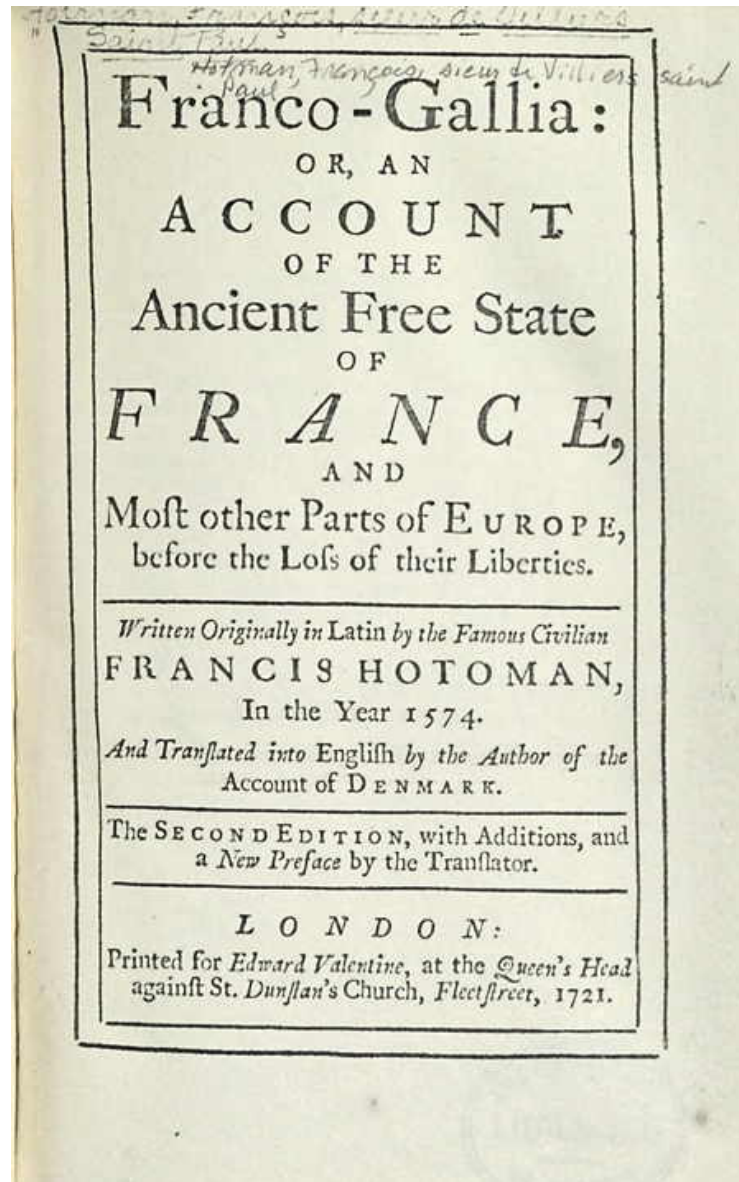


FRANCIS HOTOMAN,
*Franco-Gallia: Or, an Account of the
Ancient Free State of France, and most other
Parts of Europe, before the Loss of their
Liberties (1574, 1721)*



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Francis Hotoman, *Franco-Gallia: Or, an Account of the Ancient Free State of France, and most other Parts of Europe, before the Loss of their Liberties. Written Originally in Latin by the Famous Civilian Francis Hotoman, In the Year 1574. And Translated into English by the Author of the Account of Denmark. The Second Edition, with Additions, and a New Preface by the Translator.* London: Printed for Edward Valentine, at the Queen's Head against St. Dunstan's Church, Fleetstreet, 1721.

Editor's Introduction

To make this edition useful to scholars and to make it more readable, I have done the following:

1. inserted and highlighted the page numbers of the original edition
2. not split a word if it has been hyphenated across a new line or page (this will assist in making word searches)
3. added unique paragraph IDs (which are used in the "citation tool" which is part of the "enhanced HTML" version of this text)
4. retained the spaces which separate sections of the text
5. created a "blocktext" for large quotations
6. moved the Table of Contents to the beginning of the text
7. placed the footnotes at the end of the book
8. reformatted margin notes to float within the paragraph
9. inserted Greek and Hebrew words as images



