infamous to lie hidden among all.

The Roman people itself judged this when it limited the censorship to a year and six months: the Dictator Aemilius Mamercus diminished it. Livy, book 4: “Then the Dictator, lest he should have been created to no purpose--since the opportunity to seek glory in war had been taken away--desired to accomplish in peace some work that would be a memorial of his Dictatorship, and prepared to curtail the censorship, whether because he judged its power excessive or was offended not so much by the greatness of the honor as by its duration. Accordingly, after summoning an assembly, he said that the immortal gods had undertaken that the state should be managed abroad and that all things should be made secure; he would take counsel for the liberty of the Roman people concerning what must be done within the walls. But the greatest safeguard of that liberty was that great commands should not be long-lasting, and that a limit of time should be imposed upon those upon whom no limit of law could be imposed. The other Magistracies were annual; a censorship of five years was burdensome, for men lived subject to the same persons during a great part of their lives. He would therefore propose a law that a censorship should be no longer than a year and six months.”

Therefore, since so many persons were unjustly degraded and so many entered among the *aerarii*, the law of Clodius was not so unjust in forbidding anyone to be removed from the Senate or affected with ignominy unless, after his case had been pleaded, he had been accused before the Tribunes. Then the supreme power ceased, but the Consul Metellus

restored it, and it existed in the time of Dio. **Τιμητείαν, αἰτ, ἀρχὴν ταύτην εἶναι ἱερωτάτην, καὶ δυναμένην μέγα.** “The censorship,” he says, “is a most sacred and very powerful government”; but its holders were to judge morals, not rage according to their own judgment.

Deservedly, therefore, Cicero says in *Against Piso*: “For nearly a hundred years we had retained the Aelian and Fufian laws, and for four hundred years the censorial judgment and cognizance. No wicked man failed to dare against those laws, yet no one was ever able to overthrow them; no one was so extravagantly wanton as to attempt to diminish that power so that judgment concerning our morals should not be made every fifth year.”

§ 7. Most of the Emperors also bore the censorial dignity. Dio says that Augustus was elected **ἐπιμελητὴν καὶ τιμητὴν εἰς πενταετίαν χειροτονεῖσθαι**, curator of morals and Censor for a five-year period. The same Dio says this of Claudius in book 5; Suetonius relates that Domitian was Censor. Trajan undertook the censorship late--not from avoidance of the honor, or, as Pliny flatters him, because he preferred to test characters by benefactions rather than remedies, but from consciousness of his own life. For although others were worse than Trajan and accepted the censorship, Trajan nevertheless showed greater modesty.

Most states therefore retain this principle of censorship: judgment concerning morals rests with a Magistrate. This is also customary in the Church, for the Bishops and prelates of the Church themselves are masters of morals. Since the end of a prince is the blessed life of his subjects, and that life cannot exist without virtue, he must himself exercise the greatest care for it. What would so great and severe a power not accomplish? Valerius, book 2, chapter 9, makes it equal to martial praises: “The firmest bond of camp discipline and the diligent observance of military order admonish me to pass to the censorship, mistress and guardian of peace. For just as the resources of the Roman people advanced to so great an amplitude through the virtues of commanders, so uprightness and continence were examined by the censorial brow, an achievement equal to martial praises. For what profit is there in being vigorous abroad if life is evil at home? Though cities be stormed, nations chastised, and hands laid upon kingdoms, unless duty and modesty maintain their place in the Forum and Curia, the heap of acquired things, though made equal to heaven, will have no stable seat. It therefore pertains to the matter to know, and indeed to remember, the acts of censorial power.”

If the vigor of the censorship had endured, great Emperors would never have seized their fatherland from fear of poverty. The posterity of the Romans marveled at the severity of the ancients. “What,” says Valerius, “shall I say of the censorship of Fabricius Luscinus? Every age has related and will continue to relate that Cornelius Rufinus, who had discharged two Consulships and a Dictatorship most splendidly, was not retained in the senatorial order because he had acquired ten pounds of silver plate, as though luxurious through an evil example. By the god of faith, the very letters of our age seem to me to be astonished when they are compelled to accommodate their service to recording so venerable a severity, and to fear lest they be thought to commemorate the deeds not of our city. For it is scarcely credible that within the same pomerium the possession of ten pounds of silver was once an object of odium, while poverty is now held in the greatest contempt.”

Lest we suppose that only a few were marked, the same Valerius shows that there were very many: “A large and good part of the equestrian order--four hundred young men--also endured the censorial mark with a patient spirit. Valerius and Publius Sempronius, because they had been ordered to go to Sicily to perform work on fortifications and had neglected to do it, deprived them of their public horses and entered them in the number of the *aerarii*.”

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And thereafter: “The Censors also exacted the penalty for shameful fear with the greatest severity. For Marcus Atilius Regulus and Publius Furius Philus swore that Lucius Metellus the Quaestor and several Roman knights--who after the ill-fated battle at Cannae had sworn that they would depart from Italy with him--must be deprived of their public horses and entered among the *aerarii*. They also affected with a grave mark those who, after they had come into Hannibal’s power and had been sent by him as envoys to the Senate concerning the exchange of captives, remained in the city when they did not obtain what they sought. For it was fitting both to keep faith with Roman blood, and for

Marcus Atilius Regulus the Censor to mark perfidy, since his father had judged it preferable to expire amid the utmost torments rather than deceive the Carthaginians. How this censorship passed from the Forum into the camp, for it wished neither to fear nor to deceive the enemy!”

There are two eminent censorial memorials of the ancient state in this affair. They marked very many together with Metellus, concerning whom Livy writes in book 22. Then those who had returned from the camp were marked and affected with grave ignominy, concerning whom the same Livy writes: “Moreover, they had been so utterly broken by every mark and ignominy under the next Censors that some of them immediately brought death upon themselves; the others were deprived not only of the Forum throughout all their remaining life, but almost of light and public society.”

In this matter the power of the Censors was greater than that of the Consuls. Indeed, they could mark the Consuls themselves.

§ 8. The censorship, especially of nobles, flourishes and formerly flourished among the Venetians; it is established that that state has been preserved by it more than by war. Among the Lucchese a severe, mature, and better censorship than that formerly exercised at Rome is practiced. In the week immediately before Easter, which is called Holy, those who belong to this council assemble in a certain place. Each of them places in a chest prepared for this purpose a ballot on which is written the name of the man whom he regards as wicked and unworthy of the city. Once this has been done, the ballots are taken out. If by chance someone’s name is read repeatedly, the matter is referred to the Greater Council, where the votes are cast again. If he is condemned by them, such a man is judged wicked and unworthy of the city and is immediately ordered by the public voice of the herald to go into exile that very evening. The manner of proscription is that for three years he must remain fifty miles from the city. If he contravenes this, he incurs capital punishment. When the three years have ended, if upon returning he has not amended his life, he is again driven into exile in the same manner.

To this also pertains the fact that the Eight Men there, who observe inns and guests, correct deceitful and lying persons. For the corruptions of many cities arise from the negligence of innkeepers, since the dregs of cities flow together into those places, and vices first grow strong in those places where they are a source of profit to their abettors. Among the Genoese the office of the Censors is given partly to those whom they call Censors and partly to the Magistracy of St. George.

§ 9. I shall add as a conclusion that the Censors were formerly anointed. Varro, book 3 of *On the Latin Language*: “Now first concerning the censorial tablets. When the censorship takes its auspices by night in the temple and a report from the sky has been made, the herald is commanded thus to summon the men: ‘May it be good, fortunate, happy, and salutary to the Roman people, the Quirites, and to the state of the Quirites, and to me and my colleague, and to our fidelity and Magistracy. Summon all Quirites, infantrymen, armed men, and private curators of all the tribes; if anyone wishes a curatorship to be assigned for himself or another, summon the assembly here before me.’ The herald summons them first in the temple; afterwards he likewise summons them according to custom. When it grows light, the Censor, scribes, and Magistrates are anointed with myrrh and unguents.”

The Censors correct those things on account of which the Praetor grants no action. Bodin, book 6 of the *Politics*; Lipsius, book 4; Alexander ab Alexandro, book 3, chapter 13, of the *Genial Days*. But above all, the life of the best and most modest Prince is a censorship. Pacatus says concerning Theodosius: “The man who corrects vices to which the prince is himself subject, even if you do not punish the prince himself, nevertheless brands him.”

CHAPTER XXI

The Order and Offices of Provincial Magistrates

§ 1. We must treat the greater Magistrates who command outside the ruling city, such as Proconsuls and Proprætors, or outside the kingdom in which the king has established his seat, such as Viceroy and Great Prætors. Because in this matter not only different states but even the same states--and indeed the Roman state--frequently varied, it must be taught seriously; the practice of the ancient wise men must be brought forward, and the errors and outcomes weighed.

§ 2. Those were called Proconsuls, or men "in place of a Consul," whose Magistracy was continued after the completion of the year for the sake of the state, and who were sent into the provinces either from a Magistracy or from private life. Proprætors were appointed on the same principle: they were sent from the Prætorship or into prætorian provinces. A Magistracy was first prorogued for Publilius Philo, in Livy, book 8: "A triumph was decreed to Publilius because it was sufficiently believed that the enemies, subdued by the siege, had come into allegiance. These two singular things happened first to that man: the prorogation of command, which had not previously occurred in anyone, and a triumph after he had discharged his office."

This happened in year 428 from the foundation of the city, during the siege of Palaepolis. Scipio was made Proconsul from private life; Livy, book 26. Ordinary Consuls, after discharging the Magistracy, went to a province in the following year; but if this occurred in subsequent years, they were said to go as private persons. Yet however they were sent, there was need of good and courageous Magistrates. Most excellently the preface to Novel 24 says: "We certainly never believed that the ancient Romans could have established so ample a state from small and even the very smallest beginnings, and thereafter could have joined to themselves and pressed and protected by command almost the whole world--we might say--unless, after sending the greater Magistrates into the provinces, they had acquired greater dignity for themselves by that means, had given those men power both of arms and of laws, and had possessed men fitted and suitable for both. They called these men Prætors, a name imposed upon them because they went before and were placed over all the others, the administration both of military affairs and of the prescription of laws having been permitted to them. Hence they also called *prætoria* those places in which Magistrates were accustomed publicly either to administer justice or to reside, and established that most laws in the state should be introduced by the living voice of the Prætors. Many Prætors partly added to the command, or governed, Sicily, partly the island of Sardinia, partly Spain, and others some other region by land and sea."

§ 3. Sicily and Sardinia were the beginning of the provinces; afterwards the two Spains and others followed. The first governors of these were appointed in the Centuriate Assembly and called Prætors; afterwards provinces were also entrusted to Consuls for the purpose of conducting war. Prætors who remained in a province with their command prorogued were called Proprætors. But afterwards it seemed more correct that those who had discharged the Prætorship in the city should depart for the provinces toward the end of the year. Their power was no less than that of the Proconsuls, but they nevertheless employed only six Lictors, not twelve. In order gradually to draw all things to himself, Augustus sent into provinces men who had discharged neither the Consulship nor the Prætorship in the city, and called them Proprætors.

§ 4. They were sent by a Curiate Law, because without it they had no right to conduct war; hence that law was not necessary for men going to a pacified province. The command of the people was, however, necessary for the expenses and equipment required by a province. For by aid of a law it was obtained that traveling expenses should be decreed for the legates, cohort, and retinue. Capitolinus testifies in *Alexander* that money was given from public funds to governors.

These were the laws for departing. First: “A Proconsul must take care not to burden a province in providing lodgings, as our Emperor together with his father rescripted to Aufidius Severianus. No Proconsul may possess his own grooms, but in place of them soldiers discharge the services in the provinces.” Second: “It is indeed better for a Proconsul to depart without his wife, but he can also do so with his wife, provided he knows that the Senate, when Cotta and Messala were Consuls, decreed that, if the wives of those departing to their offices committed any offense, an account and punishment would be exacted from the husbands themselves.” Third: “Before the Proconsul has entered the boundaries of the province decreed to him, he must send an edict concerning his arrival, containing some commendation of himself--if there is any familiarity or connection with the provincials--and especially excusing them from coming to meet him either publicly or privately, for it is fitting that each person should receive him in his own native country.” See book 1, π ., *On the Office of the Proconsul*.

§ 5. Proconsuls therefore possessed power and command: power was the capacity of making inquiry and judging; command concerned military affairs. They commonly administered justice in winter and in the assize districts, and conducted war in summer. Proconsuls were sent for the sake of war: first into Africa, then into Asia and Achaëa. It was first established in year 605 from the foundation of the city that those who had discharged the Consulship in the city should go with consular power into the provinces. Before his arrival a Proconsul could not delegate authority to his Legate unless perhaps he underwent a necessary delay on the journey. Ulpian, book 4, *On the Office of the Proconsul*: “After he has entered the province he must delegate jurisdiction to his Legate; nor may he do this before entering the province. For it is exceedingly absurd that, before he himself obtains jurisdiction--for it does not belong to him before he comes into that province--he should delegate to another what he does not possess. But if he has done it beforehand, the Legate must be believed to possess jurisdiction, not from the time when it was delegated, but from the time when the Proconsul entered the province.”

Papinian limits this in book 1 of the *Questions*: “Sometimes a Proconsul can delegate jurisdiction even if he has not yet reached the province. For what if he undergoes a necessary delay on the journey, while the Legate will arrive in the province very speedily?”

The care of revenues, the grain supply, and ships rested no less upon them. Thus they commanded a quantity of grain and sold or stored it; they sometimes imposed revenues and possessed their own praetorium. All these things are not now customarily conceded to governors, for they greatly abused their power to exhaust the provinces. But the laws themselves explain these rights most clearly in the passages cited above: “They are also accustomed to delegate inquiry concerning persons in custody to their Legates, in such a way that they remit the persons already heard to themselves, so that the Proconsul himself may liberate the innocent. But this kind of delegation is extraordinary; for no one can transfer to another the power of the sword given to him, or the power of any other coercion, and therefore not the right of liberating accused persons either, since they cannot be accused before him. But just as it rests in the Proconsul’s judgment to delegate or not to delegate jurisdiction, so the Proconsul may indeed take away delegated jurisdiction, but ought not to do this without consulting the prince.”

§ 6. Plainly royal honor was paid to him: to good men temples, statues, feast-days, and honorable embassies to the Senate; the same things were paid even more lavishly to bad men so that they would not inflict as much harm as they were able.

The honor of a Proconsul extended more widely than his power. Thus π ., *On the Office of the Proconsul*: “A Proconsul possesses proconsular insignia everywhere from the moment he has departed the city; but he exercises power only in that province which has been decreed to him.”

He nevertheless employed some power even outside his own province, although honorary rather than commanding power. Thus law 1, π ., title 16: “All Proconsuls, as soon as they have departed the city, possess jurisdiction, but not contentious jurisdiction--voluntary jurisdiction. Thus both free persons and slaves can be manumitted before them, and

adoptions can be made. But no one can be manumitted before a Proconsul's Legate because he does not possess jurisdiction of that kind."

Voluntary jurisdiction is exercised without a tribunal; contentious jurisdiction from a tribunal, as Cujas and others explain.

But what they principally sought was an opportunity to gather immense treasures. For they harassed the allies by plunder and extortions and granted and sold immunities. Strabo, book 12, concerning Paphlagonia: ὕστερον δὲ οἱ τῶν Ῥωμαίων ἡγεμόνες ἄλλως καὶ ἄλλως ἐποίησαν μερισμούς, βασιλέας τε καὶ δυνάστας καθιστάντες καὶ πόλεις τὰς μὲν ἐλευθεροῦντες, τὰς δὲ ἐγχωρίζοντες τοῖς δυνάσταις, τὰς δὲ ὑπὸ αὐτοῖς τοῖς Ῥωμαίοις ἔχοντες. "Afterwards Roman commanders established different divisions, appointing kings and dynasts, making some cities free, subjecting some to dynasts, and leaving some under the power of the Roman people." From this came great wealth: some from gifts of cities so that they would not pay what was owed or receive a soldier into winter quarters, and other things treated elsewhere.

§ 7. I have mentioned above several errors in this class. No prudent person can approve the fact that the governors were selected by lot; Augustus himself, after he had selected the Proconsuls for the people's provinces by lot, afterwards changed the practice. Next, the command was excessively brief. "What have we to do," says Apuleius, "with those vicissitudes of Proconsuls? What with brief years and hastening months? While they go and return, the year is consumed." For this reason Magistracies are entrusted very differently in the present age, as Augustus himself also did, so that his Prefects remained and were changed at his judgment. This is also observed now in Gaul and other kingdoms.

But the fact that the provincials, deprived of the aid of laws, were condemned under the appearance of right and laws after they had been afflicted and exhausted by every injury brought the greatest ruin. If they prevailed in their case, they nevertheless recovered the smallest part of their property, while those great defendants drank it away:

But you, victorious province, weep.

Nor did any better hope dawn upon the victorious province: the relatives, friends, associates, children, and grandchildren of the condemned were to command again. Avengers therefore threatened, and advocates were of no benefit, since, having plundered in another quarter, they themselves needed protection, or were joined by affinity of marriages or fellowship in rapine.

§ 8. The method of correction consisted of the laws of treason, peculation, and extortion. But these laws had so passed into abuse that the provincials were afflicted by the very laws enacted for their safety. The law of treason and peculation was indeed enforced severely; proceedings concerning extortion were slow except in atrocious cases and against a weak enemy. That law was therefore given for the sake of the allies, and sometimes had an effect. Peter Gregory may be consulted concerning it in the *Syntagma*, book 36, chapter 28, §15 and following. Julius Caesar removed from their order men convicted of extortion. When Marius Priscus was accused under the Julian law of extortion by the Africans over whom he had presided as Proconsul, it pleased the Senate that the seven hundred thousand which Marius had accepted should be paid into the treasury. Marius was interdicted from the city and Italy. Concerning Hostilius Firminus, the Legate of Marius, it likewise pleased the Senate that, because he had lent his service to the most shameful ministries,

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no account of him should be taken in the allotment of a province. Cornelius Gallus, when Octavian held Roman affairs, was Procurator of Egypt; according to Ammianus Marcellinus, he exhausted the city after intercepting very many things. Upon his return, when he was arraigned for his thefts and the nobility, sharply indignant at the despoiled province, had been given the business for examination by the Emperor, he fell upon a drawn sword, certainly from fear of the capital penalty which he supposed that he would undergo on that account. Gaius Servilius Glaucia proposed a

law at Rome by which Latins had the right of obtaining citizenship in place of a man whom they had brought to condemnation by accusing him of extortion. The Julian law of extortion also wills that the man is guilty who has accepted something so as to do more or less by virtue of his office. Demosthenes the Orator was condemned by the Athenian people to fifty talents because, after declaring that Harpalus, who had fled from Alexander out of Asia, was an enemy, he was afterwards appeased by a cup and twenty talents from Harpalus and desisted from his undertaking, as Dinarchus says against Demosthenes, as do Plutarch, Justin, and Athenaeus.

For the same reason, those who accept something in order to accuse or not accuse are held by the law of extortion, as are those who enter into an agreement to accuse innocent persons; those who accept money for giving or withholding a denunciation or testimony, or for selecting or sending a soldier; and those who accept it for delivering an opinion in the Senate or a public council. Ulpian notes another head of the Julian law of extortion: if a Proconsul dismisses his Legate from the province before himself. Another head forbids Senators to possess a seagoing ship. A governor is prohibited from building or possessing a ship in the province which he administers, or from purchasing anything else there. We read that men were condemned under the law of extortion among the Greeks also. According to Xenophon, in rendering their account for the preceding period the commanders Philesius and Xanthicles were condemned because they had embezzled twenty minas from the Gaulitic money which they had received for disbursement, and judgment ordered them to repay the same amount.

§ 9. Sometimes they were first sent into provinces in the fifth year after entering the Consulship. From this it happened that many never obtained provinces by lot. This occurred under Tiberius and frequently thereafter, so that the name of the Consuls gradually grew worthless when they perceived others to hold a higher position.

§ 10. At first they were called Praetors, afterwards Propraetors, of whom I have spoken above. But since the arrangement had been varied in many ways, Justinian attempted to recall it to the ancient laws. He did this in other cases and in the case of the Praetor of Pisidia, Thrace, Lycaonia, and especially Paphlagonia, Novel 29, chapters 1 and 2: "Indeed, the man who holds command over the whole province--while the whole province is called Paphlagonia, as before--will also go about and inspect the cities. No formula, perhaps formerly framed as sacred to prohibit such conduct, prevents this; nor will he send vicars here and there through the cities in his place. For we entirely prohibit this very thing, since it is shameful that, while he himself administers justice in the province, he should meanwhile entrust his functions to another contrary to law. He himself will administer everything and bring the public tributes to completion with the greatest readiness of spirit, exacting neither more nor less. Retaining, moreover, an equality consonant with justice, he will at the same time employ foresight so that, if the fisc has suffered any loss, he may correct it, and at the same time preserve the cities unharmed both publicly and privately. He shall receive the allowance which each of the two Magistrates possessed, amounting to seven hundred and twenty-five aurei; he shall also possess an assessor, who shall receive seventy-two aurei, and one cohort composed from both, proceeding to the number of one hundred men and receiving four hundred and forty-seven aurei and a third from the public treasury. And since he receives his office without payment, let him likewise discharge it without payment. For in this part also we shall redeem our subjects, and we ourselves shall give to those who customarily receive something under occasion of *suffragium*, as they call it, paying this to them through your throne from the public tributes of that province; nor shall we allow our subjects to be driven into servitude under the appearance and covering of an auction."

§ 11. The name "Governor" is general, for a Proconsul too was a Governor. Thus book 1, *π.*, title 18: "The name 'Governor' is general; and therefore Proconsuls, Caesar's Legates, and all who govern provinces, even if they are Senators, are called Governors. The designation 'Proconsul' is special."

These are his rights and power. First, adoption before him, emancipation of a son, and manumission of a slave. Ulpian, law 6 and *π.*, *On the Office of the Governor*. Second, he possesses power over the inhabitants of his province. Paul, law 3. Outside his province he is a private person. Third, he possesses greater command than all persons after the prince, like a Proconsul. Ulpian, law 36, *On the Edict*. Fourth, cognizance belongs to the correctors and provincial Governors concerning all the causes which at Rome are heard by the Prefect of the City or the Praetorian Prefect, and

likewise by the Consuls, Praetors, and others. Hermogenianus, book 2 of the *Epitomes of Law*. Marcian therefore rightly says in book 3 of the *Institutes*: “All provincial petitions which have various Judges at Rome pertain to the office of the Governors.” The management of all business therefore pertains to the Governor. This must be noted against those who have judged the power of Governors to be less than that of Proconsuls.

More of his offices are described in law 1, π ., title 18. There several golden laws must be noted, especially law 12: “Although the man who presides over a province ought to discharge the function and office of all the Magistrates at Rome, nevertheless one must regard not what is done at Rome but what ought to be done.” And law 13: “It befits a good and grave Governor to take care that the province which he governs is peaceful and quiet. He will obtain this without difficulty if he acts solicitously so that the province is free from evil men, and searches them out. For he must seek sacrilegious persons, robbers, kidnappers, and thieves; punish each according to his offense; and coerce those who harbor them, without whom a robber cannot remain concealed for long.” And law 18: “It is contained in a plebiscite that no Governor should accept a service or gift unless it is food or drink to be consumed within the next few days.”

§ 12. Among the Turks the office of the Agha corresponds partly to the office of the Praetorian Prefect and partly to that of Proconsuls. For he is the head and Judge of the Janissary soldiers and possesses the first place in war. Otherwise the Pashas, Beylerbeys, and Sanjakbeys exercise various functions in war and peace. But because that command is tyrannical, it generally sends robbers and thieves into the regions, whom the Turk is afterwards accustomed to slaughter and plunder when they have become rich. The difficult thing is that those through whom the empire is administered must act as lions abroad and foxes at home. For the authority of the Pashas among the Turks is very great: in ancient times, while their affairs were still slight, they were employed in councils; now they also govern the councils and preside over the most powerful kingdoms. This is the more dangerous because Emperors accustomed to pleasures do not ordinarily pay much attention to the state unless the dangers of wars, or the frequent sedition of the Janissaries, shakes off their torpor.

§ 13. A Dioecetes is one who administers definite dioceses, but the division of dioceses varied. In ancient times the parts of a province were called dioceses. Cicero, book 3 of the *Letters*, says that three Asian dioceses were attributed to the province of Cilicia. But in the later times of the empire provinces were parts of dioceses. There were five dioceses of the East. The one called the diocese of the East properly so called embraced fifteen provinces;

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the Asian diocese ten, the Pontic six, the Egyptian six, and that of Dacia five. There were also six dioceses of the West: the Italian, Illyrian, African, Gallic, Spanish, and British. From this it came into the usage of the Church that the jurisdictions of Bishops are called dioceses.

§ 14. Viceroys are now furnished with the same power. Spain possesses many of them; the dignity is not so customary in other kingdoms because they do not administer kingdoms so remote or so numerous through vicars. The dignity and power of Vice-kings and Viceroys is not the same as that which belonged to the Vicars, for the Vicars possessed civil jurisdiction, while the Vice-kings possessed both civil and military jurisdiction. Vicars are compared with Counts in law 1 of the Code, title 38: “In civil causes it is fitting that Vicars be preferred to Counts of the soldiers; in military business Counts are preferred to Vicars. Whenever association in judging occurs, the Vicar shall be placed first and the Count shall follow as his associate. For the merit of the Prefecture stands before the other dignities, and the vicarial dignity judges that by its very name it draws to itself a portion of it, possesses the power of sacred cognizance, and is accustomed to represent the reverence of our judgment.”

Nevertheless, Augustal Vicars who were created by the Prince possessed the chlamys and carriage and administered the tributes. Cassiodorus, book 9 of the *Variae*.

§ 15. The Prince of Dalmatia presides over tribunals and hears causes, but is not the Governor of provinces with proconsular or any other power. He also judged the Count of the provinces himself. “Power over the provinces has indeed been given to the Count, but the Judge himself has been entrusted to you,” says Cassiodorus in book 7.

§ 16. The Vicar of the Pontic tract is also called the Count of the Pontic Diocese; he performed the functions of the Praetorian Prefect. “It seemed good to us,” says Justinian, “to impose a Vicar upon all the provinces of the Pontic Diocese, so that he may fill not only the place of the Praetorian Prefect but also that of the most glorious Master of Offices, the most glorious Dukes, and the most magnificent Magistrates who preside over the divine patrimony, treasury, and household Protectors.” They were Proprefects and governed a diocese in the place of the Prefect. Nevertheless, they possessed command from the Prince. The Vicar of the Praetorian Prefect administered justice in seven provinces of Italy. There were, however, not only Vicars of the Praetorium but also Vicars of the Master of the Soldiers. In Eutropius, book 7, chapter 6, the Consular Governors of Venetia, Aemilia, Flaminia, and Liguria are under the Vicar of Italy, as are the Governor of the Cottian Alps and those of both Rhaetias.

Tetrarchs performed almost the functions of Satraps and Vicars, although they are more similar to our Counts and Barons. The name originated among the Thessalians, for their region was divided into four parts, each of which was called a *τετραρχία*; their names were Thessaliotis, Phthiotis, Pelasgiotis, and Hestiaeotis. Hence it came about that men who commanded some part were called *τετράρχαι*. Thus Antipas and Philip were appointed Tetrarchs by Augustus. Josephus, book 17, chapter 18. It is established from Hirtius, *On the Alexandrian War*, that there were several Tetrarchs of Gallograecia.

§ 17. This above all was wisely established: after Consuls and Praetors had been designated, and before they entered their Magistracy, provinces were to be decreed to them, which the designees either arranged among themselves or obtained by lot. In this way, before entering their Magistracy, they knew over whom they were to command abroad, and from their Consulship or Praetorship the provincials also judged the morals of their future Governor. In the time of the Emperors, when Governors were sent at the judgment of one man, this could not be observed.

But enough has been said concerning these matters. I repeat this one thing, and repeat it again: provincial Magistrates must be visited frequently and their actions examined; otherwise they will become worse through the power itself.

§ 18. In the time of Augustus men were also called Proconsuls in another manner. For those whom he sent with command into the pacified provinces, the care of which he had committed to the Senate, he also called Proconsuls. Dio says: “Augustus ordered the Prefectures to be annual unless someone possessed a privilege by reason of a multitude of children or of marriage; he ordered that they be sent by the common counsel of the Senate, neither girded with a sword nor employing military dress. He wished them to be called Proconsuls--not only those two Consulars but also the remaining Praetorians, or men who held the place of Praetorians--and that both should be attended by as many Lictors as the laws permitted them to possess in the city; that they should assume the insignia of command as soon as they came outside the pomerium, and retain them until their return to the city.”

And afterwards: “The Senate granted Africa and Asia separately to Consulars and assigned the remaining provinces to Praetorians. It equally forbade both to obtain provinces by lot before the fifth year after discharging a Magistracy in the city. Thus it happened that, although their number was greater than that of the provinces, command nevertheless eventually reached all. But after the time of Caesar Octavian, when some of them had administered their Magistracy badly, these provinces too were annexed to the Emperor, and so in some fashion he assigned even these provinces to them. Moreover, they also selected certain Legates or Assessors for themselves, whose counsel they employed in the administration of the province. A Praetorian took one from men of his own or an inferior order; a Consular took three from men of the same dignity, all approved by the Emperor himself. This too was established generally concerning the power over all provinces: they were to conduct no levy of soldiers; exact no money beyond that which had been established without command of the Senate or Emperor; and, when a Successor had been sent, depart from the province immediately, spending no time on the return journey but returning to Rome within three months.”

§ 19. The retinue was large and costly and exceedingly burdensome to the state. There were the Quaestor, Legates, Tribunes, Centurions, and, in addition to the military officers, attendants, Lictors, and the whole cohort of friends. Alexander Severus and others established a limit; for the Senate decreed such great expenses for Magistrates for no other reason than that public resources might in this manner be poured out upon patricians. A limit was therefore deservedly established.

§ 20. Augustus sent Proconsuls into the provinces without the military belt and military jurisdiction. This was gradually abandoned, for it produced several disadvantages, and much more so when in the same province there were two Magistrates, one wearing the toga and the other the military cloak, and there was no sufficiently exact method of keeping them in their office. Justinian therefore joined both powers. Novel 21, chapter 1: "These things moved us to make this Magistracy also united, as we did among the Pisidians, and to impose upon it the designation 'Praetor' together with our name. For we will that this man too be called the Justinianic Praetor of Lycaonia, just as the Praetor of Pisidia and of others. Next we also draw both cohorts together into one--the one over which the civil Magistrate presided and the one over which the military Magistrate presided--and call it Praetorian. It is to be constituted from approved men proceeding in the customary manner from the sacred bureau of petitions, from which the *Duciani* formerly also drew them; we extend its measure to the number of one hundred men, and assign to it the allowances of both Magistrates, but to the Assessor and the others--"

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Accordingly he placed over Pisidia a governor whom he called both Governor and Praetor, with proconsular command. Then, with the same intention, he gave Lycaonia a Praetor, Novel 25, drawing two Magistrates into one and tempering the two together, as he himself says. In Novel 26 he declares that he did this in many places, and did so because of dissension. Kings must weigh very carefully the words which moved Justinian. He says: "We all know that two men with the name of Vicars sit at the Long Wall. One of them governs the military cohorts, for there is a great force of soldiers in that place; the other is Prefect over civil business. But although both discharge the functions of others there--the one of the most glorious Prefects, the other of the high-minded Masters of the Soldiers--they nevertheless never agree with one another. Although the fisc furnishes each separately with his allowances and provides other salaries, they nonetheless perpetually and without interruption take up this one business for themselves: that they exercise immortal contentions with one another. It therefore seemed right and orderly to us to do here also what we did among other nations, although they were not so savage and did not need such military protection: not to have the one preside over civil business while the other commands among the soldiers alone, but to draw both offices into one and place over that locality some grave Magistrate worthy of reverence, who should equally care for civil business there and be solicitous for the handsome and becoming order of the soldiers. For the man who governs the province moves about in other places and is scarcely sufficient for them."

The same law was pronounced concerning the Praetor of Sicily, Novel 104: "Let Sicily possess a Praetor who shall both conduct civil affairs and bear the care of military expenditure; public tributes, however, do not pertain to his solicitude."

CHAPTER XXII

The Established System of Judges in the State

§ 1. Justinian says in Novel 82 that some Judges possess a Magistracy and others do not: “Many Judges indeed were selected who did not possess command.”

The equity of judgments chiefly preserves the state; if it is neglected, not even war can be rightly administered. Just as a city cannot stand without justice, so justice cannot stand without a Judge. A Judge is animate law: **ὁ δικάστης εἶναι βούλεται οἷον δίκαιον ἔμψυχον**. He is a **μεσίτης**, a mediator who joins the parties by equality. He is a **διχαστής**, one who cuts disputes apart, as Aristotle says in book 5, chapter 7, of the *Ethics*. Some define a judgment as the explanation, through lawful paths, of another person’s obscure right; others, as the administration of justice in a cause heard by a Judge. The true definition is that a judgment is the lawful determination of a Judge possessing power of adjudication, so that the dispute receives an end through his sentence.

Jurisdiction extends very widely. π., title 1, law *Ius*: “The person who orders another to judge must be a Magistrate.” In appointing a Judge, however, the same thing must be observed as in taking a rule and standard for buildings: just as it must be as straight and entirely inflexible as possible, so the Judge ought to govern who is not easily impelled either to anger or desire; otherwise it would be just as if someone bent the rule to fit the wall.

§ 2. The practice of states teaches us that many Judges must be selected for various disputes. Aristotle judges thus in book 4, chapter 16, of the *Politics*: “The difference among courts is contained under three headings: from whom, concerning what, and how. ‘From whom’ means whether Judges are taken from all persons or from certain persons; ‘concerning what,’ how many kinds of courts there are; ‘how,’ whether Judges are made by lot or by vote. First, then, let us explain how many kinds of courts there are, so that the division of courts may be made clear. There are eight kinds of courts. One pertains to demanding accounts from Magistrates; another to public offenses and those unjustly committed against public persons; a third to offenses against the condition of the state; a fourth concerns disputes of both Magistrates and private persons when they dispute concerning the imposition of fines; a fifth concerns private contracts involving great things, and in addition killings, crimes among assassins, and the affairs of foreigners.

“Of offenses pertaining to killings, whether the matter is conducted before the same Judges or before others, some are committed willingly and deliberately, others without deliberation and unwillingly; some are acknowledged and the fact is agreed among the litigants, but the law is disputed. A fourth offense is that charged against persons who had gone into exile for an involuntary killing after they had been recalled from exile to plead a capital cause; at Athens, the court exercised at Phreatto is said to be of this kind. But throughout all time such cases happen rarely, and only in great cities. Of the courts which pertain to the affairs of foreigners, one kind is that in which a foreigner litigates with a foreigner, another that in which a foreigner litigates with a citizen. Besides all these there are also courts concerning small contracts, from one drachma to five and a little more. For these too must be judged, yet they do not fall to a multitude of Judges.”

§ 3. I intend, therefore, to follow the order of the Judges. At Rome the Praetors discharged this one office. For although Varro in book 4 of *On the Latin Language* thinks they were named from going before, and Justinian confirms this because they went before others both in war and in the prescription of laws, their function at Rome was nevertheless confined within the bounds of administering justice. The Consuls were frequently called away and could not attend those requesting justice; and therefore, for the purpose of administering justice, Spurius Furius Camillus, son of Marcus, was made Praetor in year 386 from the foundation of the city--the same year in which Lucius Sextius was the first Consul from the plebs. Yet, if we consider the internal struggles, that Magistracy seems to owe its origin not so much to justice as to ambition.

For the nobility conceded to the plebs that there should be a plebeian Consul, and the plebs conceded to the nobility that one Praetor, who would administer justice in the city, should be created from the Fathers. These are Livy's words in book 6; in book 7 he adds: "This year was distinguished by the Consulship of a new man and distinguished by two new Magistracies, the Praetorship and Curule Aedileship. The patricians sought these honors for themselves in return for the other Consulship conceded to the plebs. The plebs gave the Consulship to Lucius Sextius, by whose law it had been acquired. By favor in the Field the Fathers gave the Praetorship to Spurius Furius Camillus, son of Marcus, and the Aedileship to Gnaeus Quinctius Capitolinus and Publius Cornelius Scipio, men of their own clans. Lucius Aemilius Mamercus was given to Lucius Sextius as a colleague from the Fathers."

And a little afterwards: "Since all things were deliberately deferred so that nothing should be conducted through the plebeian Consul, there was silence in all affairs and a leisure similar to a cessation of justice. The Tribunes, however, did not suffer in silence the fact that, in return for one plebeian Consul, the nobility had taken for itself three patrician Magistrates seated on Curule chairs as though they were Consuls--the Praetor indeed administering justice, created as a colleague of the Consuls and with the same auspices. From this the Senate felt shame at ordering that the Curule Aediles be created from the Fathers."

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At first it was agreed that they should be created from the plebs in alternate years; afterwards the office was open indiscriminately. Then another Praetor was added to administer justice among foreigners; he was called the Peregrine and Lesser Praetor, while the former was called the Urban and Greater Praetor. Chosen in the Centuriate Assembly, they allotted the jurisdictions between them. Afterwards, as not only the city but fraud and crimes increased, four Praetors were created. Livy, book 20. Thereafter six were created, as Livy has in book 37. Finally Sulla added four so that there were ten. The first two exercised private judgments; the others, public judgments. And lest you marvel at the morals of the ancients, two administered justice among assassins, one concerning extortion, and others concerning other investigations.

§ 4. Although they were created to administer justice, they were nevertheless afterwards sent to wars. Thus in Livy, book 23, two are sent to Sicily and Sardinia. Afterwards usage established that Praetors no less than Consuls should obtain provinces by lot. Thus the Praetors were led from tribunals to camps.

§ 5. The contrary occurred in the case of the Praetorian Prefect. At first they were established to be *ἐπαρχοὶ αὐλῆς*, Prefects of the Court, according to Herodian; they are also called *ὑπαρχοὶ* ("subordinate prefects") and *ἐπαρχοὶ τῶν δορυφόρων τῆς στρατιᾶς, τῆς στρατιώτιδος* ("prefects of the bodyguards of the army and of the soldiery"). Eusebius calls one *τὸν καθ' ὅλου ὑπαρχον* ("the general prefect"). Augustus appointed two to preside over the Praetorian cohorts. But afterwards their power in judgments was great; indeed, Constantine the Great recalled them from war to tribunals and the care of revenues. Moreover, the authority of a judging Prefect was so great that appeal from him was not permitted. Thus π., title 11:

"It is necessary to recount briefly whence the origin of appointing the office of Praetorian Prefects flowed. Some writers have related that in ancient times Praetorian Prefects were established in place of Masters of Horse. For since among the ancients supreme power was entrusted to Dictators for a time, and they chose Masters of Horse for themselves, who, as associates sharing their care in military affairs, exercised the second power after them, when governance of the state was transferred to perpetual Emperors, Praetorian Prefects were chosen by the Princes in the likeness of Masters of Horse and given a fuller license for the correction of public discipline. The authority of the Prefects, begun from these cradles, deserved to be increased so far that appeal cannot be made from the Praetorian Prefects. For when it had formerly been asked whether it was permissible to appeal from the Praetorian Prefects, appeal was both lawful by right and supported by surviving examples of persons who had appealed. Afterwards, when an imperial sentence was read publicly, the faculty of appeal was forbidden. For the Prince believed that men employed in the greatness of that office because of singular diligence, after their fidelity and gravity had been tested,

would judge no otherwise, in accordance with the wisdom and splendor of their dignity, than he himself would have judged. The Praetorian Prefects are also supported by another privilege: minors in age can be restored against their sentences by no other Magistrates, but only by the Prefects themselves.”

That dignity had grown excessively, so that one Prefect directed everything. Claudian says concerning Manlius:

Empire took you not in a part of itself, but throughout its whole body,
 And gave you governors to rule throughout the entire earth.
 The Spanish and German Tethys obeyed you,
 And Britain, severed from our world;
 Through different currents your utterances were honored
 By the slow Saône, swift Rhône, and wealthy Ebro.
 O how often the Rhine, where the barbarian went,
 Grieved that it did not enjoy you as Judge upon both banks.
 To the care of one man belonged whatever reddens
 At sunset, whatever the descending day encircles.
 So swiftly he again completed continuous honors.
 One lifetime came between the intervals of powers,
 And brought so many steps of fate into youthful years.

The great men of the palace in Francia taught how dangerous this was: the Sejani, Rufini, Stilichos, and others. But let us continue to speak of Judges. After the Praetor and Consul, a Legate administered justice in the provinces; in the city the Aediles and others also did so, of whom we shall speak in order. Here this must be admonished: the most ruinous system of all judgments was that in which a Magistrate referred public crimes to the people, concerning which every most wicked person was accustomed to deliver an opinion. Nowhere were judgments more shameful. The Roman people, despite the Senate’s resistance, converted to its own use land disputed between the Aricini and Ardeates. Thus in Livy, book 4, pity for his children acquitted Galba, who had killed many persons in Lusitania contrary to the faith he had pledged. Gabinius was acquitted because his son, lying upon the ground, was despised by the accuser. Rain liberated Claudius, who had lost a fleet. It more justly preserved Quintus Flavius the Augur. For when he had already been condemned by fourteen tribes, he exclaimed that he was perishing though innocent; the accuser violently replied that it made no difference to him whether Flavius perished guilty or innocent, provided that he perished. Offended by this atrocity, the people favored the defendant. Thus Aemilius Scaurus was acquitted when he could not name 120 persons in the province from whom he had taken nothing. Scipio Asiaticus was condemned through envy. But, to pass over others, we see Coriolanus, Camillus, and finally Cicero afflicted by the rashness of the people.

§ 6. Of all states, the Roman state was least able to provide for the citizenry in its judgments. It therefore changed the systems of judging very frequently. The Senate possessed the judgments down to year 630 of the city. Gracchus transferred them to the knights alone. In year 647, by the Servilian Law, the power of judging was again shared with the Senators, but in such a way that the number of knights was greater. Afterwards, when Caesar was Consul in year 662, Marcus Livius Drusus made the number of knights and Senators equal, so that there were three hundred of each order; those laws were abrogated in the same year because the unjust judgments of the knights oppressed the provinces and held the fortunes of Governors in their power. When Gaius Pompeius Strabo and Lucius Porcius Cato were Consuls, at the proposal of Silvanus 450 Judges were appointed who decided disputes in that year; they were taken from every order, including the plebeian, in year 683. Sulla restored the judgments entirely to the Senate. In year 673,

Cotta again distributed the judgments among Senators, knights, and Tribunes of the Treasury. Julius Caesar as Consul abolished the Tribunes of the Treasury. In his second Consulship Pompey proposed and carried a law that Judges should be selected by property assessment from the Senate, equestrian order, and Tribunes of the Treasury. Antony was not content with these three decuries, but in place of Tribunes of the Treasury substituted Centurions, standard-bearers, Larks, and common soldiers. Augustus added a fourth decury from the *ducenarii*, to judge lighter matters. This great and sudden change of Judges is a sign that none were not only pleasing but even defensible. Appian reports that in the time of Lucius Drusus corruption by gifts ceased to be held among crimes; thus men plainly rubbed all shame from their brow.

§ 7. A Judge, arbiter, or recuperator was given by the Praetor.

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For after the selected Judges had previously been chosen, the Praetor drew by lot from the selected men the number prescribed by the law. Both defendant and accuser could reject those whom they wished; in their place the Praetor or Judge of the investigation selected others by lot. Under the Servilian Law the plaintiff presented one hundred from 450 Judges; the defendant, 150. If the Judges did not excuse themselves, they swore to the laws and their names were recorded, lest substitutes be intruded. There was excessive freedom in that selection by lot. For who doubts that a man favoring an unjust cause would reject not only hostile men but all whom he judged to have integrity at heart? Therefore, in chapter 3, *On Judgments*, and other laws, that license of rejecting was restrained.

“It is of the most manifest law that litigants may reject delegated Judges before the suit is begun, since even by the general forms of your most sublime See it has been established that, when a Judge is rejected, a necessity is imposed upon the parties to come to the selection of arbiters and propose their rights at a hearing before them. For although the Judge has been delegated by imperial divinity, nevertheless, because it is our concern that all disputes proceed without suspicion, let the man who judges the Judge suspect be permitted to reject him before the suit is begun, after a petition of rejection has been presented to him, so that recourse may be had to another. Since we have already established that after joinder of issue neither may appeal be made before a definitive sentence nor may rejection occur, lest disputes be extended to infinity, the same executor shall impose upon the parties through the ordinary Judge and every civil aid the necessity both of selecting arbiters and coming before them, and of thus pursuing the suit as though the arbiters had been delegated by the imperial summit. But if the Judge was not delegated by the imperial Majesty, we decree that this be obtained from another summit.” Given on the fifth day before the Kalends of May at Constantinople, Lampadius and Orestes, most illustrious men, being Consuls. [9.]

For that reason a man is ordered to select an arbiter within three days. Today this is observed: after joinder of issue it is not lawful to reject the Judge. Indeed, even the cause why he is suspect must be judged. Thus all those things were afterwards changed for the better in law and reduced to a fixed order, so that to reject a Judge is not to reject at one’s pleasure but to adduce lawful causes why he is deservedly suspect. All these things must be done without calumny or defamation. I admit that slight causes are often admitted for rejecting a Judge, not only because several Judges are easily available but also because by the very fact that a Judge has been rejected he is judged an enemy.

If, therefore, he is a relative of the opposing party within the seventh degree, he can be rejected, because succession extends that far and the Judge can be believed more inclined toward a man whose heir he can become. This cause will also be valid in a more remote degree if he can be heir. If he is related by marriage, he will deservedly be rejected according to the degree of affinity. If he is a member of the opposing party’s household or his intimate, the other party will not entrust himself to him. The laws do not extend this to the Procurators or Advocates of the other party: although they may be very intimate with the Judge, it is nevertheless not permissible to reject him for that reason. Likewise, the lord or patron of the opposing party can be challenged. Other causes are added: if they are Canons in the same College; if they are from the same fatherland; if the Judge is the opposing party’s subject or vassal; if the Judge has a similar cause; if he was the opposing party’s Advocate or counselor; if he thrust himself into the cause; if he was

surety for the opposing party; or if hostilities preceded. Indeed, an entire Consistory can be rejected if the presiding man can command the others and is suspect. Otherwise, only the suspect members are removed from a whole college, not the others also.

The removal of a deservedly suspect Judge belongs to natural law. But, as I admonished at the beginning, a penalty is imposed upon a man who makes a rash challenge. George of Toulouse writes excellently in book 49, chapter 4, of the *Syntagma of Law*: “These causes of rejection must moreover be presented in writing and comprehended in a petition, so that they may be proposed thoughtfully, not rashly, since a penalty also from the royal Constitutions threatens a person who proposes rashly: ten Tours pounds in the lower courts for each rash cause, and twenty pounds in the supreme courts. Thus they compel men either to pay the penalty or prove the proposed causes. Therefore, for the purpose of deciding the challenges, the litigants must select Judges or arbiters within a fixed period prescribed by the rejected Judge. If they do not agree concerning them, the Judge gives them *ex officio*, and before them proof of the causes is made, if those causes are not manifest and altogether notorious and the Judge denies them.”

For a defendant to wish no Judge at all to be selected, or selected in substitution, is the height of distrust; in an accuser it is an indication of calumny. Certainly it is altogether grave to challenge a Judge rashly. The fact that they rejected as Judge in their cause Cato, the man afterwards called Uticensis, contributed greatly to the condemnation of many. For they could not appear innocent--indeed, they sufficiently confessed concerning themselves--when they rejected the judgment of so upright and religious a Judge and so excellent and incorrupt a man. Nor today is Bartolus's gloss, or the opinion of others on the law *Apertissimi*, Code, *On Judgments*, received; they establish that by civil law a Judge declared suspect may be rejected without cause. We instead follow pontifical law: the Judge does not cease to be Judge before the causes of suspicion have been proved.

§ 8. The Centumviral Court seems to have been established most excellently in the state. From thirty-five tribes 105 men were selected, who by a round number were called the Hundred Men; three were appointed from each tribe. Their number and jurisdiction were afterwards increased; Pliny, book 6, epistle 33, testifies that there were 180. There were four councils of them. They judged civil causes. Cicero, book 1 of *On the Orator*. The Urban Praetor presided over them; two spears were set up; four councils heard one and the same cause. Pliny, epistle 21 of book 5, and chapter 2.

§ 9. The Capital Triumvirs were selected in the Tribal Assembly. It belonged to them to judge persons of base and abject condition and wicked, criminal slaves. They were created when Curius Dentatus was Consul, in year 465 of the city. Among other things they also possessed the care of prisons and quarries. When the conspiracy of the Bacchanalia was discovered, the Capital Triumvirs were commanded to arrange watches through the city, to take care that no nocturnal assemblies occurred, and to guard against fires. Livy, book 39. The same men are accused by the Senate because they did not resist the superstitions of foreigners and the people. Livy, book 25: “The Aediles and Capital Triumvirs were gravely accused by the Senate because they did not prevent them. When they attempted to remove that multitude from the Forum and disperse the apparatus of the rites, they were not far from being assaulted. When it appeared that this evil was already more powerful than could be quieted by the lesser Magistrates, the Senate gave Marcus Aemilius, the Urban Praetor, the business of liberating the people from those religions. In an assembly he both read the decree of the Senate and declared that whoever possessed books of prophecies or prayers, or a written art of sacrificing, should deliver all those books and writings to him before the Kalends of April, and that no one should sacrifice by a new or foreign rite in a public or sacred place.” They seem to have presided over the execution of capital matters. Thus Sallust in *Catiline* and Plautus in the *Amphitryon*.

§ 10. The Duumvirs of Treason, created by Tullus, afterwards frequently judged treason outside the ordinary order. Labienus, Tribune of the plebs, restored the Magistracy after it had fallen into disuse. Cicero, in his speech for Rabirius, uses Labienus's own act to excite hatred against the accuser: “The Porcian Law,” he says, “wrested the liberty of citizens from the Lictor; Labienus, a popular man, delivered it to the executioner. Gaius Gracchus carried a law that judgment concerning the life of a Roman citizen should not occur without your command;

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this popular man, through the Duumvirs and without your command, compelled a Roman citizen not to be judged, but to be condemned to death without his cause being stated. Do you even make mention to me of the Porcian Law, of Gaius Gracchus, of these men's liberty, or finally of any popular man--you who attempted not only by unaccustomed punishments but also by the unheard-of cruelty of your words to violate the liberty of this people, test its gentleness, and diminish its discipline?"

It is established from the trial of Rabirius that men of great dignity presided over these judgments, for the Duumvirs at that time were Julius and Lucius Caesar. Rabirius, condemned by them, appealed to the people.

§ 11. Quaestors of Capital Matters were appointed by the people and were called Quaestors, or Inquisitors, of parricide; for whoever killed a human being was called a parricide. These are the words of Numa's law: "If anyone knowingly and by deceit gives a free human being over to death, let him be a parricide."

The Five Men judged concerning exile, as Pliny testifies; they were selected from the best Senators. Afterwards it was established that they should be chosen by lot. Thus Honorius and Theodosius. This was nevertheless subsequently changed by other laws, since lot ought not readily to be admitted in so great a business.

§ 12. The Praetor who at Constantinople was called **πραίτωρ τῶν δήμων**, whom Simocatta calls **τὸ θεματικὸν δικαστήν**, "Judge of the Theme," possessed only the functions of judging, as did the Juridicus of Alexandria. Judgments at Constantinople were customarily held at the sacred well of the church of St. Sophia, where a veil was extended. Nicetas, in *Alexius*, is authority that there were several **βήλου** ("of the Velum") Judges. Others think that they were called Judges of the Velum because they judged at the Emperor's Chamber. The Velarii, however, were those who stood by and guarded the places of the tribunals.

§ 13. The Decemvirs for Judging Lawsuits belonged to the Centumviral Court and convened the centumviral spear. Donatus thinks that they were not from the Hundred Men. Dio, book 54, calls them **τοὺς δέκα, τοὺς ἐπὶ τῶν δικαστηρίων, τῶν εἰς τοὺς ἑκατὸν ἄνδρας κληρουμένων**--"the ten men placed over the courts, from among those allotted to the Hundred Men." Suetonius in *Octavian* says that, among other things, Augustus established "that the Decemvirs should convene the centumviral spear, which men who had discharged the Quaestorship had been accustomed to convene." The Decemviral and Centumviral Court were therefore altogether the same. Thus Laevinus Torrentius on that passage of Suetonius.

Pomponius, in book 11, *On the Origin of Law*, relates that the Decemvirs for Judging Lawsuits, who presided over the Centumviral spear, were established at nearly the same time as the Peregrine Praetor was first created, as also were the Monetary and Capital Triumvirs, about year 512 from the foundation of the city. Did Augustus therefore create other men? I certainly do not think so. For they were the same men and, unless I am mistaken, were from the body of the Hundred Men, although they possessed the right to summon the others. The authority of Pomponius proves not only that they existed before Augustus, but so does the very manner of writing the name, since ancient marbles survive even today on which is written "X MEN FOR JUDGING STLITIBUS"; for the ancients said *stlocum*, *stlatum*, and *stritavum*. In the meantime it had happened that men who had discharged the Quaestorship were placed over their office. Augustus abolished this.

Dio, book 54: "For this reason it had previously been decreed, while Augustus was absent, that the Twenty Men should be created from the knights. Hence none of them was enrolled in the Senate without having discharged a Magistracy which furnished entrance into the Senate. Those Twenty Men were drawn from the Twenty-six Men: namely, three Capital Triumvirs, three Monetary Triumvirs, four Curators of the roads in the city, and the Decemvirs for Judging Lawsuits which are to be judged by lot by the Hundred Men. For the two Curators of roads outside the city and the four sent to the Prefectures in Campania had been abolished."

I judged that these things should be transcribed because I see that nearly the same system of courts has pleased most states. Decemvirs were created every year. Twenty-six Men were created annually and afterwards distributed their offices so that there were Capital Triumvirs, Monetary Triumvirs, Four Men who were Curators of roads, Decemvirs for Judging Lawsuits, Duumvirs of roads outside the city, and Four Men to be sent to the Prefectures of Campania. They were taken from the Senate, and this was the beginning of honors. Augustus created the Twenty Men, omitting the six latter men, and took them from the knights, as Dio says in book 54. Nevertheless, it is established that the office also returned to the sons of Senators. For in Tacitus, *Annals* 3, Tiberius asks the Fathers that Nero, son of Germanicus, be released from the duty of undertaking the Twenty-man office. That function therefore belonged even to the sons of Princes.

§ 14. This too was provided most wisely: that Judges should render an account in the province. “Let Judges remain fifty days in the province,” chapter 1, title 49: “Let no Governor of Provinces from among the most illustrious men, whether Consular or Corrector, nor those who have merited the insignia of a higher administration--that is, the respectable men, Proconsuls, the Augustal Prefect, the Count of the East, the Vicar of any tract, any Duke or Count of any soldiers, or the Count of the Divine Houses--after a successor has been appointed for him, dare to depart from the places which he is known to have governed before the established number of fifty days is completed. But during that time let Governors, Consulars, and Correctors remain in the metropolis; let respectable Judges, both civil and military, remain publicly in the more illustrious cities of the diocese they administered--not hiding at home, within sacred precincts or regions, or in the houses of powerful persons, but moving in the most frequented places before the faces of all whom they lately governed--so that the free faculty of raising a complaint concerning thefts or crimes may lie open to all.

“Thus, defended from every injury by the provision of the succeeding administrator and by the peril of his office, and no less by that of the Curials and Defender of the City, once he has been summoned into complaint, and entrusted only to an oath-bound security, let him answer those wishing to accuse him according to the law, as has been said. Let no copy of an imperial utterance, codicils offered for another administration, command of your most ample See that he discharge the functions of the governor of another province, command of the aforesaid or of any other civil or military power that he conduct any public solicitude, or that he be produced or led away, grant him any excuse for departing from the province before the appointed time. Finally, let the craftiness of any art and devised cunning of any occasion be excluded, so that what we sanction for the safety of all provinces may by every means obtain its effect. But if anyone, with temerity worthy of punishment, believes that this most salutary law should be circumvented or violated, although he may deservedly be judged guilty even of treason, he shall nevertheless be compelled to pay a fine of fifty pounds of gold into the public accounts. The man who, after undertaking the administration after him, failed to take care that he was honorably detained or immediately to report his flight shall be punished by a similar penalty.”

§ 15. The mute, deaf, and underage are prohibited from judging. I would not prohibit a deaf and mute Prince from the power of judging, since he can sufficiently understand the cause through writings and judge a sentence in writing, except when certain things must be explained by voice. Our forefathers wished the Judge to be without infamy; hence they prohibited a man removed from the Senate from judging unless he had either been restored or the period of his condemnation had elapsed. Book *Cum praetor*, penultimate section, *On Judgments*. This golden passage is from Cicero: “For men condemned forever by a disgraceful judgment, there is neither any approach to an honor nor entrance into the Curia.”

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If, therefore, anyone has accepted money and given testimony, made an accusation, rendered judgment, or refrained from judgment, bound or did not bind someone, the gates of dignity are closed to him. First: if anyone comes to honors by payment, not by the commendation of his life. A man charged with a crime cannot obtain honors in that year unless he has cleared himself; nevertheless, he does not lose those which he possesses, because he ought not to be condemned unheard. Merchants, especially those dealing in base wares, were formerly prohibited. I have shown elsewhere that

this is to be approved in part but not universally, for wealthy and honorable merchants govern many great cities with praise.

§ 16. Gregory of Toulouse, book 47, chapter 10, of the *Syntagma*, teaches that this is nevertheless greatly to be lamented: men who have gathered money through interest, frauds, and circumventions purchase the offices of states and dignities, from which, again accustomed to profit, they conduct business to the wretched loss of their subjects. If the ancient Romans had admitted this, they would not marvel so greatly that Varro ascended from his father's butcher-shop to the Consulship and obtained the twelve fasces and the Dictatorship by the most sordid bribery; that Titius Aufidius, formerly a publican of a small part of Asia, afterwards obtained the proconsular dignity of Asia with command; and that Publius Rutilius, who had formerly given service to the publicans in Sicily, when made Consul gave laws to all the Sicilians.

The chief condition of a Judge is that he be skilled in the causes which he judges; I have spoken of this knowledge in book 4. Another condition has been disputed in various laws: that no one should hold a Magistracy or judge in the province in which he was born. The Roman laws concerning this are not consonant with their own state, since at Rome only Romans judged. At one time the same thing seemed good to the French, so that Philip the Fair and Charles V carried a law concerning foreign Judges. It is also said to be customary in the kingdom of Castile; concerning the cities of Italy I have spoken above. Nevertheless, I think good men should be preferred; otherwise Kings and Princes would adopt foreigners for the same reasons--something which God condemned in his own state when he forbade the appointment of a King who was not a brother.

§ 17. The most learned Jurisconsult of Toulouse described the system of Judges in France in book 47, chapter 33, in the following manner. In France, because the idiom of speech is different and the manner of governing the state is different, we do not employ Governors of provinces altogether after the example of the Romans, although in part we agree with the Romans. In it jurisdictions and powers are distinguished according to the nod and will of the Prince. Especially in time of war there are Governors of provinces, whom we call *Gouverneurs du pays*: such is our Governor of the Tectosages, another of Aquitaine, of Picardy, and the like, who exist in place of Proconsuls. Certain men also, with delegated royal power, are Vicars of the King, whom they also call Viceroy, whose power can be compared with that of Praetorian Prefects. Yet I do not deny that Governors or Rulers also act in the King's stead in military causes and in the provinces committed to them. Their authority was once great: for they granted pardon and abolition of crimes; ennobled fairs and markets; legitimated persons, or restored them to the rights of birth; and called causes away from ordinary Judges to themselves. All these powers were afterwards taken away and restored to royal power alone by an edict of Louis XII. Today the Governor of Dauphiné grants all offices and can do many things, excepting offices of the Supreme Court of Parlement and indulgences or pardons for crimes.

Those who think that the King's Lieutenant-General, whom we call *Lieutenant general pour sa Majesté*, is so called because he is like the Proconsuls are mistaken. For this man, who acts in the King's stead throughout all the provinces of France, would better be called Master of the Soldiers, such as existed under a Dictator; or Praetorian Prefect under the Emperors; or, in the time of the ancient Kings of the Franks, *Meier* or Mayor of the Palace: by his authority the whole military operation would be governed; in that power he would be second after the King and greater than the Proconsuls and Governors or Presidents of provinces. Certainly this office too is scarcely granted, nor ought it to be granted, to anyone other than the Prince's brother or son, or to him who has been designated successor to the government. For there is danger lest the man invested with this dignity, enticed by the sweetness of ruling and seeing himself now armed with every military force, should seize the sovereignty of him whose vicariate he administers. At least so it happened formerly, when the *Meieri* and Mayors of the Palace of France usurped the government.

This Lieutenant-General of the King is therefore the greater man; he also has under him other Polemarchs of France, whom they call *Maréchaux*, the first syllables of *Polemarch* having been cut away. The Governors of provinces are also subject to him, and they have others under themselves, such as Toparchs, that is, Governors of definite places. These were sometimes added contrary to custom before the Senarchies and Bailiwicks, and sometimes Governors are

added to a Seneschal and to a Seneschalry, and govern according to the Prince's will. But the Senarchs are lawful Toparchs and are older there than the particular, supplementary Governors. For the Senarchs are, as it were, the proper and natural Governors of places, to be counted not only among Governors in military cloak but also among Governors in the toga. Thus even Philip VI, surnamed Valois, called them Governors of provinces in a constitution of the year 1344, when he said that, during the hearing of appeals on the ordinary days of their Seneschalry, they ought to be present in the Parlement--"so that," he says, "their conduct, life, and morals may be manifest, and how worthily the provinces delivered under their governance are governed by them," and so forth.

For they govern those committed to them by military operation and jurisdiction. In time of war they are the commanders of the nobles of their Toparchy, and the ban and arrière-ban fight under them alone as commanders, according to the Constitution of Henry II of 9 February 1547, article 3--provided that the Toparchs themselves are fit to govern and lead the soldiery. For when they are unfit, one man is selected from the nobles of the Toparchy by decree of the Governor of the province, if there is a Governor; if there is not, he is selected through a man delegated for that cause by the Prince in place of the Seneschal, to lead the ranks in time of military service for the Toparchy. For that reason I once saw at Cahors an assuredly vigorous Toparch or Senescharch complain because a particular Prefect had been made Governor by the Prince in his own Toparchy, as though he thought this a dishonor to himself. The grounds of that controversy even divided the citizens into various opinions and hostilities, so that I fear something more serious later arose from it.

Senarchia or *Senescharchia*, which by the common name we call a Seneschalry and Bailiwick--and hence *Seneschal* and *Bailli*, for Toparch and Prefect--derive their inflection from a single meaning. For *Senarchia* seems to be named from a compound of the Latin and Greek words *senum* and ἄρχία, "rule of the elders"; and the *Senarchus* or *Senesarchus* is the man placed over this council of elders. Or, if we prefer the whole compound to consist of Greek words, we shall say *Cenarchia* from the Greek κοινὸν καὶ ἄρχία, that is, "common rule," as Perionius observed, and the *Cenarchus* will be called the prince of that administration. *Seneschalcia* can be said to come from the German idiom, from the words *Seken* and *Schalk*: the investigation and inquiry into, or censure of, a most wicked and crafty man, because in that seat judicial proceedings chiefly concern unjust men. Some also say that the old word *Sen* means justice and *scalculus* a prefect, and say that *senescalci*, prefects of justice, come from this; but Lupinus says that this is conjecture. It is also called a *Bailliva*, as if βουλή, that is, "council."

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For the Prince did not wish to entrust distinguished cities altogether to Toparchs alone without a council of prudent men to sit beside them, just as Severus, according to Spartian in his life, added an order of Decurions to the Juridicus of Alexandria. These Juridici certainly cannot be called Presidents of a province, because they are neither placed over one province nor is there only one Seneschal in the same province: in Aquitaine there are several among the Tectosages and several elsewhere likewise. Nor does the power of a President belong to them, for an appeal is made from them but by no means from Presidents. There also survives a constitution of Charles VI, surnamed the Pious, of the year of the Lord 1138, by which names other than the common ones and that of Provost are prohibited. For thus it provides: "We have willed that the governance of no Seneschalry, Bailiwick, or other judicature be administered under any name other than Seneschal, Bailli, or Provost, just as it was granted in ancient times." Thus in France provinces have also been divided into these prefectures of places, so that both civil and military matters might be governed more easily, just as Pliny, book 5, chapter 9, relates that the Thebaid in Asia was divided into prefectures of towns which they called *nomes*.

Proof is supplied by the fact that the original institution of the Senarchs required them to execute their office in person and not employ vicars or Subprefects except because of a grave and necessary absence, according to the Constitution of Charles VII, article 86, in the Constitution of Philip the Fair of 1302. They are also commanded by the Constitution of Charles VI of the year 1388 and by several other Constitutions to be continually present--or, as they say, resident--in the prefecture, just as the necessity of continual presence and residence during juridical days has been

imposed on the other established superior and inferior courts dependent upon the Prince, and even upon Senators and Presidents of the Senate. There survives the Constitution of Francis I, *Sur la residence des officiers, conseillers, Presidents, Baillifs*, and so forth; also the Constitution of the year 1539, article 129; that of Charles VIII, articles 3 and 77; of Charles VII, article 2; and of Louis XII, articles 23 and 25. Indeed, they cannot even be of the Prince's council so as to be absent while holding the prefecture, according to the Constitution of Charles VI of 1388.

The Senarchies sometimes have greater and lesser Judges, or Subprefects, if the tract of jurisdiction is somewhat wider and the place populous; they call them *Lieutenans et sieges de Seneschaux*. But the Subprefects are instituted and appointed by the Prince, not by the Senescharch, and are made not delegated but ordinary Judges, although under the dominion and power of the same Senescharch. Therefore their judgments are pronounced in the Senescharch's name, and business is transacted in the same name, although he does not judge in person. For the Judges added to him perform the work in this respect, while he by the royal name and power confirms and protects the judgments and orders them to be carried into execution. Therefore Louis XII, in article 48 of his constitution, determined that no one should be placed over the governance of the Prefecture or Subprefecture of the judgments of a Senarchy unless he had obtained the degree of Prolyta or licentiate, or a doctorate, in some famous university.

It was at one time prohibited by Philip the Fair and by Charles V that anyone should become Juridicus in his own native country, as formerly among the Romans in the final law of the Code, *On the Office of the Governor of a Province*. There are also Constitutions of the Kings which establish the qualification of persons to be appointed and their examination, as well as that of other officials, such as the constitution of Henry II in the years 1547 and 1548. I also omit--perhaps because it has passed out of use--the constitution which forbids the trafficking in or purchase of offices of any greater or lesser court, that of King Charles VIII, article 68, published in the year 1463, with which another of Louis XII, article 40, agrees.

Concerning these courts, Senarchs, and their courts, I think it is sufficiently clear from the common constitutions of the Kings that their competence embraces the affairs of the King's domain; lawsuits of nobles; the appointment of tutors or curators; the preservation or care of sacred buildings, that they be kept sound and whole; and the examination of privileged crimes, if the matter concerns injured or diminished majesty, public faith violated, armed force, investiture of fiefs to be delivered by vassals to the King, and the execution of obligations made under the binding force of a particular seal according to custom. They also make proclamations of arms, except in the lands of Barons and of others possessing this jurisdiction. They determine concerning the repair of bridges, roads, and walls if the proper Magistrates are negligent; concerning complaints over ecclesiastical benefices; and concerning matters of lordship, which formerly were handled in the Parlements at the first action or first instance, as Imbertus says in book 1 of the *Forensic Institutes*, section *porro*, and which they still handle now. They also take cognizance of other matters whose jurisdiction has been granted to them, concerning which the practice and the constitutions of the aforesaid Kings sufficiently admonish us, together with that of Francis V of 16 April 1537, articles 3, 4, 5, 6, 7, and so forth.