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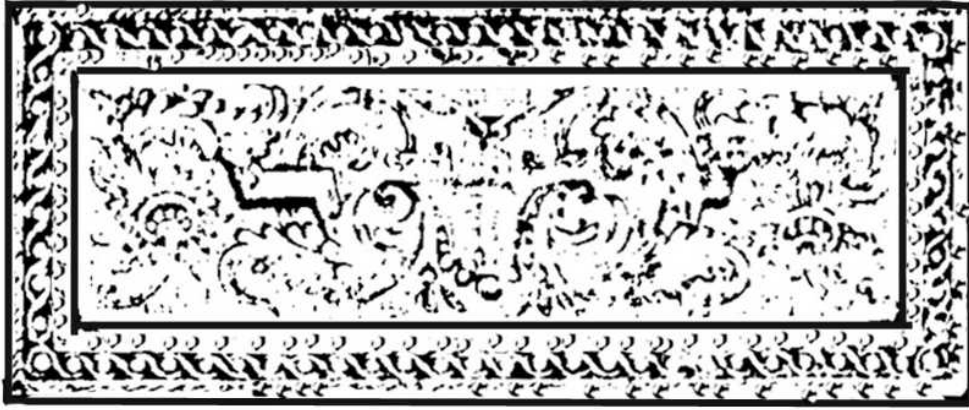
FRANCO-GALLIA
TRANSLATED BY
THE AUTHOR OF THE *ACCOUNT OF DENMARK*.





The BOOKSELLER TO THE READER. ↵

The following Translation of the Famous Hotoman's Franco-Gallia was written in the Year 1705, and first publish'd in the Year 1711. The Author was then at a great Distance from London, and the Publisher of his Work, for Reasons needless to repeat, did not think fit to print the Prefatory Discourse sent along with the Original. But this Piece being seasonable at all Times for the Perusal of Englishmen and more particularly at this Time, I wou'd no longer keep back from the Publick, what I more than conjecture will be acceptable to all true Lovers of their Country.



THE TRANSLATOR'S PREFACE. ↵

Many Books and Papers have been publish'd since the late *Revolution*, tending to justify the Proceedings of the People of *England* at that happy juncture; by setting in a true Light our just Rights and Liberties, together with the solid Foundations of our *Constitution*: Which, in truth, is not ours only, but that of almost all *Europe* besides; so wisely restor'd and establish'd (if not introduced) by the *Goths* and *Franks*, whose Descendants we are.

These Books have as constantly had some things, called *Answers*, written to [ii] them, by Persons of different Sentiments; who certainly either never seriously consider'd, that the were thereby endeavouring to destroy their own Happiness, and overthrow her Majesty's Title to the Crown: or (if they knew what they did) presumed upon the *Lenity* of that Government they decry'd; which (were there no better Reason) ought to have recommended it to their Approbation, since it could patiently bear with such, as were doing all they could to undermine it.

Not to mention the Railing, Virulency, or personal false Reflections in many of those *Answers*, (which were always the Signs of a weak Cause, or a feeble Champion) some of them asserted the *Divine Right* of an *Hereditary Monarch*, and the Impiety of *Resistance* upon any Terms whatever, notwithstanding any *Authorities* to the contrary.

Others (and those the more judicious) deny'd positively, that sufficient *Authorities* could be produced to prove, that a *free People* have a *just Power* to defend themselves, by opposing their *Prince*, who endeavours to oppress and enslave them: And alledged, that whatever was said or done tending that way, proceeded from a Spirit of *Rebellion*, and *Antimonarchical Principles*.

[iii]

To confute, or convince this last Sort of Arguers (the first not being worthy to have Notice taken of them) I set about translating the *Franco-Gallia* of that most Learned and Judicious *Civilian*, *Francis Hotoman*; a Grave, Sincere and Unexceptionable Author, even in the Opinion of his Adversaries. This Book gives an Account of the Ancient Free State of above Three Parts in Four of *Europe*; and has of a long time appeared to me so convincing and instructive in those important Points he handles, that I could not be idle whilst it remain'd unknown, in a manner, to *Englishmen*: who, of all People living, have the greatest Reason and Need to be thoroughly instructed in what it contains; as having, on the one hand, the most to lose, and on the other, the least Sense of their Right, to that, which hitherto they seem (at least in a great measure) to have preserv'd.