Before Senescharchs obtain possession of the prefecture, they are compelled in the Supreme Court of Parlement--from their judgments appeal lies to it--to swear in the prescribed words of this oath established concerning their administration: that they will preserve the right of the King and of the Domain; render to each his own without distinction of persons; accept neither gifts nor presents, nor even hospitality or food, from those committed to them; not permit their wives, servants, or companions to accept them; not burden their subjects; and take care that their own Judges do the same. Therefore, while on fixed days of the year the causes of ordinary appeal from each Senarchy are argued in the Parlement to which appeal lies from them, each Toparch must be present in the courtroom in the causes of his own Bailiwick, ready to render an account of his acts if there is need; to admonish and instruct the royal officers there about the rights of the King and of the Domain of his Senarchy and about abuses of royal officials; to take care that the records of business transacted and of matters pursued by appeal from his Toparchy be brought forward; and to perform other similar things prescribed by Charles VI in the year 1388 and Charles VII in 1453.

The Senarchries did not at one time possess a perpetual office or perpetual administration, nor were their Juridici always permanent, just as the other officials in France were not. Therefore, while holding the administration or office, it was not lawful for them--as is clear from the constitutions of the aforesaid recent Kings and others--to buy, contract, marry a wife, or obtain an ecclesiastical benefice without the Prince's permission; to have or procure anything for themselves or their people, following the example of those who administered Roman provinces or provincial offices; or to borrow more than twenty pounds. Their juridical assemblies were not fixed as now, but were proclaimed throughout the Toparchy in the more distinguished places; they called them *Assises*, that is, Sessions, whence *Sieges*. Thus, following the example of Roman Magistrates, by the Constitution of Charles VI, after laying down the administration of a Senarchry and judicature, they were bound to remain in the Senarchry for fifty days, so that they might stand trial and answer before their successors to bills, petitions, and complaints lodged against them, which were to be judged summarily and without formal pleading.

Moreover, just as the cognizances of the Senarchs are subjected on appeal to examination by the Supreme Court, so there are also certain ordinary Judges from whom an appeal is brought to the Senarchry. For this reason each Senarchry knows its own boundaries. Along with these, in certain cities, there are Vicars whom at Toulouse and elsewhere we call *Viguerios*, whose jurisdiction, having once been suppressed, revived. In certain places the *Viguerius* holds concurrent jurisdiction with the Decurions and the Seneschal; he is nevertheless an ordinary Judge of the smallest causes and the smallest crimes. How ridiculously they have erred who think that *Viguerii* are so called as if they were *Vergobreti*! For the *Vergobretus*, according to Julius Caesar, was greater and possessed almost royal authority among the Aedui, from which the *Viguerius* is very far removed. However greatly the *Viguerii* enlarge their phylacteries, I think they are so called either from the compound expression *Vices gerens*, just as in the common idiom we say *Vichancelier*, *Viroys*, and *Vigerand* for Vice-Chancellor, Vicar of the King, and one acting in another's stead; and that *Viguerius* should be taken for Vicar of the Seneschal. Thus I am admonished by the constitution of Philip IV, called the Fair, of the year 1302, when it says: "We further will and ordain that no Seneschal, Bailli, or Judge whatsoever shall have a Provost, Viguerius, or Judge bound to him by a bond of consanguinity, affinity, or nature, lest the aforesaid persons judge less faithfully in causes which ought to come to them by appeals."

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In some places those *Viguerii* say that they are adorned with the custody of citadels, whence those in the places of citadels are called Guardians, Castellans, and sometimes Keepers of the Seal and Provosts, *Prevosts*. Therefore their jurisdiction must be distinguished according to the nature defined by the Kings and Seneschals. For the most part they take cognizance of the tutorships of those who are not nobles; of suspect tutors and curators; of the dissipation of the food supply; of abuses by innkeepers, hosts, bakers, butchers, apothecaries, retailers, and merchants within the city or their jurisdiction; of agreements and obligations transacted under the binding force of a particular seal; and of other crimes of injuries and invasions, unless a contrary jurisdiction or custom prohibits it. I have elsewhere admonished that custom must be considered in forensic power, lest they transgress the boundaries which their fathers and forebears established and observed.

In most recent times Subprefects in military cloak have also been added to the Senarchs; in some places they call them *Lieutenans de Seneschaux de robbe courte*. They conduct the apprehension and trials of marauding brigands. Such were the Provosts of the Marshals or Subprefects, but they were called by the name Vice-Seneschals, *Viceseneschaux*, properly Brigand-catchers. Thus, as times changed, the King's nod and judgment, according to the need of provincials, changed the names of things and increased or diminished the jurisdictions of Prefects. And so in place of the Governors of provinces permanent Senarchs were made; their Judges in the toga were increased; and permanent **βῆλαι**, or Councils, were established, as were fixed offices of Judges, conferred with a title by the Prince upon men who would judge in place of the Senarchs themselves and receive fees, armed force having been granted to the Senarchs. Prerogatives were also added to those councils: jurisdictions over all civil matters except the Prince's domain affairs concerning his waters and forests; deciding finally, without appeal, matters of two hundred and fifty

Tours pounds and of five hundred, whose execution they could pursue notwithstanding an appeal, yet without prejudice to it, as is contained in the Constitution of Henry II of March 1551, where their origin is treated.

At one time--*τὸν* stands here in the print--the highest extent of their jurisdiction was enlarged, when first a new Magistrate was created, called the Presiding President: namely, the first Magistrate in that Toparchical council, who was to preside over the Presidents or Judges introduced there--not, indeed, over the province, for that is utterly false, and under this false pretext certain men rashly arrogate to themselves the name and purple of President of a Province. Nor does the King call them Presidents of a Province, but Presidents and Presidial Judges. For the Presidial Judges, that is, Judges and Councillors, are and were formerly so called who presided over the other seats of the Seneschalry. Nearly every Seneschalry has two or more benches of the same Senarch in different places, but one seat was selected before and above the others to preside over the others by deciding their appeals. Hence those constituted in that seat, which is chief among the others, were called Presidial Judges insofar as they judge the appeals from inferior seats. The same men are also called ordinary Judges insofar as, in the first action and outside the cause of the edict by which appeal is prohibited, they judge those subject to themselves and to their jurisdiction. Therefore the same Judges are called both ordinary in causes outside the edict and Presidial and Superior in causes permitted to this jurisdiction by the edict.

Consequently the Presiding President is appointed there, not to preside over a province--for neither the Presidial Judges themselves nor the Seneschals possess a province, but a part of a province or a diocese--but rather to preside over the Presidial Judges and, in the Seneschal's absence, to oversee the court committed to him, so that all things are duly done by the Judges according to law. The Senarch, as his Vicar, precedes him in honor. But the President of a province among the Romans had no superior in his province and was first after the Prince. That this man ought to preside over and judge the greater Judge is sufficiently indicated by the name and office. Although I have seen controversies concerning this matter, this is the more just opinion, free from partiality. Nor is it equitable that he who is constituted head of the council should follow a member subject to him, although the wretched ambition of certain Magistrates of this age resists it.

Thus, when the court was augmented by the new Magistrate and the Senarch was in a certain manner consulted, the Presidial jurisdiction grew in the matters which Rebuffus reports in the first volume of the Royal Constitutions, title 12, article 11. Nevertheless, because it afterwards seemed greatly diminished, the authority of the Senates then returned to its origin through the edict of Charles IX held at Moulins in 1566, article 15, and at Paris in March 1568. There were men who thought this office and this excessive jurisdiction superfluous, where so many--namely seven--Supreme Courts of Parlement exist; for the multiplication of Magistrates seems, as they say, to furnish an occasion for litigation. Men who in ordinary proceedings and first actions are compelled to grow old amid pettifoggers and baser business can scarcely become accustomed to Senatorial gravity.

I shall not linger over these matters, however. For at the assemblies at Orléans and Blois and elsewhere the Prince heard his subjects' petitions on this matter; he will determine, I think, what appears conducive to the state and to the safety of the people committed to him by God, and will spare the treasury, which is nearly exhausted by so many salaries of duplicated offices. For he knows that the state is better governed by a few good men than by many bad men, of whom perhaps the greater part studies its own gain rather than the safety of the state. He understands that the forum ought to be treated so sacredly, as the seat of justice and of God, that plunder should not be sought from the place where plunderers and brigands are to receive the punishment due to their crimes. But thus far these things have been said concerning the provincial Magistrates of France. I omit many things concerning Dukes, Marquises, Counts, Barons, Castellans, and other Juridical Lords of places, because we have already spoken of them in the treatment of fiefs in book 6 of this *Syntagma*, chapters 7, 8, 9, 10, and 11.

§ 18. There are judgments and men who preside over them which, though variously different, are not dissimilar to the Roman ones. Hence there are Baillis, Castellans, Provosts, auditors of the Châtelet, Presidial Courts, Judges and Consuls of merchants, Inquisitors, Mayors, Schöffes, Secretaries of mandates, and Secretaries of the House of France

or of the Chancery. Golden is the constitution of the Novel concerning Judges to be created without payment for influence, which instructs all states in such a way that, if any follows it, it will have made the best provision for itself concerning justice. Many have desired this; few have accomplished it. But let us hear the Novel, Novel 8, Collection 2, title 2, in the preface:

“The thought has therefore occurred to us that by a single common act we should move all those who administer all things in our provinces toward better things. For we believe that this will altogether come to pass if we take care that Governors of peoples--whoever hold the civil administrations of provinces--use clean hands and abstain from every taking, content for these things with those payments alone which are given them by the treasury. This will not happen otherwise unless they themselves also receive their belts without payment, giving absolutely nothing, either on the occasion of payments for influence, or to those who possess the belts, or to anyone else whatsoever.

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“For we have considered that, although an excessive source of gain is diminished for the government, nevertheless our subjects will receive the greatest increase if they are preserved unharmed by the Judges; and the government and treasury, enjoying wealthy subjects, will abound. With this one order introduced, there will be a manifold and innumerable abundance of things. Or is it not assuredly manifest to all that the man who gives gold and thus buys an administration does not give only the amount contrived on the occasion of payments for influence, but adds more besides on the occasion of the advantage of the administration, either to those giving it or to those promising it? And so, after one unlawful payment has been given, it is necessary for many hands to surround the man who makes the gift; and perhaps he furnishes this not from his own property but from borrowed money, and, so that he may be able to borrow, suffers loss. He calculates with himself that it is fitting for him to receive from the province so much as will free him from the principal owed, the interest, and the losses incurred for the loan itself. He will also calculate among these things the more lavish expenses suitable both to a Judge and to those about him; and he will also store up for himself a certain profit for the time following, in which perhaps he will not administer.

“Wherefore what is exacted from our subjects will be three times what was given by him--or rather, if the truth must be stated, ten times. From this the treasury too is diminished. For the man who holds the administration, converting to his own advantage the things which ought to have been brought into the treasury by an administration using clean hands, and making the contributor poor for us, charges to us the poverty which is effected through him. And how many impious things of this kind are done because of the opportunity afforded by these thefts! Those holding provincial administrations, looking to this taking, release many guilty men by selling their offense to them; but they condemn many innocent men in order to favor the guilty. This is done not only in pecuniary causes but also in criminal ones, where a life is endangered. Flights therefore occur from the provinces, and all men stream hither groaning--priests, Curials, officials, possessors, peoples, and farmers--justly accusing the thefts and injustices of the Judges. Nor are only these things done: seditions of cities and public disturbances very frequently arise from the cause of money and are quieted by money. Altogether, this one thing is a certain cause of all evils: to accept a payment for influence from Judges is the beginning and end of every wickedness.

“There is also that admirable and true saying of the sacred utterances, that avarice is the mother of all evils, especially when it inheres not in the souls of private men but of Judges. For who will not steal without danger? Who will not commit robbery without liability, while looking to the administration? For seeing that man selling all things for gold and presuming that whatever unlawful thing he does he will redeem by giving money, men think that murder, adultery, invasions, wounds, the rape of virgins, the confusion of commerce, and contempt for the laws and Judges--all these things--have been offered for sale like some cheap slaves. Nor are we sufficient to consider and expound how many terrible evils arise from the theft of provincial Judges, since no one presumes to convict them with confidence, when they openly declare that they have bought their belts,” and so forth.

“Considering all these things among ourselves, taking here also as a partner in counsel our most reverend consort, given to us by God, and communicating the cause to your Highness, and also receiving certain things from your counsel, we have come to this sacred law. By it we ordain that neither any proconsular administration, nor the vicariate hitherto vacant, nor the Countship of the East, nor any other administration whatsoever--neither proconsular nor presidential, which they call consular and corrective--of which the schedule annexed to this our sacred law expressly makes mention, and which alone we determine to place under this law, shall give any payment for influence or any gift for an administration to any Judge, to any of those about the administration, or to another on the occasion of patronage; but that they shall indeed receive administrations gratis, while furnishing only a little on the occasion of those things which are given for the belts and papers. For we have also annexed to this our sacred law a schedule declaring what it belongs to each of our administrations to furnish in our sacred register or in the forum of your Highness on the occasion of codicils or commands, whereby that amount also has been reduced, lest it inflict the greatest loss upon him.”

§ 19. Justinian said that lawsuits must be decided within three years (chapter 3, title 1, *On Judgments*): “It has seemed good to us, lest lawsuits become almost immortal and exceed the measure of human lives--since our law has already concluded criminal causes within two years, while pecuniary causes are more frequent and they themselves are often known to furnish material for crimes--to establish the present law concerning these matters throughout the whole world, to be confined by no narrowness of places or times. We therefore decree that all lawsuits brought concerning money, of whatever quantity--whether concerning conditions, the right of cities or private persons, possession or ownership, mortgage, servitudes, or certain other causes for which men must litigate with one another, excepting only causes which belong to fiscal law or concern public functions--shall not be drawn beyond the bounds of three years after joinder of issue.

“Rather, all Judges, whether in this nurturing city or in the provinces they administer a greater or lesser administration, whether placed in Magistracies, given from our court, or delegated by our nobles, are not to be permitted to extend lawsuits beyond the space of three years. No one is ignorant that this is especially within judicial power. For if Judges themselves are unwilling, no one is found so audacious as to be able to prolong a lawsuit against the Judge’s will.

“If the plaintiff’s party has been inactive so that the defendant may be wearied by repeated delay, and the bounds of three years after joinder of issue are already approaching their end, so that only six months remain to him, the Judge shall have license to seek the plaintiff through the officers of the matter, with the one party fleeing, the other party charging the plaintiff with absence, and the Judges by every means opening their ears to questions of this kind. If this has followed three times, a period of ten days having been appointed for each appearance, and thus the plaintiff’s party has not been found and has arrived neither in person nor through an instructed procurator, then we decree that the Judge inspect the acts of the case completed before him. If nothing sufficient has been transacted from which a conjecture concerning the determination of a certain cause can be made, we will not only that the fleeing party be released from observance of the trial, but also that the plaintiff be condemned in all expenses customarily expended upon lawsuits, their true quantity to be manifested by the oath of the fleeing party, and that every security which he furnished in writing be returned; and if it remains, it shall be deprived of force.

“But if, from the records which he has before him, although the plaintiff’s party has by no means been found, the Judge can discover a way by which it becomes manifest to him what must be determined, and if he has perceived that the plaintiff possesses the better cause, let him not delay to pronounce sentence for him even though he is absent, and to condemn the defendant who is present in favor of the plaintiff who is absent. Only the expenses of the suit which the defendant shall swear that he lawfully expended are to be excepted from the condemnation, because we impose this penalty upon the plaintiff, even one possessing the better cause, because of the contumacy of his absence alone, preserving absolutely no return for him to the same lawsuit. But let a contumacious plaintiff fall altogether from the lawsuit if the defendant is acquitted.

“But if a condemnation is pronounced against the defendant for the absent plaintiff which the fugitive plaintiff perhaps thinks insufficient for himself, we in no way permit him to revive the same lawsuit, and let this penalty be imposed upon the plaintiff. But if the defendant has been absent and a similar search for him has proceeded, just as we said concerning the person of the plaintiff, even in his absence let judgment by default be undertaken. Let the Judge, according to what was provided by the ancient laws, investigate the cause from the one party with all exactness; and if the defendant is found liable, let him not cease to pronounce condemnation even against the absent man. Let it be carried into effect, and let satisfaction be made to the victor from the property and resources of the fugitive, whether the Judge himself can do this by his jurisdiction or the matter is referred by a report to a higher Judge, and from him a lawful route is opened against the property of the contumacious man. No license to contradict is to be granted to him or to another who puts forward only his person, when the plaintiff is sent into possession of this kind on account of the cause. Nor, if he himself returns and wishes to give sureties and recover possession, is he to be heard; for in cases of this kind we exclude every contradiction from him.”

But now everywhere among the nations lawsuits live much longer. Accordingly, by common consent so many Judges must be appointed that all old lawsuits may be concluded once for all and new ones quickly decided; for now many litigate because they hope that they will leave their lawsuit surviving them.

§ 20. It is of the highest importance that an examination of matters adjudged be instituted; it was customary formerly. They were called Examiners. Those men possessed an almost excessive power and the greatest license for sinning. They were sent into the provinces so that, under whatever title, they might exact and administer matters pertaining to the treasury and make up accounts. The law indeed says, “As often as,” chapter 10, title 30: “If in a dispute it is established that a false examination was completed, and the Examiner shall not be able to prove the truth of the act, let him himself immediately be compelled to pay under the same title and in the same manner in which he wrongly made another a debtor. Given on the day before the Ides of March, Valentinian, Most Noble Boy, and Victor being Consuls.”

Yet by law 4 under the same title he can give security to all: “Let no one be made an Examiner otherwise than by a command of the Prince which makes special mention of an Examiner--not by command of the Prefects, not by instruction of any other Judge; not of civil works or of monies assigned for purchasing grain; not of harbors or of those monies expended upon the construction of aqueducts and walls, the paving of roads, or the building of bridges and embankments; nor of monies assigned to baths or pertaining in any other manner to the civil account. But if the Prince has either sent monies from the treasury for construction of walls or another work, or has found monies left to cities by another, let him once or even more often, when it pleases him, send an Examiner who shall measure the work, calculate the accounts exactly, and report back to him, so that if the expenditures have certainly been made, a sacred security may be drawn up for those who made them, by whose protection neither they nor their heirs or possessors of their goods may afterwards suffer any inquiry. Let a security issued by the Examiner after examination of the accounts be valid and stand in need neither of a sacred receipt nor of any other security whatsoever.” Thus full faith is placed in the Examiner, wherefore he can be delegated by no Governor, but by the Emperor alone.

§ 21. The insignia of Judges--or, as they were called in the Greek Empire, *τῶν δικαιοδοτῶν*--was the *δικανίκιον*, a silver-gilt rod, or also *ξύλον λεῖον*, smooth and polished wood. It was an ancient custom that not only *σκηπτοῦχοι*, scepter-bearers, were *βασιλεῖς*, kings, but that *δικασπόλοι*, ministers of justice, were also Judges; and thus even the Centumvirs conducted judgments after the spear had been set up.

CHAPTER XXIII

The Judgments and Tribunals of Other States

§ 1. Not only the location of the Roman Empire but also very many of its laws have been changed, for the most part for the better; for different times of the ancients require different laws, as was said above concerning laws. In the year of Christ 1495 the Imperial Chamber Court, which was to judge in the Emperor's sacred stead, was established at Worms. Thus the constitution provides. First, the Chamber Court is constituted with a Supreme Judge, who is to be an Ecclesiastical or Secular Prince, or a Count or Baron. Sixteen Judges are to be joined to him; they are afterwards also called Assessors. They are to be chosen from the German nation, from the Empire itself; half of them is to be learned and adorned with academic honors, and half from the Nobility, all furnished with upright and honorable morals and with knowledge. All causes are committed to their judgment; if the votes are equal, the opinion of the Supreme Judge possesses the prerogative. If it happens that the Judge is absent, he will establish in his place a Count or Baron from among the Judges, with the consent of the others.

New men are chosen in place of Assessors in an assembly of the Princes. In place of the Judge, a successor is given by the Emperor; and until the next Diet, if the Emperor is farther away, the Judges themselves appoint someone from among themselves to perform his functions until someone is appointed in the public assembly.

But for some time that tribunal ceased. For in the year 1500 it was restored again, and it was decreed that it should be held at Nuremberg. This too was decreed: that another Count or Baron should be joined to Count Bernard of Eberstein, so that there might be someone able to preside in causes of Princes when the Judge was absent or ill. At the same time it was provided that the opinion of eight Assessors and of the Judge should be valid. Indeed, this too was prudently added to avoid suspicions: that the Assessors should have no procurator, orator, or solicitor in their own home and that no Assessor should be in the company of such men.

So that there could be no complaint in the election, in the year 1507 the Emperor appointed two Assessors, each of the six Electors one, and the six Circles eight: so it was decreed at the Diet of Constance, at which new Assessors were also elected.

At Worms in the year 1521 Charles V added two to these, so that there were now eighteen Assessors. At the same time he also established a visitation every year. Other things were added in 1523. Then in 1527 abuses were removed. In 1532 the Reformation was confirmed and amended, and the order of visitation established. At the same time it was instituted that pronounced sentences should be examined and the Judges judged. The visitation of the year 1533 was especially famous; in it many abuses were corrected and many things excellently established. In the following years several difficulties then arose because of disagreements among the religions. The matter was treated in the year 1544, but, because the Estates disagreed, it again occupied the year 1546. In 1551 ten Extraordinary Assessors had by law been added for concluding old lawsuits; they were to judge for two years, or even three if the multitude of lawsuits required it. Their appointment was confirmed for another two years. In the year 1557 sixteen Extraordinary Assessors were again appointed.

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In 1566 many grievances were removed; but because of the multitude of causes, in the same year another eighteen Ordinary Assessors were joined to the twenty-four Ordinary Assessors, so that there were forty-two in all. In the year 1570 another six new Assessors were added, and this for six years; the Emperor also decreed that another Count or Baron should be added, so that there were then forty-eight Assessors, not counting the Count.

No less a change in matters and in the manner of proceeding was made in that tribunal. For by individual Diets and visitations, through long experience and practice, the matter has now come to such a point that it seems nothing can be

added, except that a multitude of the most ancient lawsuits remains undecided and the execution of judgments is impeded by the power of the parties. Against these difficulties many excellent provisions were made in the year 1600. And thus much concerning the Judicial Magistracy which is in Germany; in its judgments it uses edicts in the Emperor's name and with his seal. If anyone also considers the offices, order, and laws of the Advocates, Procurators, and others, he will necessarily confess that in no kingdom was there ever so perfect a system of judgments. But, as I said, execution of judgments is suspended when powerful men are concerned.

§ 2. Yet this form of the Imperial Court and of its Assessors is not without an ancient precedent; indeed, not even the Greeks lacked it. Aristotle in book 2 of the *Politics*: λαμβάνουσι δὲ καὶ παρέδρους ὃ τε ἄρχων, καὶ πολέμαρχος δύο ἑκάτερος οὓς ἂν βούλωνται. “Both the Archon and the Polemarch also take Assessors, two each, whomever they wish.” The nation of the Getae, a very remote people of Barbarians, joined to its King a Counsellor and Assessor in judging, whom on account of his dignity they were accustomed to call θεόν, “god,” as Strabo testifies. Dio, in *Augustus*, calls them συνέδρους, fellow-sitters: Τὰ μὲν ἄλλα αὐτὸς μετὰ τῶν συνέδρων διεσκέψατο, καὶ ἐδίκαζεν ἐν τῷ παλατίῳ ἐπὶ βήματος προκαθήμενος. “Other matters he himself considered with the Assessors, and he judged in the Palace while seated in front upon a tribunal.” Tiberius was accustomed to join himself as a Counsellor to those judging; he sat beside the principal Judge, either indiscriminately among the others or opposite him. Hence, in celebrity of name and honor among posterity, Assessors surpassed even the Emperors themselves. Ulpian, Alexander's Assessor, as Eutropius says in book 8, still holds the primacy in law. Marcus Scaevola gave law to nations by intellect and prudence, as Capitolinus relates. Commodus most prudently established on the advice of Pescennius Niger that those who had served as Assessors in provinces should administer in those same provinces. For formerly, although there were Assessors of Proconsuls and Legates, they did not readily succeed them.

Formerly πάρεδροι τοῖς νεωτέροις, “Assessors for the younger men,” were indeed given; but it was most excellently established that they should afterwards be given to all. They were selected from the most experienced and most approved Advocates. Cassiodorus gives the reason in epistle 12 of book 8: “It is fitting that those to whom power is entrusted should have most learned advisers. The field of Advocacy exercised you; the summit of our judgment chose you. Since you see yourself joined to the counsel of him who treats the secret of our Empire, hence we adorn you with the illustrious honor of Count of the Domestics.”

Yet it must not be denied that many things in the ancient Assessors were different from those now in use. For they received salaries from the Magistrates beside whom they sat. Code, book 1, title 51: “The labor of studies deserves that those who, established in public administrations, desire that sharers of their counsels be associated with them should summon by the hope of rewards and honor--and with knowledge itself as license--those whose prudence they think necessary to themselves, not by fearsome compulsion, a necessity unsuitable for liberty.”

Alexander, however, established salaries for them from public funds, frequently employing that golden saying: “Those men are to be promoted to the state who can administer the state by themselves, not through Assessors.” So Spartianus in *Alexander Severus*. Assessors could not subscribe petitions. For Constantine punishes with exile an Assessor who subscribes, chapter 1 of the title *On Assessors*. If they were able to unite anything by lawful and honorable gains, they can claim it even after the death of their father as though it were a military peculium.

The highest Jurisprudence was required in an Assessor. For this reason lack of prudence is imputed to the Assessor, not to the Magistrate beside whom he sits: law 2 of *What Each Man*.

§ 3. Among the Turks the system of judgments is swift and expeditious rather than consistently just. Their Supreme Priest, the *Caldelescher*, judges causes; they generally have as this man one grave in age and, according to the measure of Barbarism, knowledgeable in law. From him an appeal is granted to the Mufti, who also seeks the opinion of the Cadi in doubtful matters. But since they possess few laws, in most controversies they judge according to their own judgment and inclination. For in so enormous an Empire they rarely judge rightly. Nowhere is victory ready without gifts. At Thebes, indeed, they placed statues of Judges without hands, so that it might be shown that they ought to be

strangers to receiving gifts; but Turkish Judges have hands in the purses of the litigants of every party, unless greater fear recalls them from crime. How much holier are the Roman laws, which have not only poor Judges and Magistrates but a wealthy state, as Salvian says in book 1 of *On the Government of God*. Cato would not permit even his servants to accept gifts from King Deiotarus. See also Commynes, book 6, chapter 2, concerning those who receive largesses.

Hence there arises for a Prince the calamitous oppression of the poor--indeed, of the entire state. For those who afflict the poor possess such power, especially if they conspire, that they cannot be punished without a convulsion of the state. But if they escape for a time, deferred penalties are nevertheless portents of greater punishments, as Tzetzes rightly says upon Hesiod.

§ 4. Bellus, in Discourse 23, thinks that the public system of judgment in Britain is less rightly constituted: "It is not to be wondered at," he says, "that they regard only the advantage of the Prince, while the good of the subjects seems abandoned, and that they are full of chicaneries and ambiguities and are contrary to themselves. For they were devised and sanctioned by the Normans, than whom no nation more litigious and more deceitful in devising and prolonging controversies can be found. These laws are inviolably and rigidly observed in those courts and are publicly lectured upon in the schools of London in the Norman language. In that language, until a few years ago, lawsuits were argued and all judicial acts and public instruments were written; and, what will seem strange, the degree of Doctor is conferred in that Faculty, just as in Italy and other states it is customary to confer the degree in Civil and Canon Law.

"If narrowness of time permitted, I could relate certain diversities and truly notable abuses which are frequent in the form of judgments, especially in those judgments which are called Inquests, in which great inconveniences follow in civil as well as criminal matters. This judgment consists of twelve men who are assembled by the Judge so that he may seek their opinion concerning the matter in controversy, and it is necessary that all agree; otherwise the Judge cannot proceed to sentence. But lest I occasion weariness, I pass over this entire argument, adding only that throughout the whole kingdom and in all consultations the royal will alone is regarded, since the Kings are absolute lords and Monarchs.

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"Accordingly, lest they seem to be alone in governing--or because of idleness and greater convenience, or because of pride and pomp, after the fashion of the Turkish Empire--they have introduced a council of the chief officers and ministers. These men are assembled after the fashion of Pashas and follow the Prince everywhere; for this purpose they have both a table and their own lodging at court, a splendid household, and great dignity. They diminish the King's labors, since most subjects and public ministers, and also the Ambassadors of Princes, have recourse to them. Thus they can be called the Prince's ears and person, since throughout the whole kingdom they exercise power and command over the ministers, whom they treat with great authority, while the ministers in turn furnish obedience. In short, like the King, they themselves can command and decree whatever they please.

"Into a council of this kind, which is called the Royal Council, there are for the most part admitted three or four chief offices of the kingdom: that is, the Chancellor, Treasurer, the man whom they call the *Brovizellus*--Keeper of the Privy Seal--and the Admiral, besides the more eminent officers of the Court and Royal Household, such as the Steward, who is very like the Grand Master in France and the Mayor of the Palace at the Imperial court; all are for the most part Lords and noble and eminent men."

§ 5. Amid so great a diversity of judgments and so slippery a condition of causes, the cities of Italy prefer to entrust their fortunes to foreign inquisitors rather than be tossed about among the partialities of Judges who are relations and kinsmen. Thus a court which they call the Rota is established among them. It consists of three Jurisconsults of great learning and a great reputation for integrity and justice, whose native country is fifty miles distant from the city in which they are placed over the administration of law. The first is called the Podestà; it is his office to deliver to the Council his written opinion concerning a citizen. The Council possesses the final decision and either approval or correction of the opinion. Concerning foreigners, however, that Jurisconsult alone decides. The second Jurisconsult

investigates and judges crimes, just as formerly the Praetor who conducted the inquiry concerning assassins. The third is the examiner of civil causes. Yet each does not possess his function perpetually, but at an interval of six months they exchange duties among themselves.

Every other year the Genoese also hire Jurisconsults for civil causes who are foreigners and who pronounce law from the written laws in the Palace; they dwell with the Doge himself. But although foreign Judges are without the partialities of kinship, it is nevertheless hard for a state to distrust its own citizens and to be unable to maintain justice without external assistance. Nor would I approve this: to commit the causes of foreigners to a Judge to whom you are unwilling to entrust the lawsuits of citizens. Why can the Podestà not determine concerning a citizen except with the Council's intervention and approval, while a foreigner, as a cheap life, has his life and fortunes liable to the judgment of one man? Yet law must be pronounced more swiftly and carefully for a foreigner, since his innocence has fewer aids of defense, while his offenses obtain neither intercessors nor ready pardon. Divine Mercy, by a special law, commends the care of strangers to all men.

§ 6. That it is most difficult to constitute and preserve tribunals rightly is taught even by this fact: not even among the Chinese, where the highest system of civil government is maintained according to the capacity of barbarians, could defects of judgments be avoided. "They lack many laws," says the writer concerning China; "in pronouncing law they follow the opinion of their own mind. In their own Provinces they carry new laws as they please, and these for the most part are alien to the laws of others." For one can conjecture even from this that this kingdom is not administered in the best manner: not everyone who has learned to write elegantly thereby possesses the prudence of a lawgiver. I pass over the fact that they often turn lawsuits to their own advantage, violate law, and seize what they can. Nothing is more frequent than gifts, nor is the sale of any man's property so open as the sale of favor. Although the crime of one is not unknown to another, they nevertheless conceal it among themselves, since they are participants in the same offenses. But when they strive most to be hidden, they most betray themselves.

There is a great multitude of Mandarins in all cities, but an almost immeasurable one in the royal city of Peking. For, to pass over the Mandarins placed over war, who are not of high station, the number of the others here is greater than anywhere else. Besides those who continually frequent these cities on account of business, the permanent Mandarins of this city are more than two thousand five hundred. All these men daily give attention to counsellors and litigants. But how great the concourse of causes is, or what each man's jurisdiction is, has not yet been sufficiently discovered by us.

Six of the chief Mandarins of the whole Kingdom dwell in this city; six, an equal number, preside over councils. The Supreme Mandarin is the man who either raises the Mandarins of the whole kingdom to higher Magistracies when they deserve it, or reduces them to the ranks and chastises them when they fail in their duty. On account of the amplitude of his power, the Chinese call him the Heavenly Mandarin. He reports to the King all the cases of men to be promoted to dignities or removed from them. The King so determines concerning each that even the least Mandarin of the whole Kingdom acknowledges his honor as received from the King. The second Mandarin has care of all rites, both human--such as those employed in all the King's affairs, in the public address of a new King and designation of a Prince, and in the marriage of each--and divine, such as those employed in funerals and in the sacrifices which Kings customarily make to heaven and earth.

§ 7. Therefore the Prince will apply himself to this care all the more earnestly, the more difficult it is to preserve the integrity of Tribunals sound, whole, and inviolate. Yet when this is neglected, it brings about changes of kingdoms. For a kingdom is transferred from nation to nation because of injustice.

I also admonish Judges, not in my own words but in those of a Bishop--if not Augustine, nevertheless an ancient and wise man. Thus he says in sermon 35 *To the Brothers in the Wilderness*:

"Having been asked by you, O Judges, though wearied by a long disputation with Fortunatus, presbyter of the Manichaeans, we have not delayed, conquered by your affection, to deliver a sermon with God's help. For behold, you

are now assembled in the house of a Bishop; you have all come together as one, not to hear sophisms, not to understand the curiosities of Poets, not that I may proclaim you blessed, but only that you may hear what is necessary for your salvation and, hearing it, fulfill it in works. For you have been accounted by men leaders of the people, Judges of the earth, fathers of orphans, husbands of widows, zealots of justice, and lovers of the state. Beware, therefore, lest you be corrupted by hatred, love, payment, prayers, or fear.

“It is therefore fitting that Judges not only fulfill the things we have said, but with God’s aid tread down pride, abominate luxury, abhor falsehood, and despise avarice, which is said to be the stepmother and greatest enemy of justice. For she it is who knows no father, ignores her mother, loses her friends, and abandons herself. It is therefore fitting that Judges pursue not avarice but liberality, love little children, and show a serene countenance to the lowly and to orphans, not only in word but in deed. For they ought not avert their face from the poor, nor should a superior disdain to preserve the faithful, nor ought they lift their neck in despising certain persons, knowing that the learned and the unlearned die alike.

“It is fitting, therefore, that Judges preserve with a solicitous mind the grace which they have divinely received, display fidelity, and preserve zeal for rectitude. It is also fitting that Judges be cultivators of clemency, detesters of cruelty, kind to all, slow to anger, swift to mercy, steadfast in adversity, humble and cautious in prosperity; and, to whatever dignities they have been raised, that they recognize themselves and take care lest they despise their inferiors. It is also fitting that Judges be wise and most learned in the law, lest, as men ignorant of the holy law, they be able to call good evil and evil good. It is also fitting that Judges fear God more than other men, care more for the salvation of souls than of the body, and love the honor of God more than full purses.

“But woe to you, O Judges, woe to you for eternity and beyond, because there is in you no truth, no mercy, no piety, no justice, nor can knowledge of God be found in you. For what reigns among you? Avarice, falsehood, clamor, outward show, perversion of the sacred law, calling evil good and good evil. Behold the acceptance of persons. For truth is not in you; truths have been diminished by you. O fathers of the poor--O truly not fathers, but plunderers! Why are you not fathers? Because everywhere the poor are oppressed through you, and there is no one to have mercy upon God’s little ones. But if a rich man has spoken, immediately you have fallen silent; you have carried his causes even to the clouds.

“O Judges, lovers of the knowledge and justice of the world, attend to what you do. For you are full of the knowledge of the world, and in that knowledge you will die. What is the knowledge of the world except to gather treasure, acquire earthly profit, deceive one’s neighbor, lie, swear, carefully pervert justice, and do similar things in all affairs? For this is the wisdom of this world. In these things nearly the whole of your life, as it were, consists. Therefore attend, you who judge the earth, because the wisdom of this world is foolishness before God.

“But you say: ‘O Bishop, we do not approve this opinion. We do not commit theft; we do not deceive or offend our neighbor.’ Why? ‘Because we receive nothing except as much as he was willing to give us.’ But I say to you that you have done as much as you were able to do. No more was given to you; therefore you received no more. You have done as much as you could. You have made small causes great. For although you did not seize by force and did not rob your neighbor on the road, you can nevertheless be robbers. For a robber fears evil; where he cannot act, he does not, and nevertheless he is a robber. For God questions the heart, not the hand.

“A wolf often comes to the sheepfold and seeks to seize the sheep, seeks to tear them, seeks to devour them. The Shepherds nevertheless keep watch, the dogs bark, and thus the wolf flees in fear. Do we therefore say that he is not a wolf? Far from it. Thus you too do as much as you can; if you could do more, you would do more.

“Come then, O Judges: attend, lest you be confounded with the false Judges of Susanna. For the Lord will awaken the spirit of Daniel and place the spirit and wisdom of his boy Daniel in the mind of some young man; and, just as he did in the case of Susanna’s Judges, he will confound all false witnesses together with the Judges. Then they will know how their knowledge profited them.

“Consider, therefore, O Judges of the earth, what God speaks through Hosea his servant. For he says: ‘I shall visit my people and the Judges, and I shall repay to them their ways and their thoughts.’ O how dreadful it is to fall into the hands of the Lord! O how great the vengeance! O how great the misery there will be for the wicked on the last day! For wicked merchants and false Judges will be expelled from the house of the Lord; they will be banished from the house of God, expelled from paradise, and will go into the place where there will always be weeping and gnashing of teeth.

“Therefore attend to my counsel; open the doors of your heart. Arise, you who have slept; read Isaiah the Prophet and follow him--not tomorrow, but today; not only today, but even now. For the Prophet says: ‘Let the impious man forsake his way, and the unjust man his thoughts, and let him return to the Lord, and he will have mercy upon him, because he is merciful.’ Run, Judges, to the Father of mercy, lest you be judged. Seek pardon; restore what you have received unlawfully. Seek pardon, because he is near to all who call upon him in truth. He it is who heals the contrite of heart and the humble in spirit, and will save those troubled in heart.

“Walk while you have the light, while it is day. Behold, O Judges, the night will come soon, because death now comes, in which it will not be lawful to walk. Consider what you are and where you are going. For your dead parents preach; the grave cries out; hell howls; demons await; Priests preach: ‘Why are earth and ashes proud?’ O Judge who has not acknowledged God, when you pass beside the tombs of your fathers, know that the dead cry out: ‘You are earth, and into earth you shall go.’ They were men just as we are, possessing riches. Where they are now, so shall we be. Where is their pride? Where their knowledge? Where their magisterial chair? Where the honor of disciples? Where the garments adorned with silk and fur? O ash and dust! O Judge, consider what you are and what you will be.

“Do not, therefore, delay to be converted to God, and do not defer from day to day. For suddenly his anger comes, because the day of perdition is near; it is necessary that it come, and the times hasten. Yet let none of you despair; let no one distrust God’s mercy. But attend, because no fault is so great that it has no pardon. And lest anyone despair, take as an example Mary that sinner, mistress of luxury, mother of vainglory, sister of Martha and Lazarus, who afterwards merited to be called the Apostle of the Apostles. May that same God and man who deigned to be born and to die for us assist us. Amen.”

If Judges revolved these and things consonant with them in a mindful mind by night and by day, there would be fewer lawsuits, fewer complaints among those above, and fewer torments among those below.

CHAPTER XXIV

The Assistants of Judges

§ 1. The origin and subsequent office of Advocates were not the same. For in the beginning, when men went to join hands at law, they were accustomed to call upon friends who would aid them by authority and counsel. Afterwards, when this was little protection amid subtleties, they called upon men experienced in law and statutes, whose duty it was to give answers concerning law. They did not themselves judge, but, when consulted, gave answers concerning law, pleaded causes, and assisted Magistrates. The Count of the East had forty in his forum. Their dignities began when they departed from office. Sidonius, book 1, epistle 2: “After the fashion of Advocates, whose dignities begin when their pleadings end.” For from them Consistorial Counts were created, Code, *On the Advocates of Various Courts*. Others attained the most ample dignities. Certainly at Rome they obtained a Magistracy through defending defendants and conducting causes as readily as through the dangers of wars. Scipio’s Scribe was preferred to Scipio’s son.

And would that now too there were a most rigorous selection of Advocates and the promotion of the selected men to the highest places. Would that pettifoggers, brawlers, vultures of the forum, abysses, plagues of cities, purple-fish of the benches, barkers, and architects of fraud--who beset all things, weave lawsuits, and oppress justice--might at last be restrained, and great honor be accorded to true Advocates.

§ 2. Many things were formerly granted to them which adorn the study of law. The things acquired by Advocates have the character of a military peculium; this was granted in honor of studies so that sons under paternal power may claim ownership for themselves: chapter 2, title 7, *On the Advocates of Various Courts*.

No solicitude of a province can be imposed upon them, according to Theodosius and Valentinian; and this was granted although there were many of them, for the Praetorian Advocacy was limited to 150 men in the toga.

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Indeed, they formerly underwent an Examination, as they still do now, just as the law says: “To no one,” chapter 2, title 7.

Two years are granted to them, whereas before they served for one year, under the same title 8. The privileges of Advocates and Patrons of the Treasury are many. What is more remarkable, Agents in Affairs were also honored with the distinctions of Princes, Code 12, title 22, *Agents*.

§ 3. Next to Advocates were Notaries and Procurators. In the German Empire it was provided that no Notary should be admitted to the Chamber Court unless he either had testimony from his own state or was examined by the Chamber Court: Augsburg, year 1500. At the same Diet all are ordered to be reformed and examined. Procurators are prohibited from being Advocates, and conversely, at the Diet of Augsburg in the year 1500. In the same place it was established that Procurators and Advocates should be content with the fee fixed by the Assessors of the Chamber; if they received more, they were to restore it to the parties, and affirm by oath that they would do so. No Procurator is accepted unless he has been thoroughly examined. Procurators of the treasury are prohibited from undertaking causes of private persons, and conversely.

The oath of Advocates proposed at Speyer in the year 1535 is of the greatest importance for justice. The Advocates will enter all opinions, together with the names of those judging, in a book designated for this purpose by the Protonotaries of the Chamber.

It is assuredly very remarkable that amid so many oaths of the parties, Advocates, and Procurators there is still room for lawsuits. A Procurator takes the oath against calumny: that he believes his cause to be just, that he will not seek an

unnecessary delay, and that he will not seek a dangerous one. The oath of the Advocate is more severe, so that I marvel greatly how men so learned can sin through ignorance.

§ 4. Many contests have made Scribes costly among us. Their esteem is no less among foreign peoples. In 2 Esdras 4:8, Sampsai the Scribe is placed second. Among Alexander's men Eumenes was held in honor. At Rome Scribes were base. Valerius, book 4, chapter 5, relates as an unworthy thing that Cicero, a scribe of Africanus, was preferred to Africanus's son in seeking the Praetorship. But in the rest of Italy their estimation was greater. Mucius Scaevola killed a purple-clad Scribe seated with King Porsena; so great was his likeness to the King that Scaevola himself thought him the King. At Rome those who took part in councils possessed greater dignity, as Chancellors and Secretaries now do; the others were ordinary.

§ 5. Cato beat down the insolence of Scribes. Thus Plutarch: ὅθεν εὐθὺς εἰς τὴν ἀρχὴν καταστὰς μεγάλῃ ἐποίησε μεταβολὴν τῶν περὶ τὸ ταμεῖον ὑπηρετῶν καὶ γραμματέων, οἳ διὰ χειρὸς αἰεὶ τὰ δημόσια γράμματα καὶ τοὺς νόμους ἔχοντες, εἴτα νέοις ἄρχουσι παραλαμβάνοντες δι' ἀπειρίαν κάγνοιαν ἀτεχνῶς διδασκάλων ἐτέρων ἢ παιδαγωγῶν δεομένοις οὐκ εἴωντο ἐξουσία χρῆναι, ἀλλ' ἦσαν ἄρχοντες αὐτοί. "Cato," he says, "because it belonged to the office of Quaestor, learned it diligently; and as soon as he entered upon the Quaestorship he recast and reformed the Quaestorian assistants and Scribes. Since they always had the public records and laws ready to hand, if they encountered new Magistrates whose inexperience and ignorance stood in need of teachers, they did not permit them to exercise their Magistracy, but were themselves the Magistrates."

This must be considered and imitated very carefully by a Prince, for nothing is more arrogant or avaricious than those formulary-writers when they have the Prince's inexperience in their power.

The *Commentarienses* were a class of Scribes who recorded in their own hand the acts before the Treasury and had charge of registered prisoners. Indeed, they also guarded men in bonds. The assistant of the *Commentarienses* was the *Optio*, a name also extended to other offices; the same men were likewise called *Proximi*, assistants, and sub-assistants.

The Actuaries wrote not the proceedings of litigants before a Judge but the acts of contracting parties; they also entered the names of soldiers upon the roll.

Different from these were the Formulary-writers, who recited to the people the forms of actions. Spartianus in *Geta* records an Advocate of the Treasury selected from among the Formulary-writers. And now they earn salaries almost beneath the Chancellor.

CHAPTER XXV

A Consideration of the Chancellorship

§ 1. The office of Chancellors is now honorable; formerly it was among the lesser services. **Κιγκλίδες** among the Greeks are **θύραι δικτυωταί, διαφανείς**, latticed and transparent doors. Thus Polybius calls them in book 15. The *Etymologicon* calls them **τὰ κάγκελα**, and the Gloss says, **κάσσεσ οἱ Ῥωμαῖοι τὰ δίκτυα λέγουσι, καὶ ὑποκορ. εἰς κάγκελον**. The Romans call nets *casses*, and by the diminutive, *cancellum*. And the Scholiast upon Aristophanes' *Wasps* says: **κιγκλῖς ἢ θύρα ἢ δικαστηρίου, ἣν καὶ καγκελάτην καλοῦσι**. "*Cinglis* is the door of the praetorium, which they also call latticed." Codinus names it **καγκελόθυριον**.

Accordingly the tribunal was surrounded by lattices, lest the Judge and Assessors be pressed by the surrounding crowd; and, since some were continually departing and others arriving, the doors were latticed so that they could easily be opened and closed, and so that those who wished to be admitted could be seen and questioned. Those who stood within those doors and had care of them were called Chancellors. **Ἐνθεν**, says the Gloss, **Καγκελλάριοι οἱ ἐν αὐτῷ ἐστηκότες, δύο δὲ οὗτοι μόνον**. "Hence the Chancellors who stood within them; these were only two."

That it was a base ministry is established from Vopiscus, who says that Numerian made one of the Chancellors Prefect of the City, than which nothing more disgraceful could be imagined or said. Indeed, even under the Christian Emperors it was not yet a great dignity. Thus Honorius and Theodosius decree concerning them: "Let no Judge dare to take with him to the province committed to him anyone upon whom he imposes the name of Domestic or Chancellor, nor receive one departing to him from any place whatsoever, lest he be punished by the mark of infamy together with confiscation of his goods. For at the peril of the chiefs of the office, we command that Chancellors selected under attestation of the records from that same office be attached to the Judges, so that after laying down the administration they do not depart from service and present themselves to the provincials, whereby those who wish may have the faculty of accusing them. For if a suitable cause requires it, they must be subjected to examination under torture in order to uncover the Judge's crimes. Given on the day before the Kalends of July, Asclepiodorus and Marinianus being Consuls, 423."

Accordingly Chancellors, as assistants, could be tortured against Judges and were therefore of plebeian condition. Their office and dignity afterwards increased, so that they guarded the acts and secrets themselves. Cassiodorus, book 11: "The Praetorian Prefect attributes to you the domestic service, the honor of the lattices, so that you may guard the secrets of our consistory with faithful integrity." And the same author in book 11, epistle 6: "Consider by what name you are called. What you have done within the lattices cannot lie hidden. For you hold luminous doors, open enclosures, windowed entrances."

§ 2. But not only the condition of the times but necessity itself produced esteem for Chancellors, so that now the honor of a Chancellor is either the highest or next to the highest. Thus in Poland the Grand Chancellor is next to the King, and in Germany three Prince Electors are Chancellors, who possess a special dignity for that reason. The first is the Elector of Mainz, who is Archchancellor throughout Germany; the second is the Elector of Cologne, who is Archchancellor throughout Italy; the third is the Elector of Trier, who is Archchancellor throughout Gaul and the Kingdom of Arles. There is nevertheless another Vice-Chancellor in the name of the Elector of Mainz, and another Chancellor of the Imperial court, upon whom, as also among other Kings, the chief affairs rest.

Nor in ancient times was the dignity of the Chancellor great in France; but because the very mass of business required great and faithful men, it came about that it was committed to men capable of bearing it. In the time of Charlemagne that function was in the hands of Bishops. These words are read in a Carolingian edict: "I, Gauzelinus the Notary, in the place of Roger the Archbishop and Supreme Chancellor, have authenticated this, in the eighth indiction, in the

twenty-eighth year of the reign of Charles the glorious King.” Afterwards laymen were raised to that dignity. Two or three of the most select men from the Court of Paris were proposed, one of whom was created Chancellor by the Senate’s authority and votes. Then, as the power of Kings grew, the right of appointing the Chancellor remained with the Kings themselves. This was held in less esteem when they used him as their personal amanuensis; for he delivered letters to be signed to the Constable, Master of the Horse, and to the Chamberlain. But afterwards he held the primacy of law: he keeps the royal seal, writes edicts in the royal name, examines the charters themselves, and takes care that nothing contrary to the public good and the Prince’s dignity is published.

Budaeus, upon the title *On the Office of the Proconsul*: “The Chancellorship is today the highest summit of honors, beyond which it is lawful for a man of the toga to hope for nothing, and as it were a certain solstice of the mind that aspires to all the highest things. By his eloquent mouth our Kings are accustomed to speak; with his eyes all things are surveyed; with his ears they are said to give a full and just hearing to petitioners.”

An office similar to that of the Chancellor was held by the *λογοθέτης τῶν σεκρέτων*, Logothete of the Secrets; the same man also performed the office of Secretary. Yet he was different from the man called the First of the Secrets, whom Procopius in book 2 of the *Persian Wars* calls *τῶν ἀπορρήτων γραμματέα*, Secretary of Secret Matters.

There are Vice-Chancellors in all the Parlements of France, who execute all things pertaining to law.

Those called *Mystici* were secret Counsellors and other men privy to secrets.

The Master of Petitions received supplicatory petitions.

Referendaries presented the petitions of suppliants to the Emperor. Justinian decreed that, whereas they were ten, they should be reduced to the number eight.

Outside the court, the office of Scribes possessed various degrees of dignity. Among the Hebrews it was held in the greatest veneration. A Scribe is named among the first Princes of David, 2 Kings 8:16: “But Joab the son of Zeruiah was over the army.”

And in 4 Kings 12:10 he has care of the sacred treasury with the High Priest: “And when they saw that there was very much money in the treasury, the King’s Scribe and the High Priest went up, and they poured it out and counted it,” and so forth. A Scribe is also sent to Rabshakeh with Eliakim son of Hilkiah, who was over the house, 4 Kings 18: “And they called the King; but Eliakim son of Hilkiah, who was over the house, and Shebna the Scribe, and Joah son of Asaph, the Recorder, went out to them.”

And chapter 19:2: “And he sent Eliakim, who was over the house, and Shebna the Scribe, and the elders of the Priests, covered with sackcloth, to Isaiah the Prophet, son of Amos.” Indeed, Ezra, a chief man, is called both Priest and Scribe. 2 Esdras 8:4: “But Ezra the Scribe stood upon the wooden step which he had made for speaking”; and verse 2: “Therefore Ezra the Priest brought the law before the multitude of men and women, and before all who were able to understand, on the first day of the seventh month.”

Nevertheless, the power of Scribes always grew, for they were also adorned with military dignity. Jeremiah 52:25: “And seven men of those who saw the King’s face, who were found in the city; and the Scribe who was chief of the soldiers, who tested recruits; and sixty men of the people of the land who were found in the midst of the city.” And these men are the assistants and ministers of Chancellors.

CHAPTER XXVI

The Magistracy and Offices of the Aediles

§ 1. Kings were formerly Aediles, wealthy Curators of public works. The ostentation of Barbarians displayed itself in the masses of pyramids, the wonders of hanging gardens, and cities rapidly constructed. But among those cultivated toward humanity and civil government, the Aedileship was occupied with more useful and necessary construction. They gradually built, enlarged, and fortified cities; undertook the construction of citadels, bridges, roads, aqueducts, and sewers; and, whether from superstition or piety, of temples and lordly houses for themselves. Hence those immense subterranean works at Rome, strong against so many inundations of waters, fires, and collapses.

§ 2. The Aediles of the Plebs were assistants of the Tribunes. Among their other offices, however, they had care of sacred and civil buildings, which was also common to the Curule Aediles, so that they preserved temples, theaters, stadia, porticoes, forums, the walls themselves, and Basilicas. They produced games. At times they undertook care of private buildings. Livy, book 6: “And Rome at the same time began both to increase in population and to rise everywhere in buildings, the state assisting the expenditures and the Aediles exacting the work as a public service,” and so forth.

§ 3. This was pernicious in the Roman Aedileship: abandoning useful things, they incurred excessive expenditure upon games. For by this means they won the poor commons to themselves, and very many examples of prodigality are found everywhere. Accordingly, under the Emperors, as all things gradually depended upon the Prince, that madness ceased.

§ 4. In place of the Aediles there was afterwards instituted the Curator of Public Works. There were very many public works at Rome: the Circus, walls, Castrensian Amphitheater, Viminal Field, Campus Martius, Harbor, Baths, Aqueducts, warehouses, stables, public post, bridges, roads, Basilicas, obelisks, Libraries, Groves, stadia, Nymphaea, pictures and statues, Arches, mills, forums, meeting-halls, columns, temples, and shrines. In the provinces a third part of the revenues was expended upon the walls and baths of the cities. There was another Curator of Cities, for he handled money, and his office belonged to quaestorian dignity.

§ 5. To the Aediles belonged the care of those who were Curators of the Channel of the Tiber and of the Sewers. Under them were the Four Men for the Care of Roads and the Curators of roads outside the city. There was also the man afterwards called Count of the Channels, whose office was to care for the aqueducts, which they called *formae*.

§ 6. Formerly all took care that public works should be magnificent and beyond a private scale. All were bound to contribute toward them, although Senators were sometimes excepted, book 5 in the Theodosian Code.

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A Curator bound not only himself but also his heir; indeed, so that the works would be solid, he was liable for a defect within fifteen years. It was forbidden that anyone inscribe his name unless he constructed the work at his own expense. It was not permitted for a private person to dwell in public buildings. A new work ought not be begun unless the old one is completed. Accordingly, the Aedile can apply money bequeathed for a new work to restoring an old one, provided that it is one of the public works.

CHAPTER XXVII

Prefects of the Food Supply Must Be Appointed with Great Care

§ 1. Lucius Minucius was selected as the first Prefect of the Food Supply; he reported to the Senate that Spurius Maelius was devising plans for kingship. Thus Livy, book 4. Pompey's prefecture was the most powerful of all, for he possessed greater command in the provinces than the men who administered them by lot.

Augustus himself discharged the prefecture; when already an old man he substituted Turranius for himself, and thereafter it was an ordinary Magistracy. Cassiodorus describes its office in book 6 of the *Variae*, 18: "It belongs to your diligence that the food supply be prepared for the most sacred city and an abundance of bread overflow everywhere. You make the rounds of the bakers' workshops and foods; you exact the prescribed weight and cleanliness of bread. You mount the carriage of the Prefect of the City with just glory. At spectacles you are found most closely joined to him. If a complaint over bread, as is customary, is aroused, you, the promiser of abundance, dissolve civic seditions by instantaneous satisfaction. Not undeservedly is Pompey said, through the quantity of provisions furnished, to have arrived at the highest pinnacle of affairs. The privileges of the bakers have been made subject to your dignity; these extended through the various parts of the world with the widest possession. Assassins who are discovered also seem to be assigned to your examination. The Praetorian Prefecture procures the supplies of wheat; the Prefect of the Food Supply dispenses them and examines the bread by weight."

He was furnished with Apparitors and through those whom they called Compulsors of the office exacted the established contribution. How greatly care for the grain supply aided the people is shown by the city in the war waged with Porsena. Livy, book 2: "Never before had so great a terror assailed the Senate, so powerful then was the Clusian state and so great Porsena's name. They feared not only the enemies but even their own citizens, lest the Roman plebs, struck by fear, should receive the Kings into the city and accept peace even with servitude. Therefore many conciliatory favors were then granted to the plebs by the Senate. Care was taken first of all for the food supply, and men were sent to procure grain, some to the Volsci and others to Cumae. The power of selling salt, because it was sold at an excessive price, was taken from private persons into public hands at the whole expense. The plebs was also freed from tolls and tribute, so that the rich, who could bear the burden, should contribute; the poor paid tax enough if they reared children. Accordingly, amid the harsh conditions which followed during siege and famine, this indulgence of the Fathers held the state in such concord that the lowest no less than the highest abhorred the name of King; nor was any single man afterwards so popular by wicked arts as the whole Senate then was by good government."

Complaints, murmurs, and even seditions arise from nothing more frequently than from scarcity of grain: Suetonius in *Octavian*; Symmachus, book 2, epistle 6; Marcellinus, book 21. At first, when Rome maintained its multitude and idleness from the harvests of others, Sicily was its granary; Sardinia was added, then Africa, and finally Egypt. Greece and Macedonia sometimes bore a part when the Libyan harvests failed.

Victor enumerates the warehouses and mills in this manner. In the first region at the Porta Capena: 13 warehouses, 20 mills. In the second region at the Caelimontium: 23 warehouses, 12 mills. In the third region: 18 warehouses, 12 mills. In the fourth region: 8 warehouses, 12 mills. In the fifth: 23 warehouses, 12 mills. In the sixth: 18 warehouses, 20 mills. In the ninth: 22 warehouses, 20 mills. In the tenth: 48 warehouses, 20 mills. In the eleventh: 16 warehouses, 12 mills. In the twelfth: 26 warehouses, 20 mills. In the thirteenth: 26 warehouses, 20 mills. In the fourteenth: 22 warehouses, 22 mills. I do not doubt that there were more at one time, and the *Register of the Roman Empire* indicates it. This is the total of the warehouses.

§ 2. There was a twofold construction of warehouses. Some were subterranean, as Vitruvius says in book 5, chapter 9: "Built sewers are dug and hollowed out as deeply as possible; those places, furnished with boards, are filled with

charcoal; then above it those walks are strewn with gravel and leveled so that they are dry.” In these are the treasures of the city. For salt is easily brought there, and grain is more expeditiously gathered both publicly and privately.

In Philo, grain is heaped up not in such caverns but in upper rooms. Their walls, and the floor itself, were smeared with the dregs of olive oil; they had several windows toward the North, with nets stretched before them.

Warehouses had not only Curators but also Superintendents and Counts, and they were held in great honor; for to preserve the city’s food supply is a dignity no less than to preserve the treasury.

§ 3. The Prefecture of the Food Supply had its origin from the Greeks. The Athenians call its officers **σιτονόμους** and **σιτῶνας**; Suidas calls them **σιτοφύλακας**, and says that there were fifteen in the city and five in Piraeus. The Aetoli called them **ἀγορανόμους**, as is found in Plautus.

Now Princes who look to stable rule apply themselves with great spirit to preventing a failure of the food supply; for subjects draw all the things they suffer into the disrepute of the Magistrate. By caring for the food supply the Venetian Senate purchases the love of the plebs, for one will not easily find greater care of the food supply. On the contrary, although the Emperor of the Turks possesses the widest and most fertile regions, which formerly fed even foreign kingdoms, he chastises his subject people with perpetual famine. For because, through the harshness of his rule and the rapacity of his ministers, he reduces the land to a wilderness, it is cultivated only listlessly. They sow only as much as is necessary for themselves; the Collector of the established tax and the Attendant take away the surplus, or the things which are customarily laid away for use.

§ 4. To have care of a part of the food supply was formerly considered honorable. He was called the Grand Bread-Master, or Superintendent of Bread, who was accustomed to correct the bakers, examine the weights, and set the price of wheat.

CHAPTER XXVIII

A Consideration of the Tribunes of the Plebs

§ 1. The Magistracy of the Tribunes of the Plebs was sacrosanct. They possessed the right to convene the Senate and to impede whatever they judged opposed to the interests of the plebs; for their principal power consisted in opposing: they interposed their veto and prohibited. Then, in the course of time, the strength of the Tribunes increased so greatly through continual contentions that they ordered Consuls to be led to prison and often cast the fatherland into the utmost danger. For this reason Augustus and the other Emperors retained the tribunician power continuously,

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so that they numbered the years of their rule from each renewal of the tribunician power. Although great disadvantages and continual dissensions arose from this contest between the Tribunes and the nobility, the persistent devotion of the people nevertheless always retained and defended them. Indeed, the imperial laws also established Defenders in the cities; and even now they are found in most free cities, except where the power of the patricians has subjected everything to itself. The office of the Defenders lasted five years, as did that of the Censors among the Romans.

§ 2. Their power was various. First, they judged matters of lesser importance and cases among persons of slender means, up to fifty solidi. Thus the Emperors Valentinian and Valens to Seneca the Defender: “If anyone among those of slender means believes that he ought to bring a complaint concerning rather small matters, in lesser cases—that is, up to the sum of fifty solidi—he shall prepare judicial acts; namely, so that if at any time anyone has claimed either a just debt, or a slave who had escaped by flight, or that which he had paid beyond his assessment, or anything else of this kind, you shall restore it by your adjudication. But you shall bring the other matters, which appear worthy of the magnitude of the forum, to the notice of the ordinary Governor.”

§ 3. They were chosen not from the order of Decurions but from the citizens. The same Emperors to Probus: “The Defenders of the cities shall be appointed to this office not from the body of Decurions or Cohortales, but from other suitable persons.” Rightly indeed; for the Decurions in the cities were like the Patricians at Rome, against whom the remaining plebeian citizens sought defense. Therefore Defenders ought not to be supplied from the body of their adversaries, but from those whose interest it was that the interests of the plebs be preserved and defended. Illustrious and Spectable men who had discharged great dignities could nevertheless undertake the honor, provided that they were not Decurions.

§ 4. No one could evade that honor, neither Illustrious men nor soldiers. Novel 15: “Meanwhile this must first be known: that no man is to have license to decline appointment as Defender, but all the nobler inhabitants of the cities shall in turn fulfill this ministry for them. For we have learned both that this prevailed in earlier times and that it was practiced in the state. We permit no one to decline this, not even if he is honored with the dignity of the Most Magnificent Illustrious men, nor if he possesses an honorable military office, nor if he produces his privilege from divine rescripts, nor if pragmatic sanctions have been conferred; rather, the inhabitants of the city who possess some means shall fulfill it in rotation, and when the rotation is completed, they shall return again to the charge and minister the aforesaid care to the city—so that in each city the Defender may appear to be a Judge rather than a Defender. He is to be appointed by a decree made under oath by all the landowners residing in that city, but not those living in this City; and he is to take an oath that he will conduct all things according to law and right and for the common good of all. He is to be confirmed, as now, by a precept of our Most Glorious Prefects; he is to administer alone for a biennium; and the Most Distinguished Judge of the province is not to have license to remove him from his charge. But if they appear to do anything improperly, he shall report it to the Most Glorious Prefects, so that deprivation of the charge may come to him from the same source from which it is also given. Neither the Governor nor the Defenders

themselves shall have any license to create deputies of the Defenders; rather, we forbid this also to all of them in every manner. Nor shall the Most Distinguished Judges dispatch their own deputies through the cities, but only the Defenders themselves, whom we wish to fulfill the office of Judges in the cities; and they themselves shall employ diligence in all the cities in which they are.”

§ 5. The laws judged the defense of persons of slender means to be of such importance. Thus Valentinian, Valens, and Gratian, Emperors, to the Senate: “It has been provided by a useful measure that innocent and peaceable country people should enjoy special patronage through the benefit of a local Defender, and should have the ability to litigate monetary cases before him.” They stood in the place of parents to the plebs. Gratian, Valentinian, and Theodosius, Emperors: “Among the Defenders of all the provinces this shall be the form of administration, and its time shall be measured by the span of five years: namely, that above all you show yourself as a parent to the plebs; that you do not permit country people and city dwellers to be afflicted by tax assessments; that you meet the insolence of officials and the forwardness of Judges--while preserving the reverence due to modesty--having free ability to approach the Judge whenever you wish; that you exclude the losses occasioned by demands for excessive payment, or the spoils taken from those whom you ought to protect in the place of children; and that you do not permit anything beyond the customary assessment to be exacted from those whom it is certain cannot be restored without such a remedy.” Thus this single remedy was established for the poor against so many Quaestors, Exactors, and Agents in Affairs. They possessed the right of arrest. Novel 5, chapter 6: “For this is necessary to defense, for which reason the Tribunes of the Plebs also obtained it.” Indeed, they had charge of discipline, as Valentinian, Theodosius, and Arcadius, Emperors, state: “Throughout all regions in which the savage frenzy of brigands, conscious of its own danger, is raging, let all the most approved and most rigorous Defenders of discipline be present and preside over daily proceedings. Let them not permit crimes to grow strong with impunity; let them remove patronages which, by imparting favor to the accused and assistance to criminals, have caused crimes to ripen.” They send persons apprehended to the Judge. Arcadius, Honorius, and Theodosius, Emperors: “The Defenders of cities shall immediately send under suitable guard to the Judge persons accused who have been offered to them after being apprehended in the very act of brigandage or a violent encounter, or after the commission of homicide, rape, abduction, or adultery, and who have been delivered to them by public acts, with the crime expressly stated and together with those by whom they were accused.”

§ 6. Yet, lest they rage beyond their office in the manner of the Tribunes, provision was made: “Let the Defenders, insolently claiming nothing for themselves and claiming nothing undue, discharge only the office signified by their name. Let them impose no fines and conduct no more severe examinations. Let them protect the plebs or the Decurions from all insolence and rashness of wicked men, so that they do not cease to be only that which they are called.” They applied themselves especially against the frauds of tax-receivers and the plunder of officials. Honorius and Theodosius: “We command that Defenders be appointed in such a manner that, initiated into the sacred mysteries of the orthodox religion, they are established by a decree of the Most Reverend Bishops, as well as of the clergy, Honored men, landowners, and Curials. Their appointment is to be reported to the Most Illustrious Praetorian authority, so that their authority may be made firm by letters from that Magnificent See. But if the Defenders learn that anything is being done by any person contrary to public discipline and to the injury of landowners, they shall have power to report it to the Illustrious and Magnificent men, the Praetorian Prefects; to the Illustrious men, the Masters of Horse and Foot; to the Master of Offices; and to the Counts both of the Sacred Largesses and of the Private Estates.”

§ 7. But because it sometimes happened that they acted treacherously and became enemies instead of Defenders, whether through avarice, fear of the more powerful, or affinity with them, suitable men were sought with great care--to such a degree that they were appointed even by the votes of the Bishops. Thus the same Emperors decreed: “We command that through the care and diligence of the Defenders landowners are by no means to be burdened by tax-receivers with larger measures and weights; rather, those detected shall be sent to trial together with the proof of the fraud committed.

“We also permit the following to be done: if our provincials wish to attest their injuries or losses and the Defenders deny them the preparation of acts, they shall be granted license to post, in the less-frequented places of the cities and at the time when the attestation ought to have been made, a written petition of their own complaint; to summon the scribes, record-keepers, and the other public offices which must be given notice through that petition; and to thrust it, despite the unwillingness of the persons named above, among the preparation of the acts. Their testimony may be investigated by examination, and when it has been proved, judicial rigor shall be exercised against those who are established to have denied the requested preparation of the proceedings.”

§ 8. Finally, lest they disturb the state in the manner of the Tribunes, their offices were so harassed that at length the power ceased, and, after the poor had been afflicted, the state perished. Defenders of ecclesiastical affairs were also established, whom they called ἐκδίκους and Syndics, and their authority today is great in both State and Church. Their office is ἐκ πάσης τῆς ἀδικίας τὰ πράγματα ἐκδικήσαι ἐλεύθερα, to vindicate affairs and causes as free from every injustice. Now the office of Syndic is perpetual; formerly it was a περιοδικὸν πολίτευμα, a Magistracy returning in rotation.

§ 9. The destruction of all states has been more fateful from no other thing than from this Magistracy of Defenders. In the beginning peoples created Kings lest the weaker be oppressed by the stronger, and equipped them with great power and honor. After the Kings turned their benefits to the people’s destruction, the people sought safeguards from the Optimates against the Kings. When the Optimates too appeared to be no more gentle than the Kings, the people created Tribunes from their own body, so that, because the danger was common to them, their care in defending might be more exact. But there is a twofold error in them: for either they are ruled by the multitude rather than rule it, or, to win the favor of the powerful, they permit the liberty of the plebs to be oppressed. Thus fidelity is safe nowhere except where morals are good. The Aediles of the Plebs were joined to the Tribunes of the Plebs; with the Tribunes’ permission they pass judgment, appoint a day for those who possess more than is permitted by law, establish laws against the luxury of women, restrain usurers, and also have charge of grain.