It will be obvious to every Reader, that I have taken no great Pains to write elegantly. What I endeavour at, is as plain a Stile as possible, which on this Occasion I take to be the best: For since the Instruction of Mankind ought to be the principal Drift of all Writers (of History especially); whoever writes to the Capacity of most Readers, in my Opinion most fully answers the End.

[iv]

I am not ignorant, how tiresome and difficult a Piece of Work it is to translate, nor how little valued in the World. My Experience has convinced me, that 'tis more troublesome and teasing than to write and invent at once. The Idiom of the Language out of which one translates, runs so in the Head, that 'tis next to impossible not to fall frequently into it. And the more bald and incorrect the Stile of the Original is, the more shall that of the Translation be so too. Many of the Quotations in this Book are drawn from Priests, Monks, Friars, and Civil Lawyers, who minded more, in those barbarous Ages, the Substance than the Stile of their Writings: And I hope those Considerations may atone for several Faults, which might be found in my Share of this Work.

But I desire not to be misunderstood, as if (whilst I am craving Favour for my self) I were making any Apology for such a Number of mercenary Scribblers, Animadverters, and Translators, as pester us in this Age; who generally spoil the good Books which fall into their Hands, and hinder others from obliging the Publick, who otherwise would do it to greater Advantage.

I take this Author to be one of those few, that has had the good Luck to escape them; and I make use of this Occasion to [v] declare, that the chief Motive which induces me to send abroad this small Treatise, is a sincere desire of instructing the only Possessors of true Liberty in the World, what Right and Title that have to that Liberty; of what a great Value it is; what Misery follows the Loss of it; how easily, if Care be taken in time, it may be preserv'd: And if this either opens the Eyes, or confirms the honourable Resolutions of any of my worthy Countrymen, I have gained a glorious End; and done that in my Study, which I shou'd have promoted any other way, had I been called to it. I hope to die with the Comfort of believing, that *Old England* will continue to be a free Country, and *know* itself to be *such*; that my Friends, Relations and Children, with their Posterity, will inherit their Share of this inestimable Blessing, and that I have contributed my Part to it.

But there is one very great Discouragement under which both I, and all other Writers and Translators of Books tending to the acquiring or preserving the publick Liberty, do lie; and that is, the heavy Calumny thrown upon us, that we are all *Commonwealth's-Men*: Which (in the ordinary Meaning of the Word) amounts to *Haters* of *Kingly* Government; now without broad, malicious Insinuations, that we are no great Friends of the present.

[vi]

Indeed were the *Laity* of our Nation (as too many of our *Clergy* unhappily are) to be guided by the Sense of one of our Universities, solemnly and publickly declared by the burning of Twenty seven Propositions (some of them deserving that Censure, but others being the very Foundation of all our Civil Rights;) I, and many like me, would appear to be very much in the wrong. But since the *Revolution* in Eighty-eight, that we stand upon another and a better Bottom, tho no other than our own old one, 'tis time that our *Notions* should be suited to our *Constitution*. And truly, as Matters stand, I have often wondred, either how so many of our Gentlemen, educated under such Prejudices, shou'd retain any Sense at all of Liberty, for *the hardest Lesson is to unlearn*; St. Chrysostom. or how an Education so diametrically opposite to our Bill of Rights, shou'd be so long encouraged.

Methinks a *Civil Test* might be contrived, and prove very convenient to distinguish those that own the *Revolution Principles*, from such as Tooth and Nail oppose them; and at the same time do fatally propagate Doctrines, which lay too heavy a Load upon *Christianity* itself, and make us prove our own Executioners.

The Names of *Whig* and *Tory* will, I am afraid, last as long among us, as those [vii] of *Guelf* and *Ghibelline* did in *Italy*. I am sorry for it: but to some they become necessary for Distinction Sake; not so much for the Principles formerly adapted to each Name, as for particular and worse Reasons. For there has been such chopping and changing both of Names and Principles, that we scarce know who is who. I think it therefore necessary, in order to appear in my own Colours, to make a publick Profession of my *Political Faith*; not doubting but it may agree in several Particulars with that of many worthy Persons, who are as undeservedly aspers'd as I am.

My Notion of a *Whig*, I mean of a real *Whig* (for the Nominal are worse than any Sort of Men) is, That he is one who is exactly for keeping up to the Strictness of the true old *Gothick Constitution*, under the *Three Estates* of *King* (or *Queen*) *Lords* and *Commons*; the *Legislature* being seated in all Three together, the *Executive* entrusted with the first, but accountable to the whole Body of the People, in Case of Male Administration.