§ 10. Municipalities and other cities had their own Magistrates. They consisted of Curials and Principals, although those who had discharged a Magistracy were customarily called Principals in the proper sense. Under the final period of the Empire they possessed their own Consuls. In the ancient centuries they called them Duumvirs; in place of these others preferred Five-Men. In Greek they called them Demarchs and ἄρχοντας, I believe; some Italians called them Dictators or Aediles. Unless Governors, and indeed the Emperor himself, took notice, the state was most grievously afflicted by these men; for they were generally created from the nobility and were hostile to the needy. Hence it came about that, just as Tribunes were chosen at Rome, so Defenders were chosen in the cities to protect the poor plebs. But in order that the reader may perceive how greatly it matters to have a multitude of Defenders and to have the weak defended sincerely, and what the condition of the Defenders was under Justinian’s Empire, Novel 15 must be read:

Unless we speedily restore the care of Defenders through a competent office, we shall no longer possess even the truth of the ancient names. For some names have different significations from antiquity according to the part they play in affairs; but this name “Defenders” demonstrates purely that antiquity placed certain men over affairs so that they might vindicate them as free from every injustice. Indeed, for this reason we call them Defenders in our ancestral tongue, so that they may rescue those who suffer injustice from evils. But now this name of Defenders has been greatly trampled upon in many parts of our state and so despised that it lies in disgrace rather than in any honor. For obscure men are appointed, and decrees concerning them are tainted by pity rather than by election. Those who have no sufficient means of food and life beg for appointment as Defenders and approach this charge; and judgment is subjected to arbitrary wills as though to some game of dice. Finally, they remove them whenever they wish, although they commit either no fault or the very smallest one, and they advance others to their office, making them, as it were, temporary occupants of the Defender’s post. They do this frequently in a single year with many men, so that officials, Judges of the cities, and their inhabitants ultimately hold the Defenders in contempt. The acts performed by them are regarded as though not performed. For if the provincial Judges obtain their wish, the Defenders--serving them in every respect and attending only to their nods--by no means presume to prepare

certain proceedings and records before themselves. But if some are prepared, they first sell even these; then, because they have no archive in which to deposit the proceedings conducted before them, that which is prepared perishes. You will by no means find any record at all from many years deposited with them; rather, those who have an interest in these records seek the proceedings from their heirs or other successors. Of these, those which are found are worthy of no confidence, while others truly perish and fall into such a condition that they are regarded as not performed. We, therefore, since we have ordered matters well concerning the Judges and have made their powers greater among the nations, while the inspection of the cities is far removed from them, believe that it is necessary also to establish provisions concerning the Defenders. For there will thus be a useful harmony if the Defenders of cities assume the office of Judges; and the Governor of the province will appear to be a Judge of Judges rather than a Judge, and more honorable in this respect than those who preceded him. For the more anyone presides over better men, the greater and more honorable he himself is.

§ 11. For this reason the Kings of Spain most prudently established Defenders and Patrons of the Indians in both Indies, to protect them from the rapacity and cruelty of soldiers, Prefects, and Governors. The Bishops and Prelates applied themselves vigorously and earnestly to this cause.

CHAPTER XXIX

The Very Great Care Required of Quaestors and Administrators

§ 1. Among the ancients there were two kinds of Quaestors, Urban and Provincial. The Urban were called either Quaestors of the Treasury, or Quaestors of Parricide, that is, Capital Quaestors. In this place we treat not of investigators of crimes but of Magistrates of the Treasury, who manage the patrimony of the state. In no matter is there greater danger; nowhere is a fall easier even for steadfast men. The Wise Man spoke most wisely: “Blessed is the man who has been found without blemish, and who has not gone after gold, nor placed his hope in treasures of money. Who is he, and we shall praise him? For he has done marvelous things in his life.” To receive and expend a great sum of money, amid great opportunity for gain and over a long time, without suspicion of fault is arduous; not to employ one of the thousand arts of plundering which lie ready to hand belongs to a most upright spirit. When I consider the things which I either read have been done or hear are being done, I perceive that in no class of offices are more frauds admitted, or greater or more frequent punishments inflicted.

§ 2. The Quaestorship was granted in the twenty-seventh year,

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after ten campaigns. Some refer its beginnings to Romulus, others to Tullus Hostilius. But its beginnings must have been slight, as in a poor kingdom. For those two shepherds could be Quaestors for themselves, when

One hearth was the brothers’ greatest kingdom.

When Valerius had established the treasury, he created two Quaestors in the Curiate Assembly. Sigonius, book 2, *On the Ancient Law of Roman Citizens*. See π., book 1, title 13, *On the Office of the Quaestor*.

§ 3. All the duties of the Quaestors were, as it were, private; for they possessed no command, did not use a curule chair, fasces, or lictors, and were permitted neither to summon anyone to plead a cause nor to arrest anyone. They could be summoned into court by any private person. They had only this in common with Magistrates: that they could convene an assembly. Dionysius, book 8.

The treasury and revenues of the Roman people were entrusted to the care of the Quaestors. They disbursed both public and private money, deposited it in the treasury, and entered receipts and expenditures in the accounts.

They received Ambassadors, provided lodging and *lautia*, furnished gifts and provisions--even clothing--and took care that neither the Ambassadors nor their companions lacked anything. They also undertook the care of the sick, and if they died, conducted the funeral at public expense. They also preserved the decrees of the Senate, but this duty was transferred to them at a late date.

Two honors were granted to the Quaestors. First, they brought forth from the treasury the military standards for a Consul setting out to war. Second, those who were going to seek a triumph had to affirm under oath before the Quaestors that the number of enemies and citizens killed had been reported truthfully to the Senate.

§ 4. Quaestors were at first created from the Patricians; afterward the power was shared with the plebs. Livy, book 4, records a remarkable example of the people’s despising its own Tribunes and choosing nobles: “All the Tribunes, inflamed by this insult, were indignant--Pompilius and Antistius before all the rest. ‘What,’ they said, ‘was the meaning of this? Neither by their own benefactions, nor by the wrongs of the fathers, nor finally by the desire to exercise a right--although what had not previously been lawful was now lawful--had they prevailed so that, if not a Military Tribune, not even any Quaestor should be made from the plebs. The entreaties of a father for a son, of a

brother for a brother, and of the Tribunes of the Plebs, whose sacrosanct power had been created for the aid of liberty, had not prevailed.”

Afterward Quaestors were created to accompany the Consuls to war and to furnish the things necessary for the army. The place assigned to them was called the *quaestorium*. In Livy, book 10: “An attack was made upon the rear of the camp, at the Decuman Gate; and so the *quaestorium* was taken, and the Quaestor Lucius Opimius Pansa was killed there.”

§ 5. Proconsuls and Proprators possessed their own Quaestors in the provinces. These too obtained provinces by lot, just as the Consuls themselves did. They used Lictors to represent the majesty of their command. They also wore the bordered toga, administered justice, and appointed *recuperatores*; Praetors sometimes entrusted command to them. Otherwise their proper duty was to give, from money received from the treasury, pay to the armies and the Praetorian cohort and traveling-money to Ambassadors; to exact the revenue money; and to carry it back into the treasury. They did not always enter the provinces at the same time as the Proconsuls and Proprators. From this it is apparent how great the abstinence and integrity required in Quaestors, especially Provincial Quaestors, who with such great power hung over the fortunes of the allies.

§ 6. The Emperors later changed the name of the Quaestors, for the Counts of the Sacred Largesses held the office and power of the Quaestor. To this Count was entrusted the care of the imperial treasuries; this fund was available to the Prince for exercising liberality. For from the treasuries all expect the Prince’s liberality, and it befits a Prince to hold wealth for liberality, not for avarice. Arcadius and Honorius write to Limenius, Count of the Sacred Largesses, Code, book 1, title 32: “Let them know that four-month accounts are also to be sent to the Palatine office, and that the gold exacted is to be sent to the Sacred Largesses without any delay.” He had several Counts stationed throughout the provinces, who presided over the collection of money. For the Counts of Mines, Commerce, and Wardrobes, as also the Accountants of the General Funds, the Superintendents of Treasuries, the Procurators of Mints, the Procurators of the *Gynaecia*--for so they called the sacred weaving-establishments--and likewise the Procurators of the Dye-Works, and whatever was serviceable for making money, belonged to the Count of the Largesses.

He presided over the striking of coin; for he acted so that the countenance of the Prince was impressed upon the metals in common use. Cassiodorus, book 6, formula 7:

To him are entrusted the sacred wealth and the tributes

Of the possessed world, whatever gold is rolled down by rivers,

Whatever, far from daylight, the hidden industry of the pallid Bessian,

Searching out the following veins, digs forth.

§ 7. The custom of other nations was not dissimilar. Among the Athenians there were Magistrates called **Ταμίαι**, ten in number. Harpocration describes their office: **Παραλαμβάνουσι δ’ οὗτοι τό τε ἄγαλμα τῆς Ἀθηνᾶς, καὶ τὰς νίκας, καὶ τὸν ἄλλον κόσμον καὶ τὰ χρήματα ἐναντίον τῆς βουλῆς, εἰσὶ δὲ τινες καὶ τῶν τριήρων ταμίαι.** “These Quaestors receive the statue of Minerva, the Victories, the rest of the adornment, and the money in the presence of the Senate. There are also certain Quaestors of the triremes.” Hence came those Roman laws. Hence among other nations there were **γαζοφύλακες, ἐπιμεληταὶ τῶν θησαυρῶν, καὶ δημοσίων χρημάτων, θησαυρῶν προεστώτες, ἐπιτροπεύοντες τοὺς θησαυροὺς, ἐπαρχοὶ καταλόγων**: keepers of the treasury, overseers of treasures and public moneys, men set over treasuries, men administering the treasuries, and prefects of the registers. Such a man is found in 2 Maccabees, chapter 3. Heliodorus was **ὁ ἐπὶ τῶν χρημάτων βασιλείας**--one who was set over the King’s treasury. The name of Quaestor did not afterward become obsolete, although the office was transferred to others. Codinus says that in his own time the Quaestor had no office, although formerly he had possessed one. In Menander, *On Embassies*, Gaius is sent to the Persians, being one of the royal Fathers, **καὶ τὴν λεγομένην κοιναιστωρ ὀφέτταν ἀρχὴν ἐν αὐτοῖς τελέσας**, “and exercising the authority of Quaestor.” Was it perhaps restored at that time? Or was the **ἀρχή**

without a function and merely the name of a dignity? It is assuredly established that the Count of the Largesses and the Quaestor existed at the same time, as in law 12, Code, title 6: “Those who have flourished through the honor of the Quaestorship, through official mastery, or through the dazzling splendor of the Countship of either of our treasuries shall be received with the customary acclamation and shall not be passed over as unknown.” Given on the eighth day before the Kalends of July at Thessalonica, in the fifth consulship of Gratian and the first of Theodosius, Emperors. Thus was it decreed by the Emperors Gratian, Valentinian, and Theodosius.

§ 8. The Quaestorians were those who handled some part of the Quaestorship. The **λογοθέτης στρατιωτικός**, who in Latin is named the Accountant of the Military Treasury, was one of them. Zonaras, volume 3. Afterward they were called Treasurers, who kept money safe in the individual provinces until they sent it at the established time to the Count of the Sacred Largesses. Special provision was made for their fidelity, because they had to give security.

Third, it was the one principal duty of all Governors of provinces that they should attend to the tributes and see that they were sent safely

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to the Count of the Largesses, as in Novel 134. Indeed, not even places of asylum could protect anyone, as Justinian decreed in Novel 17: “You shall see that the exactions of public tributes are made in a seemly manner even within the temples, since the fiscal account is useful and necessary to soldiers, private persons, the temples themselves, and the entire state. The Defenders and Stewards of the Churches, beloved of God, will also assist you, neither snatching from exaction any of those who exact fiscal tributes, nor permitting those who bring the exaction to suffer any violence or sedition; for they know that if they do anything of this kind, they will be compelled to satisfy the fisc from their own property.”

Fourth, because Financial Administrators were assigned to the Governors for collecting tributes, they were called **διοικηταί**, but the Great Financial Administrator was the one to whom the collected revenues were delivered. The Great Financial Administrator who resided at Constantinople appears to have been the General Quaestor, and perhaps at some time held the office of the Count of the Largesses or acted in his place.

Fifth, because there was never an end of frauds and the fisc possessed many champions, other men too were appointed, called **λογοθέται**, whom they called Auditors; they were examiners of the public accounts, relieved those unjustly burdened, and sometimes defined the measure of the revenues. A Theodosian law concerning them survives in law 2 of the Code, *On the Jews*.

For the same reason there were Exactors, or Executors. All who were sent under any right whatever had to disclose everything to the Governor. Thus the Emperors Arcadius and Honorius established, Code, book 12, title 61: “Lest a Palatine Exactor approach through divided parts of the provinces, or an Apparitor of Illustrious men wander about, or military terror bring fear, we ordain by this law that all the persons mentioned shall attend to the Governor of the province and act with him. With him pressing, directing, and taking cognizance, they shall transact the matter at his peril and fulfill everything.” Given on the seventeenth day before the Kalends of July at Milan, in the consulship of Olybrius and Probinus.

Indeed, he must also prove his case to the Judge. Thus the same Emperors established: “Whether anyone has been dispatched from the Praetorian office, from the Illustrious Countship of the Sacred Largesses, from the service of our Private Estate, or from any body of Apparitors, for the accomplishment of any necessity, let him know that within the bounds of one year he must, after gathering his accounts, return to his own Judge and show him his effectiveness: what was exacted through his urgency, what remains among the debts and with whom it remained, or through whose fault or for what reason it was left in the same province. But if, after the space of a year has been completed, he is detected lingering in the bowels of that region, lying in wait as a plunderer, then, stripped of his military belt, he shall be cast out. A fine of ten pounds of gold is imposed upon the chiefs of that service if he evades returning; and, bound with iron

chains by the successive offices, under the care of the provincial office, he shall be sent to the examination which is due. Nor shall he be free to defend himself by this privilege or pretext: that he alleges another business or another necessity was imposed upon him afterward, since we take from the same persons license to continue an exaction in the same province.” Given on the tenth day before the Kalends of October, in the eighth consulship of Our Lord Theodosius Augustus and the consulship of Pallas.

Sixth, those called Dispatchers and Canonical Collectors were subject to the same laws. Cashiers too were appointed not only to guard but also to exact the tributes.

Seventh, the variety of business compelled the establishment of another Master in this class. He was the Master of the Census; before him declarations, wills, and gifts were published, and the Census-Officers obeyed him. It belonged to them to be present at public acts and preserve them; those who exhibited public games deposited money and prizes with them. But the matter in which the Census-Officers were chiefly occupied is established from Novel 17: “You shall compel the public Exactors to make everything evident in their receipts concerning those matters for which they gave them: namely, the quantity of *zygocephala*, or yokes, or yoked lands, or by whatever name they are called throughout the regions; the estates for which these and any other things are exacted; and the quantity given, whether in kind or in gold. You shall threaten them both with a great penalty and with amputation of the hand if henceforth they do not in every manner observe that which is always commanded but until now has not been observed. But if, as is customary, they discover some evasion, saying that the quantity of the yokes cannot be entered, we indeed believe that they are acting maliciously above all; yet neither the fisc nor the contributors shall be injured thereby. For the fisc shall receive everything belonging to it without prejudice, and those who have paid these things shall receive receipts completed in due form, with nothing more to be exacted. The cause shall be harmed in no respect, and according to custom the tributes shall be paid by them and brought into the fisc. But it shall be reported to our Most Glorious Prefects concerning these Census-Officers, who must first be compelled to give minutely the aforesaid statements, so that from this an adjudication of the matter may be made. And thus, meanwhile, the fiscal payments being made according to custom and brought in without fault, whatever our Most Glorious Prefects shall judge concerning those matters which are in doubt shall prevail in the matters which are disputed. After the truth concerning these questions has been learned, the Exactors shall be under the necessity henceforth to describe in those receipts also the quantity of the *zygocephala* and of all other things, in accordance with what has thus been ordained by us.”

§ 9. Not all the duties of the Curials were different from these. For although they were the most honored men of the cities, and the Senates and sinews of the cities, they were nevertheless compelled to sustain the burden of exacting the tributes; indeed, frequently, while the interest of the fisc was being hastened, they were compelled to pay for persons of slender means. They were also called Decurions. The government applied itself to collecting money to such a degree that almost all men in a Magistracy were Quaestors or their assistants. For this reason the Decurions followed and tracked every method of plundering, so that they might not suffer loss. Salvian rightly says in book 4: “The Roman state, either already dead or at least drawing its last breath, is dying in that part in which it still appears to live, strangled by the bonds of tributes as though by the hands of robbers.” The Emperor Anastasius appointed *Vindices* to restrain the unjust exactions of the Decurions and to make the exactions themselves; but, enticed by the sweetness of plunder, they advanced more oppressively, so that Justinian rightly removed them. It was an honor of the Decurions that they could not be subjected to the tortures of plebeians. If they embezzled public money, they were beaten with leaded whips. At their own peril the Decurions nominated a Tax-Receiver to collect the tributes; those who had nominated or consented to him were compelled to give security for him. He deposited in the warehouses not only money, but a fiftieth of the wheat, a fortieth of the barley, and a twentieth of the wine and lard. But the arrangement concerning the Decurions and the *Vindices* is explained in Novel 38:

Those who formerly ordered the state for us thought that it was necessary, after the model of the Royal City, to unite the noble men in each city and to give each Senate a Curia, through which public affairs ought to be conducted and all things done according to order. Thus, therefore, the condition flourished; thus it was illustrious,

because the households of the Curials were great and populous and there existed a multitude of Curials. What appeared to be the burden of public functions was utterly intolerable to no one. For that which is divided among a multitude renders the burden almost imperceptible to those who sustain it. But when they began, one by one, to remove themselves

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from the roll of the Curia and to discover occasions through which they might be made free from these obligations, the Curiae were thus gradually diminished by the invention of innumerable occasions through which private affairs might fare well while common and public affairs were diminished. Therefore the public functions, reduced to a few men, disturbed their resources also, and the cities were so diminished that, when the Curia had been reduced beneath those ruinous Contractors whom they call *Vindices*, it came about that the state was made full of deficiencies and full of every injustice. We, often examining these things, judged that it was necessary to apply a remedy to the condition. Yet, to the same extent that we labored in this, the Curials discovered every art against those things which were rightly and justly ordained and against the fisc. For when they saw themselves compelled by every means to preserve a fourth part for the Curia--and this had scarcely been imposed by our laws--they began to tear apart their own resources so that they might die with less property and leave to the Curia not a fourth portion but immediately all their poverty. Finally, because they wished to defraud the Curia even of their own bodies, they discovered the most impious expedient of all: we learn that they abstained from marriages, so that they chose rather to die without children than to die subject to the law or to appear useless to their own family or to the Curia.

The condition of the Decurions was altogether harsh, so much so that many preferred to follow armed military service, as is established from the Code, book 12, title 34. Sometimes they remained obstinately in hiding, and then their goods were granted to those who belonged to the duties of the Duumvirate. Since, therefore, they were compelled to the Decurionate in so many ways, it is established that its administration was extremely difficult.

§ 10. Today these matters have been more advantageously provided for, especially where the handling of money is divided among many; for among them some are always found who do not wish to deceive, and because of them the others either cannot or dare not do so. In the Kingdom of France there is a Council which they call the Council of Finances, in which there are Quaestors and Superintendents. There is also the Court of Aids, or Contributions. Charles VI, King of France, imposed a revenue upon wine and other merchandise; so that the peoples might bear it more lightly, he called it an aid. Over it he placed two Clerics and two Laymen of known integrity and fidelity. Then, when controversies arose, a Bishop as President and three Councillors, together with a Procurator and an Advocate-General, were added. Afterward these judgments were transferred to others, and the number of Councillors and Presidents was increased by Charles VII, Louis XII, and Henry II. Meanwhile the Masters of Accounts and Receivers of moneys are bound to render an account in the Chamber, whose Procurator takes cognizance of crimes committed by Accountants and Treasurers.

It has also been rightly established that four Treasurers-General of the Domain travel throughout the provinces entrusted to them and take cognizance of the lesser Treasurers.

Nothing is more pernicious than to have Treasurers of Casual Revenues who receive money paid for offices and dignities. Louis XIII has now abolished this with a fortunate beginning.

Nor ought it to be passed over that the President of the Treasury, and as it were the Supreme Quaestor or Count of the Largesses, is called among the French the Treasurer of Savings, so that they may indicate that the Royal Treasury increases through nothing more than through the economy and frugality of the Prince. His duty is to command the Treasurers of War to pay the soldiers' stipends. They do this through Commissioners and Paymasters, to whom Counter-Scribes are joined.

§ 11. The origin of the ἀντιγραφέων, or Counter-Scribes, as they are now called, is very ancient. Aristotle advises that public money be delivered in the presence of the citizens and that duplicate records be written, so that it cannot be embezzled.

These men continually adhere to Receivers, Treasurers, Tax-Receiver, and Equalizers, so as to impede frauds. France has therefore departed little from the ancient state; and where it has changed, it has established matters more rightly. First, it possesses a Treasurer. Next, it is not a Governor or Quaestor who judges concerning the tributes, but a Council, whose judgment is always more sincere in this cause. Then it has four Receivers-General of the assessed contributions; in each Election there are two Receivers, who carry the money of their Province to the Receivers-General. They too are assisted by Equalizers, who, in accordance with equity and fairness and according to the resources of each person, apportion and collect tributes throughout the parishes. If all these things are administered by men of upright life and haters of injustice, an immense sum of money can be collected without molestation of the subjects.

Nor is the Belgian Quaestorship dissimilar. For the Council of Finances handles monetary affairs, and in it the Treasurer and Receiver possess principal authority. That Council directs all public expenditures. It has annexed to it the Chamber of Accounts, in which all others to whom money has been entrusted are compelled to render an account to seven Masters of Accounts.

§ 12. Among the Spanish there are different Quaestorships in the various Kingdoms. In the Palace itself is the Council which they call the *Hazienda*. Three Quaestors, whom they call *Cantadores* and who from their dignity are called Majors, meet in it several times each week; an equal number of Minor Quaestors are joined to them, together with a Secretary, a Reporter, and Councillors of the Chamber. The matter of their deliberations consists of all revenues, debts and their payments, mortgages, alienations, and recoveries.

Controversies concerning money are decided by the same Quaestors, with four other Auditors and one Secretary joined to them. That Council is called the *Cantadoria*.

The same Officials have others, when they meet in Council, whom they call *Cantadores de Cuentas*; for in it the revenues of all the Provinces and Kingdoms are recorded, and accounts are given of receipts and expenditures.

§ 13. The Quaestors of the Genoese preserve and increase the state. I find their arrangement described in this manner. Bell., volume 3: “But in order that the citizens might be rendered more eager to disburse money to the state, security was given to creditors by assigning certain pledges and revenues from duties on grain, wine, or other things, and so forth. And this contract, as it were, between the state and private persons was called a *Compera*. It was added that those who had given one hundred pounds as a loan should hold one new place in this Society, as it were; those who had given two hundred should hold two places; and so on. Thus *Comperae*, or Societies of this kind, were greatly multiplied; some of them were called those of the Chapter, others of Saint Paul, others of salt, and so forth. Each of these was administered by certain citizens, whose task it was to take care that the creditors were duly satisfied and that the accounts between them and the state were justly preserved.

“But when, as is customary, confusion had arisen from the great multitude, it was decreed that all should be reduced into one body, upon which the name of the *Compera*, or Chamber, of Saint George was bestowed; and its care was likewise entrusted to certain Citizens. Since they administered the duty entrusted to them with singular industry and prudence, while public necessities required great expenditures, the number of Holders of Places--for we said above that those admitted into this Society were so named--grew greatly. Thus, after a great part of the public revenues had been pledged, the responsibilities and business under the care of this Office increased in a remarkable manner, and towns and territories also came under its jurisdiction.

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“Hence it came about that this Society obtained many privileges, first from the state itself, then from Pontiffs, Emperors, and other lords of the city. Thus, although this office depends upon the state itself and those who govern the palace, it is nevertheless not subject to the Urban Magistracy. Rather, all who undertake any part of the state are compelled to promise and swear that they will preserve its privileges inviolate. But just as in nearly all matters beginnings are very slender and despised, yet in the course of time gradually strive toward perfection, so it has also happened in this Office or Magistracy, whose form today is much better and more perfect than it was formerly. For as regards the calculation of the advantage or profit to be received by a Holder of a Place, something certain is no longer prescribed or determined, as formerly, but all things are directed according to the proportion of revenues and expenses, as also toward the preservation of those matters whose care has been entrusted to this Office, and according as the revenues have been more or less productive. Indeed, the present manner of receiving the revenues is much stricter and more accommodated to conscience. Moreover, as we have said, in this manner certain dominions and territories have been acquired for it, for whose easier administration it was necessary to establish new rules and new laws.

“With respect to this Office or Magistracy, the city of the Genoese can be divided, as it were, into two communities. The first is the Greater; it is governed by those who administer justice in the palace and comprises nearly the entire city. The other is small; the Magistracy of Saint George presides over it, and it pertains to the Holders of Places, or participants in the revenues. The former is subject to many changes and has sometimes experienced tyrannical government; but the latter has always been free and restricted to certain citizens, and has therefore been stable.”

§ 14. Formerly persons of lower condition sometimes handled the money, nor could they increase their wealth in this manner. They were called Accountants, and the Agents were frequently slaves or Freedmen of Caesar who handled the accounts of the patrimony; they too were called *λογισταὶ καὶ λογοθέται*. They were also called Agents of the Lord. Tertullian, in *On the Soldier's Crown*, calls them Ministers of the Camp. They served for two years and thereafter could not return to the same office. Title *On Camp and Ministerial Officers*, chapter 12: “In the office of Your Spectability, according to the tenor of the divine responses, when the prescribed time--that is, the biennium--has been completed, let those who follow succeed to the position according to the merit of their labors and service when their predecessors depart; and let no license be granted to those who have laid down their office after completing it to return again to the same service or charge.”

Frequent mention is made of Primicerii not only in profane but also in sacred affairs. They were so called because, being the first men in their own order, they were entered first upon the wax tablet, or upon the first wax tablet. Suidas defines the first as *τῆς τάξεως τυγχώνης*, the first man of each order. The dignity of Primicerius makes one a Senator, Cassiodorus, book 6, chapter 7. It is equated with men Selected from the Consuls in law 19 of the Theodosian Code, *On the Palatines of the Sacred Largesses*. The Prince of the Thebans was called the Great Primicerius. There were therefore Primicerii of the Chamberlains, of the Private Estates, of the Bureaus, of the Notaries, of the Deputies, of the Augustales, and of the *Singulares*, that is, of those who wrote with signs.

§ 15. Twenty-six assistants, or *Boethi*, of the Quaestor are established in Novel 35: “Let the twenty-six assistants of the Quaestor, whom they call the Quaestor's *Boethi*, be permitted to substitute others in their own place, yet suitable men whom the Quaestor for the time being shall choose with the Holy Gospels set before him. But those who are appointed in the place of those who have fallen from their position shall be appointed upon payment of one hundred solidi. Yet the men of these three grades--that is, of the Bureau of Memory and the two who are to be next--although they are not from the twenty-six assistants, shall nevertheless have license to substitute another in their own place. They shall therefore have the right to sell their military office, and for not more than one hundred solidi, provided that he who is substituted is appointed by the choice of the Quaestor. The constitution, however, gives privileges to Theodosius and Epictetus, and to Quirillus, Sabbatius, and Perigenes, with this condition plainly observed: if any of the twenty-six Assistants has died, one hundred solidi shall be given to his heirs, and they shall serve by the choice of the Quaestor. But if they are the children of the deceased, they shall possess the same right, although they have not become heirs to their Parent.” Given at Constantinople, in the consulship of Belisarius.

They called “Assessments” that which was owed in each Province or city in grain, gold, and other things. An Assessment-Letter was an Epistle by which those things were granted, and sometimes a right to enter estates was conferred. Concerning Tax-Receiver see title 70 of book 10 of the Code: “We decree that public Tax-Receiver shall receive gold without any delay, lest anyone be compelled to incur expense through this occasion. For if a man wishing to pay is spurned by the Receiver, he must, after summoning witnesses, set forth an attestation; so that, when this has been proved, he himself, freed from the bond of the liability incurred, may receive the security due together with the profits, while the man who neglected to receive it is compelled by the force of the Governor’s office to bring into the accounts of the fisc twice the weight that was owed. But whatever a Tax-Receiver has wrongfully violated while the Judge whose concern it is remains negligent shall be repaired from the resources of that Judge himself.” Given on the fourteenth day before the Kalends of August, in the consulship of Paulinus and Julianus.

Thus the fisc is secured in many ways; but Quaestors know more arts of securing themselves. They rarely depart poor from office and often depart rich from plunder. Would that there were as great a care for the poor as there is for public wealth. Ancient examples are by no means lacking. For it is worthy not only of remembrance but most especially of imitation that even great Princes wished to be ὀρφανοτρόφοι, keepers of orphans. Zonaras reports that the brother of Michael the Paphlagonian was an ὀρφανοτρόφον, a keeper of orphans. Cedrenus reports the same.

§ 16. Many laws forbid the frauds of Exactors; few restrain them. Meanwhile, useful are those which prohibit them from doing anything without the knowledge of the Governor of the Province, Code, book 12, title 61; which require them to render an account within a year; and, finally, which prohibit them from doing anything that has not been entrusted to them. Thus Arcadius and Honorius, Code, book 12, title 61: “Whoever from our palace, under any title, has traveled to the Provinces--whether a Compulsor, Exactor, Summoner, or Bearer of a Precept, an Agent in Affairs, a Palatine, or an Apparitor of the Illustrious authorities--shall seize only so much power as is specially approved by the mandate of his own bureau. Let no one presume by right of his corporation upon that which was enjoined upon another; and while they do not divide this among themselves by the license of reciprocal duty, let all perform that which was entrusted to each one.” Given on the day before the Kalends of July at Milan, in the consulship of Olybrius and Probinus.

“Whether anyone has been dispatched from the Praetorian Office, from the Illustrious Countship of the Sacred Largesses, from the service of our Private Estate, or from any body of Apparitors, for the accomplishment of any necessity, let him know that within the bounds of one year he must, after gathering his accounts, return to his own Judge and show him his effectiveness: what was exacted through his urgency, what remains among the debts and with whom it remained, or through whose fault or for what reason it was left in the same

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Province. But if, after the space of a year has been completed, he is detected lingering in the bowels of that region, lying in wait as a plunderer, then, stripped of his military belt, he shall be cast out. A fine of ten pounds of gold is imposed upon the chiefs of that service if they evade his return; and, bound with iron chains by the successive offices, under the care of the provincial office, he shall be sent to the examination which is due. Nor shall he be free to defend himself by this privilege or pretext: that he alleges another business or another necessity was imposed upon him afterward, since we take from the same persons license to continue an exaction in the same province.” Given on the tenth day before the Kalends of October, in the eighth consulship of Our Lord Theodosius Augustus and the consulship of Palladius.

The laws of title 26, book 12, should be restored to use: “If anyone knows that he has been injured by the Ducenarii, Centenarii, or Advocates of the Fisc, let him not delay to approach the courts and prove the injury, so that vengeance may be taken upon the man who is convicted with fitting severity.” Given on the Kalends of November at Trier, in the fourth consulship of Constantine Augustus and the fifth of Licinius.

“Beyond the customary and canonical payments, many things are most unworthily demanded from provincials by Scholastic Officials not only in the individual cities but also at the stopping-places, while sustenance is supplied without price to them and to their animals. Therefore let all the Judges protect the provincials and not permit injuries to pass unavenged.” Given on the third day before the Kalends of July, in the consulship of Leontius and Sallustius.

“Whenever a Compulsor is accused of plundering and convicted, let him undergo, even without consulting Our Clemency, the punishment fitting under the laws.” Given on the day before the Kalends of January, in the consulship of Stilicho and Aurelianus.

“We wish assistance to be given to Curials, Shipmasters, and all corporate bodies in such a way that no Apparitor of any Judge is permitted anything which pertains to the plunder of provincials.”

§ 17. I conclude this treatment of Magistrates and add that they will act rightly if every day they repeat their oath with a true resolve to keep it and weigh that which is set forth in Novel 8, title 3:

I swear by Almighty God, and by His only-begotten Son, our Lord Jesus Christ, and by the Holy Spirit, and by the holy, glorious Mother of God and ever-Virgin Mary, and by the four Gospels which I hold in my hands, and by the holy Archangels Michael and Gabriel, that, on account of the administration entrusted to me by their Piety, I shall preserve a pure conscience and genuine service toward our Most Sacred Lords Justinian and Theodora his consort; and I undertake every labor and toil with favor, without fraud and without any artifice, in the administration entrusted to me by them concerning their Empire and state. I am in communion with the Most Holy Catholic and Apostolic Church of God, and in no manner or at any time shall I oppose it; nor, to the extent that I have the power, shall I permit anyone else whatever to do so.

I also swear the same oath that I have given and shall give absolutely nothing to anyone on account of the belt given to me, nor on account of patronage or promise; nor have I undertaken, nor shall I undertake, to send anything from the province, whether on account of the Lord’s recommendation, to the Most Renowned Prefects who hold the administration, to those who are about them, or to any other man. But just as I received the belt without recommendation, so too shall I exhibit myself purely toward the subjects of our Most Pious Lords, content with those provisions which have been established for me from the fisc.

And first I shall exercise every care to watch over fiscal matters vigilantly. I shall exact from the disloyal and from those who are in arrears through constraint with every vehemence, by no means being inclined beneath anyone, nor considering gain itself at all on this account, nor exacting from anyone less than is fitting through favor or hatred, nor granting remission to anyone. But I shall treat the loyal in a paternal manner, and, to the extent that I have the power, shall preserve the subjects of our Most Pious Lords unharmed on every side.

I shall act equitably toward each party in causes and in public discipline, and shall furnish nothing to either party beyond what is just. Rather, I shall pursue all offenses and preserve all equity according to what shall appear just to me. Those who are innocent I shall preserve innocent and unharmed on every side; but upon the guilty I shall impose punishment according to law. And, as has already been said, I shall preserve every justice and right in public and private contracts.

If I discover that the fisc is suffering injustice, I shall not merely act concerning this myself, but shall also endeavor always to take as my Assessor such a man, and likewise all those about me, so that I am not pure while those about me steal and offend. But if any such person is found about me, I shall remedy what has proceeded from him and expel him.

But if I do not thus observe all these things, may I receive my punishment here and in the age to come in the terrible judgment of the great Lord God and our Savior Jesus Christ; may I have my portion with Judas, the leprosy of Gehazi, and the trembling of Cain; and, in addition, I shall be subject to the punishments which are contained in the law of their Piety.

CHAPTER XXX

Ministers of Magistrates

§ 1. Among the ministries of Magistrates the best known is the *Accensus*, so called from summoning. He imposed silence, which was called the *Illicium*, and proclaimed that it was the third hour, midday, and the ninth hour. This duty was commonly entrusted to Freedmen. He was more honorable than the Herald. The latter pronounced in an Assembly or in the Comitium anything that had to be recited; the *Accensus* summoned private persons before the Magistrate. All these were called Apparitors, just as they were Official Ministers. There were several decuries of Heralds. It was the duty of the Summoners to arrest and bind, as it was also that of the Lictors. Some derive the name of the latter from binding; Tiro derives it from the linen or thread with which they were girded crosswise. The same men were called *Statores*, and they do not appear to have been different from Apparitors. This entire class in the Provinces was called *Brutiani*. They were commanded to perform not military service but servile works because they had been the first of all to desert to Hannibal.

The Romans also possessed Interpreters, not only when they administered Provinces in which a different language was used, but even in Italy itself, and, although they knew Greek, in Sicily and Greece. They judged it fitting to the majesty of the Empire that they should display not only the fasces but also their language, so that the entire world might appear to belong not only to Roman law but also to the Roman idiom.

The *Cornicularii* were not Horn-Blowers, but Secretaries who presided over the wings and guarded the Praetorium. They were selected from veteran soldiers for this service, as it were, of repose, inquiry, and honor. Symmachus, book 10, epistle 56. A Greek gloss interprets the term as *ῥαβδίτην καὶ πρίμαχον*; they were adorned with the insignia of Spectability.

§ 2. There were Minor Court Offices, which were nevertheless also employed in the houses of private persons in the cities. An ancient inscription is reported to bear: “Diophantus, Adorner and *Glabrarius* of Tiberius Caesar.” The same men were also called *Glabratores* and *Pumicatores*, from the foul custom of removing bodily hair. *Brambaricarii* and Silversmiths also adorned things; they overlaid objects with gold, silver, and bronze, and engraved in gold, silver, and bronze. There was no class of artisans that was not subject to the Emperor. Their guilds were called corporate bodies and the men themselves Corporates; and they possessed

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their own Prefects and Magistrates. Indeed, even the very lowest offices had Prefects: the superintendence of lime was a dignity. Cassiodorus, book 7, epistle 7: “Burnt lime is of the same color as snow and lighter than sponges. Our authority sets you over the burning and distribution of lime.”

Nomenclators, or Name-Callers, were produced by the multitude of men and by ambition, since they stuffed the names of individual citizens into the ears of candidates; from this they were also called *Fartores*, Stuffers. Afterward a law was written that no Nomenclator should attend a candidate.

Couriers must be appointed so that certain knowledge of every region may be possessed. There were Day-Runners, who traversed an immense distance in one day. They were later also called Mandate-Bearers, because they carried mandates to the Governors.

The entire arrangement of transports and freight-carriages, and likewise of navigation, was formerly established very differently in the very great Empire. Now things are generally transported more easily, more quickly, and at less expense through exchange and merchants.

Stationarii and *Curiosi* were established throughout the Provinces and reported to the Magistrate all offenses both of Judges and of the military. This was also the office of those who are called Agents in Affairs. Formerly the same men were Couriers with post-horses and Grain-Officers, for they were called **πυροφόροι**. But the name Grain-Officers was also employed for scouts. The Athenians called them **ἀλήρους**, because they investigated who was grinding grain at home. Accordingly they were **ἐρευνηταί**, that is, investigators of all matters, which they reported to the Prince. They were also soldiers and were named *Saiones*. Their use is especially necessary; but they must be trusted cautiously, and in cases of great offenses by Governors they must be employed secretly, lest the Governors rebel through fear of punishment. But the Agents in Affairs had various duties. After completing their labors, they were numbered among men of Consular rank. Their Chief summoned litigants before the Prefect. He exacted tributes.

Other *Stationarii* are forbidden to possess a prison. Constantine, Code, book 12, title 58: “Let no *Stationarii* dare to go beyond the exaction or possess a prison; nor let any man keep a person in custody before himself, even for a manifest crime, knowing that if anything of this kind has been committed, he is to be punished capitally.” Posted on the Ides of May at Carthage, in the fourth consulship of Constantine Augustus and the fourth of Licinius.

The prudence of the Princes judged that Account-Clerks and Record-Keepers must be disciplined severely by laws. Constantine, Code, book 12, title 50: “The rapacious and fraudulent purpose of the Account-Clerks, who render various services to Governors, must be restrained in such a manner that, as we previously ordained and now likewise ordain, they be subjected to tortures and lie beneath the rack and lacerations.” Given on the fourteenth day before the Kalends of June, in the consulship of Optatus and Paulinus.

A law of Honorius, Code, book 12, title 50, also kept the same men from association with Registry-Clerks: “Lest Registry-Clerks, aided by associations with Account-Clerks, continue longer to the ruin of all, let Your Illustrious Authority command all the Account-Clerks to abstain from the Registry-Clerks and withdraw from association with them. But if, after being admonished, they neglect to observe this, let them not doubt that they are subject to the same penalties as the Registry-Clerks.” Given on the fourth day before the Kalends of June at Nicaea, in the fourth consulship of Honorius Augustus and that of Eutychianus.

Apparitors thereafter held a very honorable place. Valentinian and Valens made them exempt, Code, book 12, title 55: “Those who shall have shown that they serve in the offices of the Masters of Horse and Foot shall be excused from every injurious nomination.” Given on the thirteenth day before the Kalends of October at Aquileia; accepted on the fifteenth day before the Kalends of November at Salerno, in the consulship of the Divine Jovian and Varronianus.

They were also of the military order: “Those who have obtained service in the office of the Masters of Horse and Foot shall be of the military order.”

Finally, the law joins them to Military Tribunes: “We command that the Account-Clerks of the Illustrious men, the Masters of Soldiers both in the Presence and in the East, who have been adorned with rank and years of military service, shall upon departure be joined to Praetorian Tribunes, receiving the benefit from their labors in the military part, in such a manner, plainly, that after their military service has been completed, they shall always be held exempt from all appointments by both military and civil Judges. But we wish those who have discharged the office of Chief to be aggregated to the Twenty Military Tribunes.”

CHAPTER XXXI

On the Chinese Kingdom

§ 1 (part 1 of 3). In place of a conclusion, it seemed good to add what Father Nicolas Trigault, the instructor of the Chinese, writes from the commentaries and experience of Father Matteo Ricci concerning their state, laws, and Magistrates; for there are many things which may be of use to Princes. They are found in book 1, chapter 6, of *On the Christian Expedition to China*.

I shall touch upon no more concerning this subject than I shall judge altogether necessary for the purpose of this Commentary. For if I intended to pursue it according to its dignity, the entire matter could be contained only in very many chapters, or even books. First, therefore, throughout the whole course of time only that government has been approved in this kingdom for administering the state which sustains monarchic majesty in the rule of one man. Among the Chinese even the name of Aristocracy, Democracy, or any other Polycracy whatever is unheard. Formerly, indeed, under one Monarch there were no fewer titles of inferiors than there are among us of Dukes, Marquises, Counts, and the other men of this kind. But for nearly one thousand eight hundred years these titles and the power of particular Lords have been altogether abolished.

Yet although civil tumults and wars have by no means been absent in any period--whether before this system was changed or after it was changed--and although this Empire also was divided into various lesser Kingdoms, as we have heard is now the case in the Japanese Islands, nevertheless it is never read to have been entirely subdued by foreign peoples before the year of our Salvation 1206. At that time some Duke or other from Tartary, a conqueror of Kingdoms, cast himself into this Kingdom with a victorious army.

Some of our countrymen judge, and in my opinion by no slight conjectures, that this Duke was Tamerlane or one of his successors. For the Chinese call him Tiemor and write that, after first subduing Persia and Tartary, he directed his mind toward adding China to his possessions. Whoever he was, I shall call him a Tartar. Having sent in an army, he shortly subjected all China to himself, and his descendants extended the Tyranny received over so great a Kingdom down to the year 1368. At that time, when the strength of the Tartar Empire had already begun to fail and the Chinese no longer endured a foreign government and a Barbarian disposition, they cast off the yoke in various Provinces under different Dukes.

The man who, through affairs splendidly conducted either by courage or by cunning, surpassed the other Dukes was one of the family Ciu, whom the Chinese afterward called Ham Vu--that is, the Distinguished Duke, or rather the Deluge of Arms.

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Having enticed to himself the auxiliary forces of certain other vigorous Dukes, he shortly grew in strength from a common soldier to such a degree that he not only drove out the Tartars, their King, and their Dukes, stripped of their rule, but with no less good fortune also overcame the remaining rebels throughout the entire kingdom and alone occupied the Chinese Empire. His descendants too have most prosperously extended it even to this day. Hence they bestowed upon their Monarchy the name *Tamin*, of Great Splendor, as I said above.

The Chinese Empire descends from a parent to his sons or to royal kinsmen according to our custom. Only two or three of the most ancient Kings, when about to die, entrusted the kingdom not to sons whom they judged unfit to rule but to others, although they possessed no bond of blood with them. It has also happened more than once that a man who ruled too violently was stripped of the fasces by a people impatient of the yoke, and that in his place they substituted the man who excelled in strength, courage, and the favor of the people, and thereafter revered him as lawful King. But this deserves to be placed among the praises of the Chinese: that very many prefer to choose an honorable

death rather than swear allegiance to an intruding Prince. Indeed, there is a celebrated saying among the Chinese Philosophers: “A chaste matron knows not two Husbands, nor a faithful client two Lords.”

In this Empire there are no ancient laws, such as the laws of the Twelve Tables and of Caesarean law among us, by which the state is perpetually governed. Rather, the first man of any family who takes the Kingdom establishes new laws according to his judgment. His descendants of the same family are compelled to observe them and are not readily permitted to change them. Therefore the laws observed today by the Chinese are no older than Ham Vu. He either accepted all of them from the ancients or confirmed them, setting before himself this principal goal: by what method he might preserve peace for the kingdom and extend rule for himself and his descendants as long as possible.

Because the boundaries of this Kingdom extend so far and wide, and because of their ignorance of the world beyond the seas, the Chinese judge that their King rules the entire world. Therefore they call him by the splendid name *Thichcu*, Son of Heaven, and they name him thus today, as they always did formerly. Because they worship Heaven as the supreme divinity, to name him Son of Heaven is the same as to name him Son of God. Yet he is commonly called not by this name but *Hoam*, that is, Supreme Emperor or Monarch. Other Kings, however, are called *Guam* by the Chinese, with a far inferior title.

That Ham Vu whom I mentioned is reported to have been remarkable not only for military courage but also for intelligence and practical wisdom. This is demonstrated by the many statutes and laws through which he stabilized the Chinese state. I shall select certain of the more notable among them, always mindful of my proposed brevity. The sequence of their annals establishes that all royal families lost the Empire through the factions of royal kinsmen or of the chief men of the kingdom, because they governed a great part of the reins of the kingdom. He therefore established that henceforth no one of royal blood should touch a public office, whether it were civil or military. To those Dukes by whose aid he had liberated the kingdom from the Tyranny of the Tartars, and to their descendants, he assigned military Prefectures by hereditary right. But lest the royal race, rejected from every public office, should conduct itself too violently, he distinguished the sons of Kings by the title *Guam*, that is, by the appellation of Petty Kings, and assigned them very ample annual incomes. Yet he placed these not in estates and lands, lest they acquire clients, but in an annual stipend which was paid by the Magistrates from the royal treasury. He also wished all the Magistrates to revere them as Petty Kings, but no one to be subject to them. Thereafter he honored the sons and grandsons of the Petty Kings with various titles in such a manner that these titles gradually diminished, together with the annual income, according as they descended farther from the Royal Stock through the degrees of generations. But when they reached certain generations, no more was furnished to them from the public treasury than was sufficient for maintaining life conveniently without any handicraft or trade. He also provided that girls of royal blood be married according to their dignity and proximity to the Royal Stock, and that they be endowed in the same manner with more or less splendid titles and with an excellent income.

To the allied Dukes and liberators of the kingdom he most liberally imparted annual incomes and most splendid titles of honors; he also granted military Prefectures and other immunities. But they are subject to the Civil Magistrates in almost the same manner as the rest. Among these immunities there is one for their firstborn which is unheard of among our people. Upon an iron tablet in the likeness of a dish are seen engraved those illustrious deeds which the head of the family accomplished under King Ham Vu for the liberation of the kingdom. In consideration of these deeds, he will obtain impunity even a third time for any offense, including one punishable by death, if he offers that tablet to the King. When he has seen it, each time the King grants pardon he orders a certain mark to be engraved upon it, from which it may be understood how many times that tablet has obtained pardon. This must, however, be understood with treason excepted; for those convicted of it, both they themselves and their entire posterity, are immediately and perpetually stripped of every dignity. The royal sons-in-law and fathers-in-law possess honors and incomes of this kind, with the diminution over time of which I have spoken, as do certain others who are found to have deserved well of the Chinese state, region, or condition through some remarkable deed.

For governing the state and the helm of the entire kingdom, only Doctors and Licentiates proclaimed in the examinations are admitted. For this purpose they require the favor neither of the Magistrates nor even of the King himself; for all offices of the state depend upon each man's proven knowledge, virtue, prudence, and practical wisdom, whether they are now beginning to administer for the first time or have already administered other Magistracies. This is what the laws of Ham Vu prescribe, and for the most part they are observed, except insofar as human wickedness among Heathens who are by no means religious sins daily against rights and laws.

All Magistrates, whether they belong to the philosophical or the military Senate, are called *Quonfu* in the Chinese language--one might say Governors. But by way of honor rather than of office they are called *Lauye* or *Lausie*. This signifies Lord and Parent. The Portuguese call those Magistrates *Mandarins*, perhaps from "commanding"; by this name Chinese Magistrates are now understood even among Europeans.

Although I said at the beginning that the manner of administering this Kingdom is Monarchic, nevertheless it is easily established from what has been said, and will be established from what is to be said, that no small measure of the Aristocratic is mixed with it. For although everything established by the Magistrates must be confirmed by the King through petitions given to him, he nevertheless decrees nothing in any matter before he is first solicited or prompted by the Magistrates. But if

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a private person offers a petition to the King--which few do, because all petitions must first be examined and approved by a particular Magistrate before they are transmitted to the King--if the King presents himself as willing at the first granting, he generally subscribes thus: "Let the tribunal whose concern it is examine this petition and advise me what appears ought to be done." This must be held altogether beyond doubt, as I have diligently investigated it: the King himself is absolutely not permitted to bestow upon anyone a gift of money, to confer a Magistracy, or to increase one, unless he has been asked by one of the Magistrates. Yet this is not to be understood as though the King by private authority could not bestow gifts upon those who dwell within the boundaries of the Palace. For he does this frequently from ancient custom and, as it were, by a law by which each man is permitted to honor his friends from his domestic expenditure; but this is by no means reckoned among public benefactions. Indeed, these gifts of the King are made not from public but from private income.

The revenues from duties and tributes--which without doubt exceed one hundred and fifty millions, as the common people call them, each year--are not brought into the treasury of the Palace, nor is the King permitted to expend them according to his own judgment. Rather, all things, whether silver, the coinage of the nation, or rice, its provision, are amassed throughout the whole Kingdom in public treasuries and granaries. From these are furnished the expenses of the King, his consorts and children, as well as of the Royal Kinsmen, Eunuchs, and the entire Royal household, always with Royal splendor and abundance, yet nothing more or less than is prescribed by the laws. From them are paid the stipends of Magistrates and Soldiers and of the other curial ministers throughout the whole Kingdom. This sum is greater than our people can persuade themselves. From them also are restored public buildings, the Palace of the King and those of the Royal Kinsmen, the walls of Cities, the defenses of citadels, and, finally, every apparatus of war; in so great an extent of the Kingdom there is never a lack of something to erect or restore. And, what appears more incredible, in some years it is customary to happen that not even so immense a sum of revenues equals the expenditure, but it becomes necessary to impose new tributes also.

But let us descend individually to the orders of Magistrates, of which I find that there are two kinds in all. The one consists of those who not only hold Court Magistracies in the Royal City but from it, as from a watchtower, direct the whole Kingdom. The other consists of Provincial Magistrates, who govern individual Provinces or cities. Five or six volumes of suitable size concerning each order are available for sale throughout the whole Kingdom, and in the Royal City of Peking they are reprinted twice in each month, something very easy because of their method of printing. Nothing else is read in these volumes except the names, native country, and rank of those who at that time hold

Magistracies throughout the Kingdom. It is altogether necessary that they be reprinted so often; for in so great a multitude there are daily changes. Some die, some are deprived of office, some are demoted to lower offices, and finally the parents of others meet their appointed day. From this last event it comes about that, after immediately resigning any Magistracy whatever, they necessarily return home for three years of mourning, concerning which below in its own place. To fill the places of those who are absent, very many men are always awaiting fortune in the Royal City of Peking. From this great multitude I shall touch only upon those Magistracies which I judge necessary for understanding the books that follow. I shall, moreover, envelop the entire Military Senate in silence, lest I exceed the prescribed limits of my proposed brevity.

I shall speak first about Court Offices, then about Provincial Offices. Six primary tribunals are numbered among the Court Offices. They call the first *Li Pu*, for *Pu* among the Chinese is the same as a tribunal. *Li Pu* is the Tribunal of Magistrates. It rises above the other tribunals because it belongs to it to nominate absolutely all the Magistrates of the Philosophical order throughout the whole Kingdom, who are held to be the more eminent. This first nomination is determined by excellence in writing, judgment concerning which belongs to this tribunal. Beginning from the humbler offices, every one of them gradually ascends through the grades of honors prescribed by the laws, provided that they have given evidence of virtue and justice in the lower offices. If they have acted contrary to these, they are either cast down to humbler Magistracies or deprived altogether. For it is certain that the man who has obtained a literary degree aspires, in a continual ascent even to old age, to all the highest offices; nor is he ever rejected from governing the state except through his own fault. But if it happens that he is altogether rejected through fault, together with the Magistracy he also lays aside the hope of returning to govern the state.

They call the second tribunal *Ho Pu*, which among us is named the Treasury or Quaestorship. It belongs to this tribunal to exact the royal revenues, pay the stipends, make public expenditures, and conduct other things of this kind.

They call the third *Ly Pu*; we may call it the Tribunal of Rites. It has charge that public sacrifices, temples and their priests, Royal marriages, literary games, and examinations be conducted duly and in order; it has charge of public feast-days, common congratulations to be exhibited to the King at fixed times and events, titles to be conferred upon those who have deserved well, Physicians, Colleges of Mathematicians, Embassies to be received and dismissed, their rites, gifts, and letters. For the King judges it unworthy of his majesty to write a letter to anyone by himself, whether within or beyond the boundaries of the Kingdom.

They call the fourth tribunal *Pim Pu*, that is, the Military Tribunal. All military Prefectures are subject to it; for they are both taken away from the slothful and conferred upon the vigorous, and an increase of dignity is given by it according to the greatness of deeds. It also belongs to this tribunal to oversee examinations in military affairs and confer grades.

They call the fifth *Cum Pu*; we may call it the Tribunal of Public Buildings. Its duty is to draw plans for structures of this kind: namely, the Palaces of the King, the Royal Kinsmen, or the Magistrates. It also sees that ships are constructed which are necessary for public uses or fleets; it likewise makes and repairs bridges and the walls of Cities; and, finally, has charge of every other apparatus.

The sixth, which from the exacting of punishments for crimes they call *Him Pu*, investigates and judges crimes. The public Prisons throughout the entire Kingdom are also subject to this tribunal.

All the business of the entire kingdom depends upon these tribunals. Therefore they possess Magistrates and Notaries subject to them in every Province and City, by whom they are informed of individual matters with great fidelity. Thus they are burdened not a little by so great a mass of business; but the multitude and the order of those Colleges render this burden lighter. For first there is one President of the whole tribunal--

§ 1 (continued, part 2 of 3).

whom they call *Ciam Ciu*. He has two Assessors, one on the right and the other on the left; these are called *Cilam*. The dignity of these three is numbered among the highest in the Royal City and throughout the entire kingdom. Beneath them each tribunal is divided into its various offices, over each of which several Colleagues preside. To these are added Notaries, Curials, Apparitors, and many other servants.

Besides these tribunals, there is another which is the greatest in the entire kingdom and Court; they call its members the *Colaos*. There are generally three or four of them, sometimes six. They have nothing in particular entrusted to them, but watch over the entire state and in every business are the King's Privy Councillors. They are admitted daily into the Royal Palace. Since the King today is not present for the public determination of the affairs of the kingdom--which formerly he himself determined together with these *Colaos*--they remain in the Palace throughout the whole day and answer according to their judgment the petitions sent daily to the King in great number. With this answer they return to the King, by whom the answers are approved, annulled, or changed according to his pleasure. The King writes this final answer upon the petitions with his own hand, so that thereafter what he has commanded may be put into execution.

Besides these orders of Magistrates which I have mentioned, and many others which it is not permitted to touch upon because they scarcely differ from those of our people, there are two other orders almost unheard of among us.

The former is called *Choli*, the latter *Zauli*. In each order more than sixty are numbered, all selected Philosophers--men of courage and prudence--who have previously proved their fidelity splendidly to the King and kingdom. These two orders are employed out of the ordinary by the King, among both Court and Provincial officials, upon matters of great importance, always with great and Royal power, which wins reverence and authority for them. But before all others their peculiar duty is such as that of the Syndics among us.

It consists in this: that by petitions, whenever they wish, they admonish the King if anywhere in the whole Kingdom an offense is committed against the laws. In this matter not only do they by no means spare Magistrates, even if these are the highest, but they do not dissemble even with the King himself or the royal house. This office would appear to me not to differ much from that of the Lacedaemonian Ephors if these Monitors could do anything more than speak, or rather write, and if they were not compelled to depend upon the decision of the admonished King. Yet they discharge this duty of theirs so exactly that they can be a wonder and example to foreign nations. For at no time do they spare any Magistrates whatever--indeed, not even the King himself, so great is their liberty and integrity. And although it happens not rarely that the King is offended and even rages fiercely against them--for generally they fasten the sting of their petitions where the sense of pain is sharper, censuring the vices of the highest Magistrates and of the King without distinction--they nevertheless never cease admonishing and censuring so long as no suitable remedy is applied to the common evil.

The same is also permitted by the laws to the remaining Magistrates, and not only to the Magistrates but even to any private person among them. Yet the petitions of those whom I mentioned above are valued more highly because they perform this as their special office. Copies of the petitions transmitted to the King and of the Royal answers are printed by many persons. Hence it comes about that the affairs of the Court travel very swiftly through every corner of the kingdom. Nor are there lacking men who then bind these petitions into books; and if anything worthy of the memory of posterity is furnished, they write it in the annals of the kingdom.

A few years ago, when the King who now rules wished to inaugurate as Prince the son second by birth but most beloved by himself and the Queen, to the exclusion of the firstborn and contrary to the laws, so great a number of petitions was written in which the King's action was censured that the King, incited to fury, either deprived more than one hundred men of their offices or consigned them to humbler ones. Yet, not terrified by this fear, they did not restrain themselves. On a certain day all the Magistrates who were then present, conspiring as one, betook themselves to the Royal Palace. Laying down the insignia of their offices, they sent a man to admonish the King that, if he persisted in this matter against the laws, they would henceforth resign every Magistracy and return home as private

persons; the King himself might entrust his kingdom to whomsoever he wished. Upon hearing this, the King abstained from the matter, although unwillingly.

Recently also, when the greatest of the *Colaos* was discharging his office less lawfully, he was accused within two months in nearly one hundred petitions by these Royal Monitors, although they were not ignorant that he was one of the few especially favored by the King. Not long afterward he died, indeed, as report has it, from the magnitude of his grief.

Besides these Magistrates at Court, there are also in the same place not a few Colleges established for various ends; but the noblest of all is that which is called *Han Lin Yuen*. None except selected Doctors is admitted to it after the examinations described above.

Those who dwell in that Royal College touch absolutely no public duty, yet surpass in dignity those who govern the state. Hence men aspire to that College with great zeal. Their duty is to compose royal writings, arrange the annals of the kingdom, and write laws and statutes. From these men are chosen the Teachers of Kings and Princes.

They apply themselves wholly to their studies and possess within the College itself their own grades of honors, which they attain by writing. From there they are admitted to the gravest dignities, yet not outside the Court. No one is chosen to the most weighty office of *Colao* unless he comes from this College. They also make great profit from writings composed in favor of friends; of this kind are epitaphs, inscriptions, and similar things, which all eagerly strive to obtain from them and which are held to be most elegant merely for this reason: because they proceed from them.

Finally, they are Presidents and Judges in the examinations of Licentiates and Doctors, by whom they are held as Masters and presented with gifts.

All these Magistrates of the Peking Court, with the exception of the *Colaos*, are also found at Nanking, but they are altogether inferior because of the King's absence. They write that the following was the cause of this circumstance. Ham Vu had established the seat of the Kingdom at Nanking. When he died, one of his grandsons, called Yunlo, who in the Northern Provinces guarded the boundaries of the Kingdom against the Tartars who had recently been driven out, with an army and with the dignity of a Petty King--this man, I say, when he perceived that Ham Vu's firstborn, the heir of the kingdom, possessed little industry and vigor, determined to wrest the Kingdom from him and acquire it for himself. Therefore, when he had easily joined the Northern Provinces to himself, he came to Nanking with an army and partly by force, partly by cunning and largesses, joined the remaining Provinces to himself; and he drove his uncle from Nanking. Having done this, he subjected the entire Kingdom to himself without anyone resisting. Because he possessed greater strength and fidelity in the Northern Provinces, and because it was credible that the Tartars would burst forth from there to recover their tyranny over the Kingdom, he determined to settle in those parts, and indeed

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in that City in which the Tartar Kings had dwelt when they ruled the Chinese. He himself named that city *Peking*, that is, the Northern Court, in imitation of the Southern Court, which is called *Nanking*. So that the people of Nanking might bear that change more moderately, he left them the same Magistrates and immunities which they had formerly enjoyed.

I come now to public administration in the Provinces. The Cities which have been attributed to the Court Provinces of Peking and Nanking are governed in the same order as the other Cities of the remaining Provinces; yet appeals are directed to each one's own Court. But the government of the thirteen Provinces depends upon one Magistracy which they call *Pucinsu*, and upon another which they call *Naganzasu*. The former judges civil causes, the latter crimes. Their seat is in the Metropolis of the Province, with the greatest apparatus. In each tribunal there are various Colleagues and themselves also chief Magistrates, who are called *Tauli*. It frequently happens that these men dwell

outside the Metropolis, because they preside over several cities and it befits them not to be far distant from the duty entrusted to them.

All the Provinces, as I said above, are distributed into various Regions, which they call *Fu*. Each Region has its own Governor, whom they call *Cifu*.

The Regions are again subdivided into *Ceu* and *Hien*, as though one were to say more noble and ordinary towns; nor are these smaller than the cities of our people which are not among the largest. Each has its own Prefect: the former they call *Ciceu*, the latter *Cihien*; for *Ci* among the Chinese signifies to govern. These Prefects of all the cities and regions have their own Colleagues and, as it were, Assessors, four in number, who, as Auditors and Judges, assist them in taking cognizance of the causes of their jurisdiction.

But here I judge that an error which has crept into certain writers must be briefly noted and refuted. For because the Governor and his court receive their name from the name of the city in which they reside--for example, in the city Nanciam, the entire Region, its Governor, and court are called by the same name, *Nanciam Fu*--some have therefore judged that among the Chinese only these are Cities which are called *Fu*, while the remaining *Ceu* and *Hien* are held to be towns or villages. That this is altogether most false is gathered not only from the size and populousness of the places but even from the very manner of public administration. For that very city in which the Prefect of the whole region resides also receives the name *Hien* and possesses its own Governor, whom they call *Cihien*, and likewise its own Colleagues and Assessors, after the likeness of the others. The Prefect of the Region himself possesses no more authority in this, his own seat, than in the other places attributed to his jurisdiction. His right consists in the first appeal to him, when causes judged by the *Ciceu* and *Cihien* are referred to him as superior in the first appeal. The second appeal--and that only in more serious causes--is referred, according to the nature of the cause, to the highest Magistrates of the Metropolis, the *Pucimsu* and *Naganzasu*, and their Colleagues. Indeed, the Metropolises themselves also possess their own *Cifu* and *Cihien*, no less than the Regions subordinated to them. Among all the Magistrates, however, there is an incredible symmetry of a well-ordered state.

Because all administration of the state in the Provinces must be reported to the Royal City of Peking, in every Province, besides these Magistrates, there are two others superior to those mentioned, sent from the Royal City. One of them establishes his seat in the Province and is called *Tutam*. The other is sent every year from the Royal City and is named *Cia Yuen*. The authority of the former, because it is great over all the Magistrates and subjects, because he presides over military affairs, and because he touches the primary offices of the state, appears able to be compared with our Viceroys. The dignity of the latter is, as it were, that of Commissioner and Visitor. Yet because, by the King's command, he reviews the causes of the entire Province, visits the Cities and Citadels, investigates all the Magistrates, even punishes certain men who are not among the greatest and reduces them to order, and advises the King concerning the manner in which each man discharges his office; and because he alone among all Magistrates in the Provinces executes capital punishments, all therefore rightly revere and fear him.

Besides these Magistrates, there are also many others who exercise various duties in cities and even in villages and towns. Besides these, many Prefects and Dukes of soldiers stand watch throughout the whole Kingdom, but especially everywhere in maritime and neighboring places, before walls, gates, bridges, and citadels, as though all things were ablaze with war, although the deepest peace exists everywhere. For they also possess their own levies, inspections of soldiers, and exercises conducted almost daily.

Absolutely all the Magistrates of the entire Kingdom are reduced to nine orders, whether one looks to the Philosophical or to the Military Senate. According to the arrangement of these orders, a stipend either of money or of rice is paid each month to each from the public treasury. In truth it is small amid so great a majesty of Magistrates; for the stipend of no one, even if he is of the highest order, grows to one thousand gold pieces in any year. In this stipend all who are reckoned in the same order are plainly equal, whether they are Philosophical or Military; for in military affairs the highest order receives a stipend equal to that of the highest literary order. I wish this to be understood of the

income established by the laws for each order; for that which is acquired beyond the ordinary by gains is far greater than that which is paid as stipend. I say nothing of the other things which each man's own industry, cupidity, fortune, and largesse produce for him in accordance with his dignity, for by these means they commonly attain great wealth.

All Magistrates also, whether Philosophical or Military, the lowest equally with the highest, are distinguished by the same cap. It is made of black gauze and has on either side two forms like wings, approximately above the ears, of oval shape. These adhere to the cap in such a way that they nevertheless fall off easily. They say that in this manner they are compelled to walk modestly and uprightly and are prevented from bending the head even slightly; for if they do so, they violate the majesty of Magistrates. The clothing is also the same for all; so are the boots, which possess a peculiar shape and material, being made of elegant black leather. An insignia of all Magistrates is also a certain belt encircling the body itself and approximately four fingers wide; it is adorned with remarkable workmanship, partly with circular figures, partly with squares. Upon the breast and the back they also sew two square pieces of cloth elegantly woven with embroidered work. But in these squares or belts there is great variety, and according to the variety, majesty.

For from these an expert immediately understands from which--

§ 1 (continued, part 3 of 3).

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Senate they belong, whether Philosophical or Military, and what dignity each holds in it. For upon those cloths are seen figures of quadrupeds, birds, and even flowers fashioned in tapestry work. Those Senatorial belts indicate majesty by the dignity of their material: some are made from a turned wooden stock, others from horn, some from unicorn horn or from *Calamba*, a particularly fragrant wood, and some from silver or gold. But the noblest of all are made from a certain translucent stone to which we have given the name Jasper, although it is certainly not Jasper and is perhaps more similar to Sapphire-like marble. They themselves call it *Yuce*. It is imported by Saracen merchants from the west, from the Kingdom of Cascar, and is held in especially high value by the Chinese. But there will be some place below for speaking about it.

Magistrates are also distinguished among the Chinese by umbrellas spread out to ward off the Sun, beneath which they customarily go forth in public. Some possess blue ones, others yellow; for some two are carried in procession, for others three, while others are permitted to use only one. They are also distinguished by the apparatus with which they go forth in public. For all the lowest ride on horseback; the greatest are borne upon the shoulders of bearers in a carrying-chair. But majesty is also found in the number of bearers: some are permitted to use only four, while others may employ eight.

There are also very many other ornaments of dignity and insignia of Magistrates: standards, chains, censers, and a numerous escort, by whose shouts the crowd is driven from the streets. So great is the reverence for them that no one appears even in the most crowded streets, but all withdraw at these cries; and this is practiced to a greater or lesser degree according to the dignity of the Magistrates.

Before I close this chapter on the administration of the Chinese state, I shall appear to perform a useful task if I recount individually certain matters in which the Chinese differ from Europeans. First, the following may appear remarkable. Although this Kingdom abounds in the extent of its borders, the multitude of its people, the abundance of provisions, and every material from which ships and all other instruments of war are fashioned--by means of which resources they might easily add at least the neighboring kingdoms to themselves--nevertheless neither the King nor the subjects labor for this, nor does it come into their mind. Content with their own possessions, they do not even covet those of others. In this matter they appear to me to differ as widely as possible from the European nations, which we often see driven from their own kingdoms while aspiring to those of others, which devour everything through an insatiable lust for ruling and do not know how to preserve the things received from their ancestors, as the Chinese have been able to do for many thousands of years.

Hence I myself judge to be very like a fiction that which not a few of our Writers recount concerning the Chinese: that at the beginning of their Empire they subjected to themselves not only the neighboring Kingdoms but even advanced as far as India. For although I have most diligently unrolled the annals of the Chinese from four thousand years ago down to the present time, I find not even a trace of so great a matter, nor do I ever hear them boasting of this extent of empire. Indeed, when I have often inquired about this very matter from certain learned men, they all agree that it never happened and could not have happened.

This error of the writers--to preserve their authority--could have crept in from the fact that certain traces of the Chinese nation are found in foreign places, to which it is credible that they sailed by their own will, not by the authority of the King, as may be seen today in the Philippine Islands.

Another matter also most worthy of notice is that the entire Kingdom, as I said above, is administered by its Philosophers, and that both unmixed and mixed command are found in them. All the soldiers and Commanders venerate these men with great humility of spirit and a singular rite, and are subject to them. It happens not rarely that soldiers are beaten by them no differently than boys among us are beaten by a Schoolmaster. These Philosophers also govern all matters which pertain to war, in which they take part and over which they preside; and their counsels and judgments possess more authority with the King than those of the other Prefects of military affairs, only a few of whom it is customary to admit, and then rarely, to deliberations about war. Hence it comes about that no one among those who nourish lofty spirits applies his mind to military affairs, and that he aspires rather to the lowest dignities of the Philosophical Senate than to the greatest Magistracies in military affairs. For they see that the Philosophers precede by a long interval in profit, in men's estimation, and in reverence. But what will appear more remarkable to foreigners in this matter is that those Philosophers undoubtedly bear away the palm from those who profess military affairs by their own institution in nobility of spirit, fidelity toward the King and state, and contempt of dangers and death in the cause of the fatherland. This perhaps takes its origin from the fact that the human spirit is ennobled by literary studies, or because from the very beginnings of this kingdom the gentler letters have always been valued more highly than the military profession among a nation by no means desirous of extending its empire.

No less remarkable is the symmetry among superior and inferior Magistrates, whether between Provincial and Court Magistrates or between the latter and the King himself. They profess this not only by their exact zeal in obeying but also by external observance. For they never omit the visits introduced by custom at fixed times or the duties of presenting gifts. Inferiors also scarcely speak to superiors, whether before the tribunal or elsewhere, except with bent knee, and address them with honorific words. Subjects of the cities render the same service to Prefects and Governors, although it is established that, before attaining the rank of literary office and entering Magistracies, they were born from the lowest plebs.

No one holds any dignity beyond three years unless he is confirmed anew by the King; but he is generally raised to a greater one, though not in the same place. This is done lest anyone readily contract friendships and be turned away from the rigor of justice, or gain the affections of some Province too greatly--especially if he has held the highest dignities--and, relying upon its favor, attempt revolution, something they recount to have happened in preceding centuries. The principal heads of the Provinces, Regions, and Cities whom I named above--the *Pucinsu*, *Naganzasu*, *Cifu*, *Ciceu*, *Cihien*, and similar Magistrates--must also, every third year, all present themselves together in the Royal City of Peking and render to the King the customary duties of clientship. At that very time an inquiry is made concerning the Magistrates dispersed throughout the Kingdom among the Provinces, whether they are those compelled to be present or the others; and this is conducted with the utmost rigor. From this examination it is then determined who are to be retained in the state, who removed, who raised, who cast down, and who even punished, without any regard paid to persons. I too have observed that not even the King himself dares to change anything among those matters which have been established in this public investigation by the appointed Judges. Those who are punished, moreover, are neither the lowest nor few. Indeed, in the year of our Salvation 1607, in which

an investigation of this kind occurred, we read that four thousand Magistrates were condemned. For the series of them is collected into one volume which, when printed, is published throughout the whole Kingdom.

Those condemned are divided into five classes. The first contains the covetous, who sold justice for gifts and appropriated to themselves anything from public income or the fortunes of private persons. These are excluded from offices and are stripped perpetually of all insignia and immunities of Magistrates. Into the second class are cast those who exacted punishments too cruelly from the accused. These too, stripped of their dignities and of their insignia or privileges, are sent home as private persons. The third class numbers older and infirm men, as well as those too remiss in exacting punishments or performing their office. These, although private persons, are permitted the use of insignia and immunities throughout their entire life. In the fourth class are reckoned those who are precipitous and insufficiently considered in rendering judgments, and those who lacked reason and counsel in the administration of public offices. These are assigned to humbler duties or sent to those places where the administration of the state is judged easier. The final class comprises those who govern themselves, their dependents, and their entire household with too little caution and lead a manner of life unworthy of a Magistrate. These are deprived perpetually both of offices and of immunities.

The same inquiry is also instituted concerning Court Magistrates, but only every fifth year. This system is observed with the Prefects of military affairs at the same time and in the same order, and with no dissimilar severity.

No one in the entire Kingdom holds a Magistracy in the Province in which he was born, unless it is a military Prefecture. This is done so that the former, who administer justice, do not yield to blood and friendship, but so that the latter, incited by love of their fatherland, guard it more bravely. While a Lord holds a Magistracy, none of his sons or domestic servants goes out of the house, lest he procure gifts; rather, every external service is furnished by servants publicly assigned to the Magistrate. When the Magistrate himself goes out of the house, he secures with a seal the doors, whether private doors or public ones in which judgments are exercised, lest a way out be open to any of his household without his knowledge.

They also permit no foreigner to live within the boundaries of the Kingdom who contemplates a return to his fatherland or who is understood to possess any intercourse with foreign kingdoms. Indeed, they permit absolutely no foreigner to enter the interior of the Kingdom. Although I have seen no law by which this is forbidden, I nevertheless perceive that this custom crept in over many centuries through a certain fear or horror of foreign nations. I wish this to be understood not only of those foreigners whom long distances of land or sea have rendered unknown to the Chinese, or of those with whom they exercise hostilities, but even of friends and tributaries of their Kingdom, such as the neighboring Koreans, who generally employ the laws of the Chinese. Until now I have seen no such person in the Kingdom except certain slaves whom some Commander or other had led from there with him after he had resided for several years in that kingdom. Moreover, if a foreigner has secretly penetrated the Chinese Kingdom, they punish him neither with servitude nor death; but they forbid him to return to his fatherland, lest perchance among his own people he attempt revolutions to the destruction of the Chinese Kingdom. Hence they punish with the severest penalties those who have any intercourse with foreigners without the will of the King. And if necessity demands that someone be sent with mandates beyond the boundaries of the Kingdom, there is scarcely anyone who can be induced to go. His entire household laments a man setting out as though he were being dragged to death; but when he returns, the Magistrate rewards him with some office of dignity.

No one bears arms in the cities--not even the soldiers, Commanders, or Prefects of military affairs, nor even the learned--except when they go forth to their levies, exercises, or battles. Some of the nobler Magistrates are nevertheless accompanied by armed men. Nor does anyone possess arms in his own house, except perhaps some rusty dagger which they sometimes use on journeys against brigandage. To such a degree do they dread and flee armed men. Consequently there are no factions or quarrels among them except those settled by the impression of fingernails or the tearing of hair. There is no desire to avenge injuries by blows or death; rather, the man who flees another and abstains from inflicting injury is commended for prudence and fortitude.

When the King has died--lest factions arise--no other son or kinsman of the King except the heir of the Kingdom is permitted to remain in the Royal City. Indeed, once they have been divided among various cities, it is a capital crime for them to set foot outside. Disputes arising among them are settled by one of the noblest among them, by whom they are also governed. But if any business arises between them and another who is not a kinsman of the King, they are subjected, like anyone from the plebs, to the tribunals and punishments of the public Magistrates.

CHAPTER XXXII

A Catalogue of the Magistrates and Offices of the Roman Empire and of Certain Other States

§ 1.

- *Accensi*.
- Chamber Attendant.
- Purse Attendant.
- Two Attendants of Constantinople.
- Military Registry-Clerks.
- Registry-Clerks.
- Registry-Clerk.
- *Actus quadratus*.
- Assistant to the Master of Offices.
- All Domestic Assistants.
- Officers of Admission.
- Masters of Admissions.
- Great *Adnumiastes*.
- *Adscensio*.
- *Adscriptitii*.
- *Adscriptivi*.
- *Asscriptivi* Soldiers.
- *Asscriptitii* and Selected Men, opposed to Honoraries.
- Assessors and Councillors.
- Advocate of the Fisc.
- Aediles.
- *Alithri*.
- *Allogator*.
- *Allitarchae*.
- *Angelraphorus*.
- Prefect of the Food Supply.
- Distributor of the Food Supply.
- *Antisagittator*, Commander of the Archers.

- Various Apparitors.
- Apparitor.
- Apparitors and Praetorian Soldiers.
- Apparitors in the Exaction of Revenues.

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- *Aphoplistae*.
- *Apocrisarii*.
- Cashiers.
- Count of the Chief Physicians.
- Archdeacon.
- Architects appointed for overthrowing statues.
- Great Archon.
- Archons.
- Arithmeticians.
- Armor-Bearers.
- *Avertarius*.
- *Auestiarius*.
- Augusta, Queen.
- Augustus.
- Courtiers.
- Court Scholars and Caesars.
- Hearers.
- *Baiulus*, believed to be the Great Pedagogue.
- Procurators of the Dye-Works.
- *Baracurius*, King of the Iberians.
- Superintendents of the Freight-Carriers.
- Beneficiaries.
- *Bicolytæ*.
- Great Drungary of the Watch.
- Prefect of Blachernæ.
- Abbreviators.
- Horseman.
- Caesar.

- Caesarean Courtiers.
- Caligula, the first called Lord.
- Camillus, the first Praetor.
- Drill-Master.
- Chancellor.
- Candidates of the Prince.
- Canonical Collectors.
- Capitularies.
- Officers of the Camp.
- Cellarers.
- Assessors of the Census.
- Assessor of the Census.
- Census-Officers.
- Master of the Census.
- Hundred-Men.
- Centurions.
- Great Chartulary.
- Chartulary of the Sacred Chamber.
- Spectable Chartularies.
- Most Distinguished Governors.
- Most Distinguished Men.
- Collectors of Tributes.
- Sacred Cognitor.
- Cohortales.
- Collectors.
- Count of Africa.
- Count of Britain.
- Count of Italy.
- Count of Illyricum.
- Count of the Spains.
- Count of Strasbourg.
- Count of the Domestics.
- Count of the Domestic Horse and Foot.

- Count of the Private Estates.
- Count of the Sacred Patrimony.
- Count of the Sacred Largesses.
- Count of Mines throughout Illyricum.
- Count of the Houses of the Prince under the Chamberlain.
- Count of the Domestics and Excubitors.
- Count and Master of Horse in the Presence.
- Count of the Sacred Stable.
- Consistorial Counts.
- Two Counts in the East.
- Counts of the Schools.
- Counts of the Port of Rome and Ravenna.
- Counts of the Warehouses.
- Illustrious Counts.
- Counts and Governors.
- Counts of the Treasury, Illustrious Men.
- Counts of the Sacred Vesture.
- Counts of the First, Second, and Third Order.
- Four Counts of Commerce.
- Commissioners.
- Great Constable.
- Councillors.
- Emperor of Constantinople.
- Consul of the Philosophers.
- Men of Consular Rank.
- Correctors.
- Most Distinguished Correctors.
- *Cortelini*.
- Curtain-Keepers.
- *Cornicularius*.
- Curator of Various Affairs.
- Curator of Public Works.
- Curators of Cities.

- Curators of the Tiber and Sewers.
- Curators of Warehouses.
- Curators of Roads and Districts.
- Curials.
- *Curopolates*.
- *Curopolatissa*.
- Guards from Illyricum.
- Princes of the Dalmatians.
- Commanders of Ten.
- Deans.
- Decurions.
- Defenders of Cities.
- Orthodox Defender.
- Demosthenes, Superintendent of the Royal Table.
- Despots.
- *Diathretarii*.
- Distributors of Ballots.
- Auditors.
- Distributor of Provisions.
- Director of the Banquet.
- Di Zabulus, the Chagan magnificent in receiving the Ambassadors of the Romans.
- Domestic Attendants.
- Most Noble Count of the Domestics.
- Domestic of the Table.
- Domestic Horsemen.
- Domestic of the Schools.
- Domestic of the Church.
- *Dorixenus*, Ambassador.
- *Dromitutor*.
- *Dromonarii*.
- Drungaries.
- Drungary.
- Naval Duumvirs.

- Ducenarian Exactors of Tributes.
- Ducenarian Procurators.
- Perpetual Commanders.
- Commanders who are Prefects of Soldiers.
- Twelve Commanders of Military Affairs.
- Duumvirs, Municipal Magistrates.
- Defender of the Churches.
- Eparch next after the Papias.
- Bishops.

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- Standard-Bearing Horsemen.
- Great Hetaeriarch.
- Eunuch Counts of the Sacred Vesture.
- Eunuchs of the Emperors.
- Eunuch Chamberlains.
- Exactors.
- Exactors of Revenues.
- Exarch, Tribune of the Excubitors.
- Recorders.
- Excubitors.
- Sons of Emperors.
- Count of the Fisc, called the Former Advocate.
- Prefects of the Markets.
- Grain-Officers.
- Prefect of the Gauls.
- German Guards of the Romans.
- German Praetor.
- Elagabalus.
- Heliogabalus.
- Crowned Hierarch.
- Honoraries.
- Honorius, who rebuilt the Roman walls.
- Hypatius, Emperor.

- *Hyprostrategus*.
- Crowned Janus.
- *Illarches*, First of the Centurions.
- Illustrious Men.
- Most Illustrious Illustrious Men.
- Image-Makers and Image-Bearers.
- Emperor of Constantinople.
- Commanders of Captives.
- Commanders called Germanic.
- Consecrated Emperors.
- Emperors called Maximi and likewise Optimi.
- Tutors of Emperors.
- Sons of Emperors.
- Empress called Lady, likewise Augusta.
- Renowned Men.
- Dyers.
- Royal Tutors.
- Great Interpreter.
- Inviters.
- Judges of Capital Matters.
- Judges of Revenues and Tributes.
- Judge of the Camp.
- Julian Augustus.
- Julius Caesar, the first Perpetual Prefect.
- Juridical Governor.
- Juridical Governor of Alexandria.
- Justinian the Triumpher.
- Justin the Thracian.
- Praetor of the Youth.
- Prince of the Youth.
- Lamp-Bearers.
- Prefect of the Latin Schools.
- Ambassadors.

- Municipal Ambassadors.
- Leo, son of Constantine.
- Superintendent of Petitions.
- Copyists.
- Procurators of Linen-Works.
- Great *Logoriastes*.
- Great Logothete.
- Logothete of the Secrets.
- Logothete of the Military Treasury.
- Master of the Census.
- Master of Epistles.
- Master of Offices.
- Master of Foot.
- Master of the Bureaus of Memory, Epistles, Petitions, and so forth.
- Master of Horse of the Gauls.
- *Magisteriani*.
- Ordinary Lesser Magistrates.
- Extraordinary Lesser Magistrates.
- Municipal Magistrates.
- Ordinary Greater Magistrates.
- Extraordinary Greater Magistrates.
- Provincial Magistrates.
- Masters of the Census.
- Masters of Linen Vesture.
- Masters of Municipalities in place of Duumvirs.
- Masters of Offices.
- Masters of the Private Vesture.
- Contractors of the Public Post.
- Mandate-Bearer.
- *Megaloalogitae*.
- Superintendent of the Table.
- Procurators of Mines.
- Silk-Worker.

- Display Soldiers.
- Enrolled Soldiers.
- Ordinary Soldiers.
- Soldiers creating an Emperor.
- Stationary Soldiers.
- Ministers of the Sacred Vesture, subject to the Masters of Offices.
- Ministers of the Dagger.
- Ministers of Magistrates.
- Ministers girded with linen at Banquets.
- Ministers at the Feet.
- Dispatchers.
- *Monocaballi*.
- Officers of Small Gifts.
- Mosaic-Workers.
- Nomarchs.
- Notaries.
- Commanders of a Military Unit.
- Account-Clerks, Calculators, Arithmeticians.
- Distributor of Provisions.
- Officials of the Most Distinguished Men.
- Chief of Offices.
- Optimates, Ministers of the Authorities.
- Pedagogian Boys.
- Prince of a District.
- Palatines.
- Distributor of Bread.
- *Panypersebastus*.
- Paphlagonians.
- *Pareverhedi*, *Parafredi*, and *Parrippi*.
- Patricians.
- Cattle-Officers.
- Cup-Bearer.
- Swine-Officers.

- Bearers.
- Heralds and Orators.
- Prefects of the Treasury.
- Praetorian Prefects.
- Prefects of the Frontier.
- Prefect of the Food Supply.
- Prefect of the Camp.
- Prefect of the Distribution of Grain.
- Prefect of the *Canicleum*.
- Praetorian Prefect.
- Superintendent of the Camp under the Prefect of the Camp.

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- Superintendent of the Roman Warehouse.
- Superintendents of Public Works.
- Superintendent of Lime.
- Superintendent of the Royal Table.
- Superintendent of the Sacred Chamber.
- Master of Horse in the Presence.
- Praetor of the People.
- Primates of the Regions of the City.
- Primicerius of the Court.
- Primicerius of the Private Estates.
- Primicerius of the Notaries.
- Primicerius of the Chamber.
- Primicerius of the Domestics.
- Primicerius of the Protectors, a Tribune.
- Four Primicerii in the Body of Deans.
- Primicerius of the Sacred Chamber.
- Primicerius of the *Singulares*.
- *Primivirgius*, Key-Bearer.
- Prior of the Palace.
- Chief Men.
- Chamber Watchman.

- Procurator of the Goods of Condemned Persons.
- Procurators of Dye-Works and Linen-Works.
- Procurators of Caesar.
- Procurators of the *Gynaecaea*.
- Procurators of the Private Estate.
- Deputy Heralds.
- Propraetors.
- Pursuers.
- *Protallagator*.
- Protectors and Domestics.
- Deputy Ambassadors.
- First Count.
- First Huntsman.
- First Hierarchy of the Treasury.
- First Master.
- First Notaries.
- First Pope.
- First Sword-Bearer.
- *Protosebastus*.
- First *Stator* and Marshal.
- First Syncellus.
- First Vestiarium and *Protovestiarites*.
- Boys who are Mimic Actors.
- Informers for a Fourth Part.
- Quaestors.
- Quaestors of Parricide.
- Inquisitors.
- *Quincunx*.
- Magistrates of a Five-Year Term.
- Rod-Bearers, the Judge's Closest Confidential Attendants.
- Accountants.
- Accountant of the General Funds.
- Accountant of the Private Estate.

- Accountant of Wines.
- Accountant.
- Governors of Provinces and Dioceses.
- Referendaries.
- Referendaries in place of Chartularies of the Church.
- *Regerendarius* and Subscription-Clerk.
- Purple-Clad Kings.
- Responsales.
- Questioners.
- *Sacellarii*.
- Sack-Carriers.
- Satraps.
- Scholars.
- Members of the Schools.
- Scholastic.
- Scribes of the Acts.
- Scrutinizers of Emperors.
- Secretaries.
- Axe-Bearers.
- Distinguished and Most Distinguished Senators.
- Roman Senate.
- Military Six-Men.
- Silentiaries.
- Sword-Bearer.
- Sword-Bearing Chamberlain.
- Sword-Bearing Chamberlains.
- Spectable Magistrates.
- Scout Soldiers.
- *Statores*, or Apparitors.
- Attendants.
- General.
- Commander of the Camp.
- Commander of the Camp of the *Monocaballi*.

- Commander of the Camp of the *Murtati*, *Tzacones*, and *Tzangratores*.
- Grooms of the Emperors.
- Subscription-Clerk.
- Sultan.
- Super-Illustrious Men.
- Suppliants.
- Tax-Receiver.
- Notary, Recorder, and Public Scribe.
- Notaries.
- Toll-Collectors.
- Watchword-Officers.
- Purple-Clad Witness.
- Tetrarchs.
- Consular Governors of the Thraces.
- Broad-Stripe Tribunes.
- Tribunes of Soldiers.
- Tribune-Notaries.
- Tribunes of the Plebs.
- Tribune of the First Cohort.
- *Tricaballi*.
- Prefect of the Golden Dining-Room.
- Triumphers.
- Three-Man Boards for the Levy, others for Banking, others for Transporting Horsemen.
- Squadron-Commanders.
- Turranius, the first Prefect of the Food Supply among the Romans.
- *Tzangratores*, a kind of Archers.
- Farmers of Revenues.
- Judges of Revenues.
- Carriers.
- Prefect of the Wardrobe.
- Curators of Roads.
- Summoners of the Tribunes.
- Vicars called Augustales.

- Vicars of a Prefect.
- Vicars of the Prefecture of the Gauls.
- Vicars of Prefects.
- Vicars.
- Vicar of the Spains.
- Vicar of Rome.
- Vicars of a Tribune.
- Curators of Districts.
- Steward of the City.
- *Vindices*.
- Tax-Receivers of Wine.
- Epistolary Men.
- Spectable Officer of the Camp.
- Perfumers in the Offices of the Emperors.
- Urbaniciani.
- Usurers, or Moneylenders.

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CHAPTER XXXIII

Ambassadors Must Be Chosen from the Most Approved Men

§ 1. Although I frequently made mention of Ambassadors in the first edition, I nevertheless did not treat them by design, both because I saw that subject occupied by many writers and because the things which I discussed concerning the virtues and vices of Princes, Optimates, the Senate, and Councillors appeared able sufficiently to instruct an Ambassador. For whatever is praiseworthy in all of them ought to shine forth collectively in an Ambassador. He sustains the person of his own state; he is placed between fire and sacrifice, between hammer and anvil. Concerning him the Prince who sent him and rivals in that Prince's council pass judgment; enemies and friends judge and scrutinize him. To serve and satisfy one Prince for a long time is arduous. An Ambassador must serve his own Prince, accommodate himself to a foreign one, and also please the Ambassadors of other Princes. No Province is more burdensome, none more dangerous. He must be dear to his Lord without being hated by an enemy or rival. Indeed, it is necessary to be wary even of Secretaries and Domestics. Here there is need of the highest protection afforded by all the virtues--yet not new virtues, but those which I have expounded. For this reason I had passed over this subject. But now, induced by the requests and arguments of certain men, I have resolved to institute a discourse on this matter also and to imitate other writers of no mean reputation: Plato, Demetrius of Phalerum, Diotimus, Crates, Julius Ferretius, Brunus, Octavianus, Bodin, and Carolus Scribanus.

§ 2. They refer the antiquity of Ambassadors to Belus and Ninus. But, to omit the times before the Flood and disputes over chronology, it must be established as certain that in the same year in which the human race was scattered into various parts of the world through the confusion of languages, Ambassadors were sent for the sake of business and treaties. For neighbor had to speak with neighbor if it seemed good to establish something for the advantage of both or to settle a disputed right. Such is the relation among nations that a state necessarily holds communication with its neighbor. Necessity is the mother of embassies, as it is of clothing; adornment and splendor were added afterward. Letters are indeed mute Ambassadors, which speak only to the eyes and exhibit the mind of their lord as though in a mirror; but there are many things which cannot be accomplished through them. For letters cannot immediately answer the things proposed by the other party. Moreover, an Ambassador must conceal or disclose many things in accordance with the disposition of the Prince to whom he is sent or with the condition of the times and affairs. An Ambassador assuredly sometimes finds many things otherwise arranged than the man by whom he was sent had thought.

§ 3. An embassy requires immense prudence together with dexterity. For an Ambassador is publicly sent to conduct public business; he is a messenger, or Apostle. Therefore he sustains not only the person of his own Prince but that of the entire state and indeed of the Senate itself. The Greeks always chose the highest men, and therefore called them *πρεσβευτὰς* and *πρέσβεις*, because they were selected from the *γερονσία*. For that name belongs not more to age than to dignity. Thus the Venetian Ambassadors excused their age before the Emperor, and Scipio professed that he possessed enough years if the Roman people should make him Consul.

They are also called Orators and commonly Ambassadors. Some derive the latter name from the German *Ambacht*, which among the ancients signifies work, as though they were Workers; others derive it from the Greek *ἀναβάλλειν*, to speak, to advance to make a speech, as is established from a witty saying of the Athenians. When an unwelcome Orator began his speech from the word *Ἀναβαίνειν*, "for those ascending," the People answered *Καταβαίνειν*, "let them descend." That *ἀμβάλλειν* is said for *ἀναβαίνειν* is known even to boys. But I omit these matters.

I give this warning: Military Legates are excluded from this discussion. They were Legates who were Councillors and assistants of the next dignity, attached to Commanders and frequently greater than those Commanders in the glory of their deeds. Caesar, book 2 of *The Civil War*, acknowledges that the Commander employs their service in trust. See Vegetius, book 2, chapter 9; Lipsius's commentary on book 2 of the *Annals* of Tacitus. Departing Proconsuls

sometimes entrusted to them part of the army, sometimes the whole army, and indeed a Province. Much less does the Free Embassy belong here. It is the mask of an embassy, often unjust and always burdensome to the allies. For, so that men of Senatorial rank might be more honored and secure in the Provinces and might conduct private business more easily, a Free Embassy was decreed to them, which they could employ when, where, and as long as they wished, although it was generally annual. Lipsius on Tacitus; Alexander ab Alexandro; Cujacius, book 9 of *Observations*, 29; and law 14, π ., *On an Embassy*.

CHAPTER XXXIV

It Belongs to a Prince to Send and Receive Ambassadors

§ 1. Not only can a supreme and absolute Prince send Ambassadors to and receive them from another supreme Prince; inferiors can also conduct embassies with a supreme Prince and indeed among themselves. The matter is disputed among Jurisconsults and political writers. Certainly, by ancient law private persons are forbidden to receive enemy Ambassadors as guests and to confer with them. On the other hand, the Princes of Germany and the Hanseatic cities send and receive embassies, as the Historians, Crantzius, and daily customs demonstrate. It appears to me that the matter can altogether be settled by an easy distinction.

No Prince can send to foreign Princes an embassy which treats a public cause of the entire Empire, especially to rivals or enemies. That care belongs to the majesty of the Emperor alone. It belongs to the head, not to one part, to govern a body so vast and composed of so many members; it does not belong to one part to conduct the cause of all the parts and of the entire Empire without consulting its colleagues. Such an embassy, whether sent or received, will deservedly be suspect. Therefore I remember that, when foreign embassies arrived bearing mandates concerning affairs of the Empire, the Electoral Princes customarily referred them to the Emperor or to the Diet. What is said concerning a public cause must also be understood of negotiations concerning the private affairs of individual Provinces when they carry prejudice to the public interest--for a private cause is then to the detriment of the state. But when the private affair of some Prince is conducted in such a way that it does not concern the Empire, although in comparison with the whole the embassy is private, nevertheless with respect to the Prince it is public. Thus, when men congratulate someone upon a victory, negotiate concerning marriages, or seek privileges for the commerce of subjects, the right of Ambassadors is altogether free. Bodin denies this in book 1 of *The State*, chapter 10, and accuses writers who think otherwise; but the Emperor and Imperial Diet concede these things, provided

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that no prescription is laid upon public safety and supreme majesty. In this action not merely the things themselves but even suspicions must be avoided.

§ 2. Ambassadors are publicly sent, though not always openly. For there are certain embassies known either to the Prince alone or to very few; matters of the greatest importance and secrecy are sometimes transacted through merchants and Religious. They are nevertheless sent publicly because they are sent by princely authority. Thus even a matter which pertains only to the Prince is judged public, as when a marriage is under discussion. Hence it is clear that a twofold kind of Ambassadors is recognized. The first, with greater noise and pomp, not only conducts business but also represents the dignity of its lord by civil splendor. The other merely unfolds its mandate and is the naked interpreter of a will, entirely free from concern for other matters. It nevertheless comes with equal authority, but avoids expense to the sender and recipient, especially so that occasions for action are not delayed or lost through the empty superstition of ceremonies, of which there is neither measure nor end. Whether they call these men Agents, Appointed men, Deputies, or Commissioners, if they possess a public mandate, they are Ambassadors. The office, privileges, and security of Ambassadors are due to them, while immunity from ceremonies is granted them. Those who are afraid to name them Ambassadors have not yet learned to distinguish the different kinds of Ambassadors. A mandate publicly given and the power to act concerning the state make Ambassadors; seats, precedence, a crowd of companions, and similar trifles lie outside the essence of an embassy. And when business is conducted seriously, those empty things are despised. Moreover, subjects are compelled in necessity to undertake an embassy, as they are military service; yet it is not prudent to compel unwilling men to a difficult matter. The Venetians indeed command embassies to whomsoever they judge good, but rarely to the unwilling. If anyone does not set out voluntarily, he nevertheless grants this to the honor of the state: that he conceals his mind and presents eagerness.

Accordingly, an Ambassador will avoid ambitious splendor in his retinue, expense, clothing, and other things; indeed, so will the Prince himself. For among foreigners and the ill-disposed it is generally attributed to pride and is the mother of animosities and hatreds. I remember Ambassadors who, because they possessed certain faults or more conspicuous dress, were continually marked by the reproach of nicknames. Mockery advanced so far that many believed those things which had been invented as reproaches were their proper names. Nor does this happen to few; few escape taunts cast behind their backs.

§ 3. Ambassadors, even those of enemies, must be received honorably and lovingly. For they are angels and mediators of peace and endeavor to reconcile the human race without bloodshed. Even if they come to declare war, they must nevertheless be heard, for perhaps they will bring something toward impeding or diminishing the war. For when the anger of enemies is met with moderation and virtue and conferences are intermingled, much progress has been made. The Romans proudly rejected the Ambassadors of the Numantines; they ought to have heard men who had conducted themselves kindly as victors. Hannibal, according to his custom, kept away the Ambassadors of the Romans by warning them of danger on the journey and alleging that he had no leisure to hear Ambassadors. Pericles persuaded the Athenians to dismiss the Ambassador of the Spartans unheard and without honor. He did this with evil intent, so that he might inflame anger and war more greatly.

§ 4. Ambassadors must not be received into a city if they can corrupt the spirits of the citizens by gifts, promises, or threats, and there is fear that they will attempt it. For this reason the Ambassadors of King Tarquin ought to have been excluded, and the example of Hezekiah excluding Rabshakeh is remarkable. Much less must they be admitted into an Assembly if they are able to stir up commotions. The same reasoning applies if they come with the intention of spying. For the Ambassadors of enemy and rival Princes are very often spies, and at Court they possess men who report the most secret matters to them. The Kings supply many examples of this in our own years and render the same service in return. Yet when it is judged that they will be dangerous in camps or cities, when resources are slender, they are not admitted. At Rome they frequently gave enemy Ambassadors a meeting of the Senate outside the City. The Kings sometimes forbade them to come to Rome. They ordered Hannibal's Ambassadors to depart from Roman territory before night. They refused to possess spectators of their anxiety and calamity. Yet there is less danger in an Ambassador when secret spies are innumerable and guards can readily be assigned to an Ambassador under the appearance of duty and honor, while the cunning of secret spies is unavoidable.

§ 5. Ambassadors are not customarily heard when they either deny a title which is due or arrogate to their lords one which is not due. The King of Hungary ordered the Ambassadors of a Voivode who named their lord King of Pannonia to depart. Aemilius spurned the letter of the defeated Perseus, who nevertheless called himself King of Macedonia, and did not even deem it worthy of reading. Accordingly, it is not prudent to send Ambassadors to those with whom there is controversy over a title. For spirits on both sides are embittered, and impediments to peace are offered by the very negotiation of peace.

On the other hand, Ambassadors must be heard honorably and not treated with contempt. Curius invited them indecorously and sordidly to turnips, and by an ostentatious display of poverty exposed Roman majesty to ridicule. In private life economy and modesty are praised; magnificence must be exhibited publicly. Artaxerxes' fashioning of knife-handles while hearing Ambassadors was also a rustic display. A petty King of the Indians combed his hair while the Ambassadors completed their speeches. These are the actions of men who are foolishly proud and gather great hatreds without profit.

§ 6. Ambassadors are sometimes affected with the highest honor. By sitting, giving an opinion, and subscribing they sometimes hold the place of their lords; at other times they are compelled to yield. Both other Ambassadors and even those of the Emperor yield to the King of the Romans, for he is judged the supreme Legate, successor, and son of the Emperor. Thus in the year 1541 Ferdinand took precedence over the Ambassadors of Charles V. In Synods the Legates of the Pontiff preside. In assemblies of the Empire, Electors who are present are customarily placed before the Ambassadors of those absent--deservedly and by right. For the image of an absent dignity yields to present reality.

This was also devised so that they would not readily excuse their absence if they were compelled to yield to the servants of their colleagues. Yet elsewhere and among others the arrangement is different.

CHAPTER XXXV

An Ambassador Must Not Readily Be Deceived

§ 1. Guicciardini, *Political Memoranda*, 1, warns that a Prince wishing to circumvent another must first deceive the Ambassador. Cassander contemplates

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war against Demetrius; he wishes Demetrius to suspect it as little as possible, so that he may overwhelm him unprepared. Accordingly, he sends an Ambassador concerning peace, a treaty, and affinity, and makes a display of an immense desire for friendship. Here they do not wish the Ambassador to be conscious of his lord's innermost intention. Indeed, they do not wish him to inquire whether his mandates are given truly or feignedly. They say that he must speak what his lord has ordered him to speak, but that it appears better for him not to know what his lord wishes to do, so that he may thus express the pretense more earnestly. In this manner most Political writers commend that cunning as wisdom.

Let me be permitted to weigh the matter by its proper considerations. There is one reason for deceiving the Ambassador: lest he deceive with insufficient earnestness. Yet a man will be found without difficulty who, complying with the character of his Prince with great zeal, will perform that piece of acting more intensely and will delight in the cunning. For pretense performs more and greater things than truth. Indeed, he will handle the deceits with more practiced cunning. Moreover, what if he completes the matter itself and, while pretending, concludes a true marriage? Has an Ambassador ignorant of pretense truly been sent since the foundation of the world?

Accordingly, although I judge it honorable for neither the Prince nor the Ambassador to deceive, but approve truth and candor, nevertheless, if it has been resolved to deceive, the Prince will employ as Ambassador a man not ignorant of fraud and pretense. For many things occur everywhere in the course of business which a man conscious of everything will accomplish according to the mind of his lord more easily than one who is ignorant--especially so that he may draw out the time, not advance farther than is necessary, and not cast the honor of his lord into danger. A man ignorant of fraud does not regulate fraud well.

Indeed, it is also arduous to deceive an Ambassador. For if he shares in secret counsels, he himself will doubt the good faith of his embassy from other acts and deliberations and from the letters of familiars; and he will resent that this was concealed from him to his own insult. If he does not belong to the secret counsels, conjectures will nevertheless not be lacking, and silence at Court is rare. Certainly, whenever he learns that he has been deceived, he will act more slowly, cease to trust his lord, and condemn the embassy himself, if he nevertheless remains faithful. For deception impairs fidelity and impels the man whom you have deceived toward perfidy. Do not believe that a man will be faithful to you who knows that he is not trusted.

It is added that through that pretense the Prince renders himself suspect not only to foreigners but also to his own people, for they rightly judge that a deceitful man is not to be trusted. Nevertheless, they sometimes employ in this fashion blind Ambassadors, or those who are insufficiently cautious, or even Priests and Religious. These conduct the business with great effort and confidence, but, being ignorant of Courtly arts, first perceive that their simplicity has been mocked when they are ridiculed by each party. They endure this, and it is necessary for them to endure it; but other men of great spirit store away deeply in their minds that they were not trusted and were held in mockery. When Louis Trabantius had pledged to the King of France that his lord, the Duke of Brabant, was a friend, but the latter allied himself with the Englishman against the Frenchman, Trabantius, detesting the deceit, refused to return home and wasted away from grief in France.

Accordingly, when Princes resolve in this matter to deceive their own men and their enemies, they sin twice. For they both employ fraud--which, although shameful in all men, is most shameful in Princes--and they handle their deceits improperly by showing that they distrust their own people. Far be it that what Isocrates said against his own people in the oration *On Peace* should have to be said concerning a Christian Court: "Princes have now been corrupted and depraved for a long time by Courtiers whose whole art is consumed in deceiving."

CHAPTER XXXVI

Security Must Be Furnished to an Ambassador

§ 1. Concerning the security of Ambassadors, our Carolus Scribanus has written better than all others. Their security is sacred by the public law of nations. Everywhere among nations, even among Barbarians, they are inviolable. At Rome, if anyone had struck them, he was judged guilty of treason and was surrendered for punishment to those who had sent them, so that they might punish him according to their judgment. If he was spared through the humanity of those injured, they nevertheless did not receive him into citizenship. Varro, *On the Latin Language*; Cujacius, book 11 of *Observations*, chapter 5. Necessity is the procurer of so great a privilege, lest the society of the human race perish. Security itself includes the power to come, remain, and depart--indeed, also to conduct business. They therefore act wickedly who restrict the liberty of Ambassadors by fear or corrupt them with gifts. The ministers of Arcadius Caesar were injurious in all these ways toward the Ambassadors of the Roman Pontiff; Zeno and others sinned in the same manner, something abominable among Christians. The harshness of the Swiss War was remarkable, when beggars and girls were employed as Ambassadors because men were insufficiently safe.

§ 2. When enemy Ambassadors and those of others are warned not to come, or that they will be held as enemies and spies, or are ordered to depart by a prescribed time, the law of nations is not violated if the reason for so harsh a decree is just or appears prudent. If those barbarous decrees are made from arrogance, hatred of peace or enemies, or an immense hope of victory, this is contrary to the law of nations: to cut off every hope of peace or pardon and to refuse even to enter into conference. For even a state which has injured another so greatly that it is attacked in a just war possesses the right to send Ambassadors, to entreat, to make a compact, and to intercede for its innocent people, who constitute the greatest part. It is not bound to surrender its people to servitude or slaughter; humanity and the law of nations command that satisfaction be accepted without destruction. Coriolanus acted contrary to the law of nations when he declared that, if they sent Ambassadors, he would hold them as enemies. The King of Syria during the siege of Samaria and others acted with the same injustice and cruelty. The Athenians can be excused when they rejected the Ambassadors of Kings. Basilides, Duke of Muscovy, killed some Ambassadors after driving a great nail through their heads, and sent others home cut limb from limb and salted. Formerly the people of Fidenae furnished examples of equal barbarity and paid for them with their own destruction.

But if Ambassadors possess no evil in their intention or mandates and come altogether innocently for the sake of sincere peace, yet the condition of affairs and men is nevertheless such that, if they wish, they could contrive sedition and treachery, they are rightly forbidden to come; and if they do not obey, they can be killed, for they cast themselves headlong by their own rashness. The state ought not to trust them but to act so that it is safe through its own counsel and caution, not through the innocence of enemies. The Senate does not dispute whether the enemy wishes or does not wish to cause harm, but resolves to provide matters in such a way that, even when he most wishes it, he cannot cause harm. Accordingly, Ambassadors who come in opposition to that security of the state violate the law of nations.

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§ 3. Those who deny that Ambassadors are secure unless they first send a Herald and obtain permission to come understand the law of nations insufficiently. A Herald or Trumpeter is safe by the law of nations, under no other right than an Ambassador. The right of each is equal; indeed, the sanctity of the Ambassador is greater. Otherwise the Herald too would require a forerunner. Those who procure security for an Ambassador from a pledge sought and given through a Herald abolish the entire law of nations. For in that manner any man whatever is secure, since a pledge cannot be violated without crime. An Ambassador is inviolable by his own sanctity and the consent of the entire world. He is venerable amid the weapons of enemies, not by the promise of one Prince or King, and he does not bargain for protection; rather, he carries with himself rights and laws whose violator is not to be tolerated even by any barbarism.

They allege the custom of Ambassadors, who are accustomed to send ahead men to announce their arrival and ask that they be permitted to approach with favorable leave. Yet that very practice asserts the right of Ambassadors. For if the Ambassador's messenger or forerunner is safe by the law of nations because he is the Ambassador's servant or courier, how much more is the Ambassador himself? The reason for giving notice of the arrival is both that it may be established that he is an Ambassador and that civility and courtesy may be observed, lest a new guest arrive unexpectedly before the Prince and so that provision may be made concerning lodging and other matters.

§ 4. Moreover, the things which are said concerning the security of Ambassadors pertain only to those to whom they are sent, not to others. For if we detect enemy Ambassadors proceeding either to other enemies or even to our friends, it will be lawful to intercept, detain, or kill them. For they are enemies. Thus the Romans detained Ambassadors of the Samnites who were journeying to the Etruscans; the same Romans intercepted those of the Carthaginians, the Athenians those of the Persians, and Charles V those of Francis I who were proceeding to the Turk. This is the perpetual practice of nations: that they intercept not only enemy Ambassadors but even their letters.

§ 5. Through an offense an Ambassador loses his right and immunity. Yet not every sin of this kind is such that he forfeits his right. For the private disgraces of an Ambassador--drunkenness, fornication, blasphemy--merely render the Ambassador infamous and are turned into a reproach against the Prince by whom he is sent; by those to whom he is sent, they are customarily dissembled. But concerning crimes which bring injury upon others--such as adulteries, murders, and thefts, whether committed by the Ambassador himself or by his household--although all concede that they ought not to be unpunished, they nevertheless dispute concerning the punishment. Many judge that the cause must be referred to the Prince by whom he was sent. For another Prince is not Judge of an Ambassador, since the Ambassador is free from his scepter; moreover, it is burdensome to undergo judgment among foreigners, rivals, and enemies.

To me, certainly, the law of nations does not appear to permit an Ambassador license for crimes or to take defense away from those who have suffered injury. Is the Prince of the injured party not the Judge of the Ambassador? But the Ambassador's Prince is not the Prince of the injured party. There is nevertheless a reason why my Prince should punish the Ambassador; there is no reason why he should dispatch me to accuse him before a foreign Prince. The Ambassador is judged in the place of his offense. I ought not, through no fault of my own, to be compelled to foreign tribunals. It belongs to natural law that a brigand, thief, or incendiary be punished by that Prince whose subjects he has harmed. Brigandage, theft, and adultery have punishments established by the law of nations, for no nation is so barbarous that it has not imposed vengeance for those crimes by law. The Ambassador therefore deserves punishment by the law of nations. But the man whose house he has plundered or whose wife he has violated can be compelled by no right to accuse the malefactor at Byzantium or elsewhere. Neither the length of the journey, the measure of the expenses, nor the system of the courts permits it. By law and desert, therefore, the Ambassador is judged in the place where he is known to have sinned. But if he has contrived sedition, tumult, or treachery, he himself has already violated the law of nations first and is punished by right. For it would be foolish to send him back to his own Prince, from whom he possessed not only license for the crimes but even mandates, and who will instead give him rewards. The law of nations protects only an innocent embassy.

§ 6. Although these things can be done by strict law, I would nevertheless counsel moderation and a certain surrender of his own right to the injured Prince. If an Ambassador kills a private person and confesses it, let the Prince conclude the affair by a settlement, admonish the Ambassador's Prince, seek his judgment, or refer the cause to neighboring Princes or Academies. If the matter is obscure and requires examination, let him ask the sending Prince for Commissioners to take part in the inquiry, or let him delegate the cognizance to others. In this manner the Prince will obtain praise for justice and moderation even among enemies, and therefore love, reverence, and authority. No occasion will be furnished for violating the law of nations; then an opportunity for complaints will be cut off. For never, or rarely, will the Ambassador of a foreign Prince recognize equity in his judgment; and, to clear himself, he will endeavor to render the Judges suspect.

But if he is said to have conspired against the Prince or state or to have attempted something else, because the matter is secret I should generally prefer him to be dismissed rather than entrust the affair to an inquiry. If the matter is notorious, it pertains to the security of nations that the violator of that law not be without punishment.

§ 7. If an enemy has killed our Ambassador, crime must not be weighed out for crime. I am not ignorant that many Jurisconsults, in the law *If It Has Been Agreed*, π., *For Partnership*, judge this lawful and employ the saying: “Let fidelity be broken toward the same man who breaks fidelity.” For the law, they say, is not violated but returned. More prudent men, however, rightly pronounce this too unjust. For an Ambassador is secure, sacred, and inviolable absolutely by the law of nations and in his own person, and does not lose his right through another man’s crime. Nor ought another Prince to be an imitator of a foreign crime; rather, he ought to protect and favor the innocent man. For who would undertake an embassy if he saw that his own safety depended upon another? What if the Prince is offended with his own Ambassador or despises his life? Toward a Prince who breaks fidelity, promised fidelity is rightly broken; but it ought not to be broken toward an Ambassador, to whom it is owed by the law of nations.

Indeed, that principle has no place even with captives. For if Hannibal slaughters four thousand captives contrary to the pledge given, the Senate at Rome will not therefore kill the Carthaginians to whom a pledge has been given. For the pledge was given to the captives themselves so that they would not fight to the point of extermination and, through despair of their own life, draw others into destruction. Indeed, not even hostages can be killed unless, willing and knowing, they themselves stipulated that law for themselves.

§ 8. If an enemy detains our Ambassador, most writers concede that his Ambassador can also be detained so that ours may be freed. Yet not even this must be conceded without

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caution. For the law of nations always protects an innocent Ambassador, whatever his state, against his will, may sin. He does not cease to be sacrosanct, because of the necessary society of the human race, against which it is not lawful to offend by another man’s example. Scipio assuredly presented himself as such toward the Carthaginians. For when they had killed the Romans, he did not touch even those who feigned an embassy, being the more worthy of victory, the more he loved law and equity. On the other hand, detestable was the fraud of the Italian cities which contemplated revolt. For, after feigning a disagreement among certain cities, they asked for Ambassadors from Rome to settle the affairs. Men of the highest rank were sent; they detained them until they recovered their own hostages. But a little afterward they paid great penalties for the twofold deceit.

What, therefore, must be done to an Ambassador? First, he must be afflicted by no insult or punishment, neither beating nor prison. Next, he may be detained honorably for a time--for he does not cease to be an Ambassador--if perhaps our Ambassador too will be released. But if the enemy possesses such harshness that he is not moved by danger to his own Ambassador, the latter must not long be detained to the peril of his health and household affairs. He ought not to refuse a brief and honorable detention whose end is the liberation of our Ambassador; by the law of nations he ought to be exempt from a long captivity.

Certainly, if an Ambassador has been sent from friend to friend and, during the embassy, a savage war has broken forth with plunderings, fires, killings even of chief men, and the overthrow of cities; if every bond of friendship has been broken and even a just cause has been given for repaying destruction, nevertheless the Ambassador pays no penalties, but departs unharmed amid the weapons and fires of enemies, and even honored. Thus it was done by Charles V and Francis I: each dismissed the other’s Ambassador and offered gifts while all things blazed with war. Although the Frenchman did not accept Caesar’s gifts, Caesar’s Ambassador received and returned them. Accordingly, I would counsel a Prince to overcome an enemy by virtue, whose victory is the noblest, and to send the enemy’s Ambassador away honored and presented with gifts.

§ 9. A more difficult question is whether the security of rebel Ambassadors is valid by the law of nations. Most deny it. The civil laws also appear to oppose it. For do seditious men merit the law of nations by rebellion and perjury? I do not dispute the right; rather, I give this counsel: if they send Ambassadors, let them be heard and dismissed unharmed through the Prince's kindness. For in sedition, although no right is acquired by the wicked, it is nevertheless better for tranquility to be restored by words than by the sword, lest despair--equally dangerous to each party--destroy the one. Next, if the rebels repent of their deeds and send suppliant Ambassadors, even if the Ambassadors themselves are guilty, I judge them to be immune by the law of nations. For although the offenses of the suppliants can be so great and so savage that pardon ought not to be given, their embassy must be heard and sent back without harm. Thus it has been established and practiced by the law of nations. For just as it is humane to pardon sins, whose atrocity must nevertheless sometimes be punished without pardon, so it belongs to Princes to hear suppliants even when pardon must be denied, lest they appear to be punished by cruelty, not justice. This always has place in a multitude, in which there are always many who are either innocent or at least pardonably guilty.

In these circumstances they nevertheless customarily employ others as intercessors; sometimes they send either women or an innocent person. The Romans too did this when Coriolanus had forbidden Ambassadors to come.

When Ambassadors are discharging their duty, they cannot be summoned into court at home. Law 2, § *Ambassadors*, law 7. The Memmian Law extended this privilege to all who were absent on account of the state, for their names were not to be received.

But if anything was done against them, when they return they are restored to their former condition. They are nevertheless compelled to appear in a lawsuit begun before the embassy and to continue it, lest justice be delayed to the great detriment of others. Indeed, an absent man can be summoned into court if he has given a new cause for a lawsuit--for example, if he has ordered a neighbor's field to be occupied or through his people has given cause for complaint. Otherwise embassies, which often continue for many years, would be dangerous to citizens and neighbors; for injuries would have to be endured and tolerated without remedy until the Ambassador's return. This is without doubt burdensome and harmful to the state.

CHAPTER XXXVII

Instruction Given to Ambassadors

§ 1. The mandates which are customarily delivered to Ambassadors in writing are called Instructions. I do not speak about those instructions; rather, I shall set forth in a brief method a general doctrine for Ambassadors, which can be taken from the civil doctrine that I have pursued thus far. For the sake of order, however, I shall explain the points individually.

Aphorism 1. For embassies in great affairs, the greatest men in the state must be sent. The greatest, I say, in prudence, integrity, and authority. The reason is manifest. For they represent their state and Prince, and it contributes greatly to his reputation that he possess the most excellent ministers possible. Princes, Ambassadors, and Councillors also revere these men, look up to them, and yield to their authority. For even rivals commend virtue--if not by loving it, certainly either by praising it openly or envying it secretly. Indeed, those to whom an embassy has been sent judge themselves honored by the arrival of a great man; they also begin to love the Prince whose minister they revere.

Aphorism 2. All the virtues are required in him, especially those which pertain to civil life. It is necessary for an Ambassador to possess them in a heroic degree. The pretense of virtue and cunning are hateful to all. Accordingly, those who are suspected and ill-reputed on that account must not be sent. For a man who sends a Cretan or a Cilician appears to wish to deceive, and thus a minister who is suspect obstructs the beginnings of actions. Moreover, those who are assailed by such an Ambassador possess two safeguards: one invincible, namely, to believe nothing; the other equal to his arts, namely, to oppose intricacies to intricacies and deceits to deceits.

Aphorism 3. The exceptional gifts and dignity of Ambassadors contribute little to the affair if they are hated by the Prince to whom they are sent. In this matter men often offend most gravely, when chief men through some affection confer an embassy upon one who is unsuitable for that person. For the man who receives the embassy rightly judges himself provoked when he sees a man thrust upon him and required to be treated honorably although he judges himself rightly offended with him and holds him suspect. Princes judge that this honor must be granted them: that they are not compelled to act and negotiate with an enemy. Indeed, it is repugnant even to the prudence of private persons to conciliate friendship and conduct affairs through the intervention of enemies.

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They act just as though they attempted to solder metals together with earthenware. Hence arise impediments and delay in business; hence difficult access and other things which especially harm the Prince.

Aphorism 4. I require the highest prudence in an Ambassador; badly concealed craftiness customarily causes harm, as I have said. Very many at Courts are crafty, cunning, secretive, scrutinizers of the thoughts of others, investigators of all affairs, dissemblers, and obscure. One thing is upon their tongue, another in their mind; they say one thing with Titius and another with Gaius. Men judge them the most suitable for embassies because they know how to lie, deceive, and conceal by art; I judge them useless. For these vices are poisons of peace and friendship and can never be concealed for long. The King himself, the chief men, and spies from among the lesser men speak with an Ambassador. A disguise, worn away for a long time among many men by so many devices, cannot preserve the same color; a long fiction cannot prevent its lie from speaking through some part of itself. Thus the Ambassador loses trust, which is the foundation of an embassy, and incurs hatred or contempt, by which every benefit is shaken away. All his actions are rendered suspect; his faults are exaggerated. All prepare themselves against his cunning and deceits so as to elude them. Certainly, against deceitful men the invincible safeguard is not to believe them.

This class of men, therefore, neither preserves the mutual friendship of Princes nor deceives rivals. Fraud loses all its force where it is not believed. A Prince too loses authority through an embassy of this kind. A wolf, concerning the

conclusion of a treaty with oxen, sent a little fox as Ambassador. When she had spoken at length concerning her sincerity, this answer was given: “Because it is manifest that you lie, we cannot trust your Prince.” Whatever an Ambassador does or says is judged to be done by the command or with the approval of the Prince. For it is known that all these things are written in full to the Prince either by the Ambassador or by his companions as things likely to please him.

Aphorism 5. Accordingly, I wish truth to be commended to an Ambassador, paying no heed to those who wittily define an Ambassador in these words: “a good man skilled in lying and prepared to lie for his state.” Truth is the foundation of the state, and an Ambassador sent to lie will readily lie even to his own Prince. Now so many Ambassadors are sent and reside everywhere, and at so great an expense, as existed in no age; nevertheless the benefit is slight, there are many offenses among Princes, and very many Ambassadors offend on each side and destroy themselves. For who discharges an embassy without being accused of *παραπρεσβείας*, misconduct in an embassy? Men are known who have only recently departed from prison. The reason is that they were sent to deceive. But God, detesting public frauds, turns punishments upon their ministers.

Certainly, since there is no lie which must not be covered by the veil of other lies lest it be revealed, it cannot happen that an Ambassador should either always lie consistently or regulate his deceits according to the mind of an absent lord. Thus it is necessary that, while lying, he disagree with his lord, whether that lord is truthful or deceitful. And because it is necessary to write everything home, it is arduous to lie so neatly that everything agrees with the intentions of the Prince and his Councillors.

Aphorism 6. The primary good in an Ambassador is fidelity, which elsewhere the Roman calls even the most sacred good of the human breast. Antiquity placed it in the Capitol near Jupiter. Certainly, the fidelity of few is firm if the hope of reward is absent or, on the other side, a greater reward is offered.

Παῦροι τοι πολλῶν πιστὸν ἔχουσι νόον.

Few among many possess a faithful spirit. In an Ambassador fidelity ought to be altogether unconquered. For it is often shaken by conference with Kings, by gifts, and even while it believes itself safe. I add threats and the fear of calumny. Amid so many methods, the danger that it may be enticed or shaken is very great, especially since the fortune of the Prince is often placed in the Ambassador’s hand.

For this reason the greatest Emperors frequently sent holy men, Bishops, and Priests as Ambassadors. Ambrose, Chrysostom, and Bernard discharged embassies.

Aphorism 7. Livy sometimes requires nobility of birth in an Ambassador, book 30. At times even Kings have been offended by the low condition of Ambassadors. But generous virtue and learning can supply its place. The Romans are certainly less to be approved when they sent back Ambassadors in whom little dignity appeared, for the person of the Ambassador must be estimated according to the dignity of those who send him. When Augustus learned that certain Ambassadors of Freedman stock had been sent, he refused them a place in the orchestra. Suetonius, chapter 44. But those Ambassadors belonged to cities and subject Provinces, which Augustus could admonish in this manner not to send unworthy men. Louis XI, King of France, sent Olivier the barber to Burgundy to seek a wife for his son. The matter was received as an insult, and it was not far from violence. But those were the arts of chief men who favored neither their King nor the Burgundian. Surgeons, shopkeepers, and artisans can certainly be sent if fortune has raised them to a more dignified station. Augustus himself, born of a father who was a money-changer, and other Caesars sprung from an ignoble nation and stock ought not to have labored fastidiously and rigidly in estimating another man’s nobility.

Justinian sent a Physician to Chosroes, King of the Persians, but one who had formerly treated the King and was therefore dear to him. The tutors of Crassus and Alexander were sent to them; they made peace and preserved cities.

Aphorism 8. Let him pursue courtesy in such a way that he flees flattery. Flattery is pleasing when it is not noticed; but if a wise Prince notices it, it is most hateful, for the man who praises him to his face reproaches him with vanity and folly. This appears especially in the Ambassador of a rival Prince, who generally praises for this reason: that he may deceive. I speak of flattering praise; for some praise is owed to a Prince and cannot be omitted without the reproach of incivility.

There is a remarkable example in the life of Charles V. A French Orator praised him intensely according to the custom of his nation, although a year before he had censured him most bitterly in England. The magnanimous Emperor answered him: "If a year ago you had censured me less in England, and now had praised me less, each would have been pleasing to me." Thus the Orator lost trust and favor, and could accomplish nothing more useful for his King than to request a successor. Indeed, Ambassadors frequently offend their own Princes by being too profuse in the praises of foreigners. Before their own Princes they customarily excuse themselves in no other way than by censuring and ridiculing the men whom they praised, namely, by saying that they accommodated their speech to the inclinations of an empty Prince who had to be captured by those enticements. Princes are not ignorant that these things are done, and through secret friends they can learn what the Ambassadors have written.

I have treated flatterers elsewhere. I warn only that flattery is fitting to no one less than to

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an Ambassador, both because he sustains the person of a Prince, whom it is impious to cast down and reduce to the rank of parasites, and because he cannot deceive, since he is judged to say nothing from his true mind. For unless flattery deceives, it harms its author. Whatever he has said in praise of the Prince is celebrated throughout the entire Court, not without addition, and is therefore carried out into public and brought to the Prince who sent him. Timagoras was accused because, contrary to the institutions of his fatherland, he had adored the King of the Persians. Demacles was fined ten talents because he had worshiped Alexander as a god.

Aphorism 9. Let him regulate ceremonies in such a way that he is not ridiculed for being excessive in them and therefore becomes wearisome. For that excessive elegance of gestures belongs to a dissembler and hypocrite. Now the observance of ceremonies in going, sitting, addressing, and visiting is reckoned almost among the principal cares of Ambassadors. Nor is it remarkable that no less danger arises from those empty things than from an embassy badly conducted. Even if he has conducted the affair for which he was sent most wisely, most faithfully, and indeed most successfully, if he has slipped in some ceremony, he will learn at his own peril how arduous it is to be an Ambassador. This is an ancient evil. Arsaces killed Orobazus because in a conference he had yielded the more honorable place to Sulla. But I omit these things. I ask all Princes not to be avengers of such errors: let them care for serious things and pass over empty ones.

Aphorism 10. The prudence of an Ambassador consists in this: that he not be captured by the immense allurements of ceremonies, honors, banquets, processions, and words, and that he not judge things which belong to deceit and mockery to be signs of love and reverence. Remember: pretense is more laborious than truth. It is arduous for an Ambassador to distinguish honor from mockery and kindness from fraud. Here the magnitude of the things which are offered must not be estimated, nor their prices; true courtesy, secure in its own sincerity, requires few things. A genuine thole-pin is made by easy art; a painted one is completed by much labor and varied color. But what are the signs of true honor, and what the indications of mockery? The matter will disclose itself to a prudent man. If the honor is excessive, it is false. If the Prince does not love the Ambassador, no one among the ministers speaks well of him in his absence; no one honors him except feignedly. He will discover this through his own ministers and the servants of other chief men. He himself will also consider with no lack of care the causes of the honor which is due.

Aphorism 11. Above all, he will avoid pride, a vice hateful in all men; but when it is seen in an Ambassador, it impedes the conduct of affairs and then brings infamy upon the Prince. For what sort of Prince can endure so swollen a minister? Why did they send so insane a man to us? Are these the customs of that whole nation? Is it not better to wage

war with such men than to tolerate their arrogance? Indeed, let him also consider that all pride is akin to folly. Its origin teaches that it is no small portion of folly, for pride is contained in three very great faults: ignorance of oneself, of others, and of human affairs. It obscures reason, so that it not only judges nothing well but disturbs judgment in the most perverse manner. Concerning his own affairs let him relate nothing, and concerning the affairs of his Prince let him relate everything, with moderation--but very rarely. Let him never dare to censure the vices of the nation among which he dwells. Each is hateful: the former through a display of power, the latter through reproaching vices. It was truly said:

Ἀλαζονείας οὐτις ἐκφεύγει δίκην.

No one escapes the punishment of boastfulness. The first punishment is that a braggart is not believed; the second, that he is hated.

Aphorism 12. In presenting the demands of his Prince, let him be industrious and announce his arrival promptly. No answer was given to the Ambassadors of the Illyrians because they had not announced themselves to the Senate. In exacting an answer, let him be neither inflexible, as Popilius was when he drew a circle around Antiochus, nor disdainful, like Callicratides. Sent by the Spartans to Cyrus to request money as a loan, Callicratides preferred to depart without accomplishing the affair rather than request a conference three times. Princes are necessarily offended by so unyielding a manner of proceeding. For what sort of disposition was that of Xenocrates, who declared that he would take no food before an answer was given? The servant of Abraham had done this previously; but matters had then advanced so that they recognized all things as divinely ordained.

Aphorism 13. It has been asked whether an Ambassador may receive gifts. Some employ a distinction: gifts offered for the sake of kindness, not for corruption, can be accepted. But this is not the state of the controversy. For it is fixed and settled that it is lawful for no good man to accept gifts for the sake of corrupting either fidelity or justice; and therefore it is not necessary to admonish an Ambassador concerning this. The question, accordingly, concerns gifts which are given for the sake of honor and friendship alone. Some permit them, others deny them. Truth lies in the middle way. Sometimes they must be refused; at other times they must be accepted.

Aphorism 14. Although gifts are offered under the appearance of kindness and honor, nevertheless, if there is a suspicion that something else also lies concealed--namely, that they are being brought up like battering-rams, by a secret device, to shake fidelity loose--they must altogether be rejected. For in this matter not only sin but even ruinous suspicions are dangerous. It is foreign to the duty of a good and prudent man to nourish such wicked hopes; certainly, those who hope that he can be corrupted condemn him as a wicked man. Accordingly, an Ambassador will never squander his reputation here by placing it after money. In this class there is always also the danger that he may be punished by his own state--even if not as unfaithful, nevertheless as one whom it rightly holds suspect. Those suspicions extend very widely: they belong first to the Ambassador himself, then to the state, his companions, hosts, rivals, and those who may at some time become enemies and therefore slanderers, against all of whom the gifts will sometimes have to be defended. Demosthenes most excellently refused Philip's gifts; Aeschines most wickedly accepted them. Pelopidas laudably despised the royal gifts of the Persians; Timagoras paid for those he accepted with death.

Aphorism 15. When gifts are forbidden by the law of the fatherland, they must never be accepted. At Athens and Corinth it was provided by severe laws that an Ambassador should not accept gifts. The Most Serene State of the Venetians imitates these laws even today. The Romans gave gifts to Ambassadors coming to them and did not forbid their own Ambassadors to be honored with gifts, except when they were suspect, as when they were offered by Pyrrhus, Antiochus, or Jugurtha.

Nevertheless, it is very rare that the fidelity of Ambassadors is attacked openly and, as it were, by manifest bargaining. Men employ a more concealed art: they allege benevolence and their estimation of the virtue shining in the

Ambassador. From four classes of arguments he will readily conjecture which are true gifts, which suspect, and which **ἄδωρα**, no gifts in truth: from the person of each Prince, from his own person, and from the kind of gifts.

Suspicion arises from the person of the giver if a rival who is parsimonious or needy makes great largesses; if he does so beyond custom, law, or usage; if he has not given to others or has given less; if he did not formerly love the Ambassador and the embassy carries with it no occasion for new love; if he extends singular favor to him; if he asks for services in general; if the Ambassador can bring him an advantage; or if the Ambassador is confident that he can assign no cause for the unusual liberality except that a return service must be rendered.

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Next, he will consider the person of the Prince by whom he was sent. Is that Prince accustomed to be generous toward Ambassadors? Does he do this gratuitously and from benevolence, or in truth so that he may capture Councillors? For what he himself does, he will suspect is done by others. Is he accustomed to rejoice if he receives his own men enriched by gifts? Is he suspicious by nature? To this also pertains the mind and judgment of the Councillors, who very often envy their colleagues. No matter is nearer to slander than when the ministers of Princes are beholden to other Princes, especially rivals. Indeed, things which are approved at present are rendered criminal by a change of times. An apology of the aged Barnevelt has been published, in which he complains sorrowfully that gifts received by him from the Spanish after the truce was made are cast against him, while others who had received no smaller gifts are not even named. But calamity made this man guilty; fortune raised the others. And so those glittering with Spanish gold condemned the wretched man for the gold he had taken. For when a man is falling, even accidental things--and indeed clothes and arms, which customarily afford protection--drive him down more violently.

From his own person he will gather the mind of another. He should be suspicious if the favor is neither pleasing nor proportionate to the gifts; if otherwise he labors under suspicion of **δωροδοκίας**, bribery, or of avarice; if he sees men more worthy than himself neglected; if he perceives that he possesses very great influence with the Prince, or that others judge it so. For if a corrupted man is thought to possess little influence, they do not judge the crime worth the trouble. I saw a certain Councillor ruined for this reason: when his Prince had turned aside to a wealthy city, all the others were indeed received honorably, but he alone was cultivated by private banquets and gifts, though not openly, and was chosen, as it were, as guardian of the city. When this was made known at Court, it brought indignation, suspicion, investigation, and finally destruction.

As regards gifts, two kinds are suspect: immense and perpetual. Immense gifts are enticements or wages of perfidy--for example, if one hundred thousand gold pieces are given to a man who could have been sent back content with a golden cup, or if a perpetual pension of ten thousand is established for one to whom a capital of ten thousand appears to be a great income. These are earnest-payments for perfidy and covenants of servitude. Princes are not customarily so profuse as to pay out one hundred thousand if they can discharge the obligation with ten thousand, especially since liberality toward one man is drawn into a precedent by comparison both among subjects and among foreigners. The most suspect of all are secret gifts. But they can be concealed by Ambassadors only with the greatest difficulty. For although none of their friends learns of them, they are certainly known to the Councillors of the man who gave them. I remember that, when a great man, though not impregnable to gold, had received from a Prince an immense silver vessel and delivered it to his wife for safekeeping, not without praise of the giver, she imprudently disclosed the matter. For, setting the cup upon the ground, she placed her eight-year-old son beside it to test whether his stature equaled it. Without delay, the boy boasted among his companions concerning so great a cup and so great a friend of his father. The matter was learned by rivals; the cup was brought forth, and the man was cast down from his dignity.

Aphorism 16. If those causes are absent, gifts can and sometimes ought to be accepted, lest either the gifts themselves or the Princes appear to be despised. Gifts are customarily given even to enemy Ambassadors, and this appears, as it were, an ornament attached to the law of nations: although they come from an enemy and return to an enemy, they are

not only safe but also honored. For they are mediators of peace, and although peace is not concluded, the will for peace is nevertheless worthy of reward. Indeed, even if they come to declare war, for that declaration too belongs to common justice, and the man who comes to declare war first proposes conditions of peace.

I shall add one thing. I have seen immense royal gifts which made an Ambassador an enemy. For when the man heard himself ill-spoken of among his own people because of the gold he had accepted, to remove that suspicion he everywhere opposed the interests of the King and endeavored to prove his alienation to his own Prince by casting forth reproaches and insults. So slippery a matter it is to tempt the fidelity of another man's minister with gifts.

Aphorism 17. It is the duty of an Ambassador to reread and meditate most diligently upon his mandate or instruction. If any question arises, let him ask. If it contains a perplexed judgment and conceals the mind of the Prince, let him refuse the embassy in whatever manner he can, lest he be held in mockery. If he possesses free mandates, the greatest care is needed so that he may know the mind of the Prince. If they are certain and defined, he ought not to pass beyond their bounds--not only lest he offend the Prince, but much more lest he appear to have corrected the Councillors. For although the Prince, appeased by the fortunate outcome of affairs, will hold as ratified and pleasing that which was performed better abroad than it had been deliberated at home, nevertheless some of the Councillors will grieve more at the correction of their own judgments than at the public loss which was feared from them. For from this they foretell disgrace for themselves and advancement for another. To most men the public good is of less value than private good. Those who wish to slander will not lack an occasion. Aelian relates in book 6 that Ambassadors of the Athenians who had successfully completed an affair in Arcadia were killed for this reason alone: that they returned by a road different from the one they had been ordered to take. Accordingly, it will rarely be lawful to depart from a mandate, for one man will not without danger change that which was deliberated long and much in a common council.

Aphorism 18. Nevertheless, circumstances sometimes occur such that the mind of the Prince must be preserved and no account taken of the mandate. First, new mandates suited to the affairs to be conducted must be awaited. If the matter requires speed, the will of the Prince must be obeyed rather than his word. This is what the Athenians customarily added as a final clause: if the Ambassadors could accomplish any other good thing, they should do it. Some extend this to whatever can render the affair of the one giving the mandate better; but it is hazardous. For Princes often serve reputation and other things more than their own advantage.