A true *Whig* is of Opinion, that the Executive Power has as just a Title to the *Allegiance* and Obedience of the Subject, according to the *Rules of known Laws enacted by the Legislative*, as the *Subject* has to *Protection, Liberty* and *Property*: And so on the contrary.

[viii]

A true *Whig* is not afraid of the Name of a *Commonwealthsman*, because so many foolish People, who know not what it means, run it down: The *Anarchy* and *Confusion* which these Nations fell into near Sixty Years ago, and which was *falsly* called a *Commonwealth*, frightening them out of the true Construction of the Word. But Queen *Elizabeth*, and many other of our best Princes, were not scrupulous of calling our Government a *Commonwealth*, even in their solemn Speeches to *Parliament*. And indeed if it be not one, I cannot tell by what Name properly to call it: For where in the very *Frame* of the *Constitution*, the Good of the *Whole* is taken care of by the *Whole* (as 'tis in our Case) the having a *King* or *Queen* at the Head of it, alters not the Case; and the softning of it by calling it a *Limited Monarchy*, seems a Kind of Contradiction in Terms, invented to please some weak and doubting Persons.

And because some of our *Princes* in this last Age, did their utmost Endeavour to destroy this Union and Harmony of the *Three Estates*, and to be *arbitrary* or *independent*, they ought to be looked upon as the *Aggressors* upon our Constitution.

This drove the other *Two Estates* (for the Sake of the publick Preservation) into the fatal Necessity of providing for themselves; [ix] and when once the Wheel was set a running, 'twas not in the Power of Man to stop it just where it ought to have stopp'd. This is so ordinary in all violent Motions, whether mechanick or political, that no body can wonder at it.

But no wise Men approved of the ill Effects of those violent Motions either way, cou'd they have help'd them. Yet it must be owned they have (as often as used, thro an extraordinary Piece of good Fortune) brought us back to our old Constitution again, which else had been lost; for there are numberless Instances in History of a Downfal from a State of *Liberty* to a *Tyranny*, but very few of a Recovery of *Liberty* from *Tyranny*, if this last have had any Length of Time to fix it self and take Root.

Let all such, who either thro Interest or Ignorance are Adorers of *absolute Monarchs*, say what they please; an *English Whig* can never be so unjust to his Country, and to right Reason, as not to be of Opinion, that in all Civil Commotions, which Side soever is the *wrongful Aggressor*, is accountable for all the evil Consequences: And thro the Course of his reading (tho my Lord *Clarendon's* Books be thrown into the Heap) he finds it very difficult to observe, that ever the People of *England* took up Arms against their *Prince*, but when constrain'd [x] to it by a necessary Care of their *Liberties* and true *Constitution*.

'Tis certainly as much a *Treason* and *Rebellion* against this *Constitution*, and the *known* Laws, in a *Prince* to endeavor to break thro them, as 'tis in the *People* to rise against him, whilst he keeps within their Bounds, and does his Duty. Our Constitution is a Government of *Laws*, not of *Persons*. *Allegiance* and *Protection* are Obligations that cannot subsist separately; when one fails, the other falls of Course. The true Etymology of the word *Loyalty* (which has been so strangely wrested in the late Reigns) is an entire Obedience to the Prince in all his Commands according to Law; that is, to the *Laws themselves*, to which we owe both an active and passive Obedience.

By the old and true Maxim, that *the King can do no Wrong*, nobody is so foolish as to conclude, that he has not Strength to murder, to offer Violence to Women, or Power enough to dispossess a Man wrongfully of his Estate, or that whatever he does (how wicked soever) is just: but the Meaning is, he has no *lawful Power* to do such Things; and our Constitution considers no *Power* as *irresistible*, but what is *lawful*.

And since *Religion* is become a great and universal Concern, and drawn into our [xi] Government, as it affects every single Man's Conscience; tho my private Opinion, they ought not to be mingled, nor to have any thing to do with each other; (I do not speak of our Church Polity, which is a Part of our State, and dependent upon it) some account must be given of that Matter.

Whiggism is not circumscrib'd and confin'd to any one or two of the *Religions* now profess'd in the World, but diffuses it self among all. We have known *Jews*, *Turks*, nay, some Papists, (which I own to be a great Rarity) very great Lovers of the Constitution and Liberty; and were there rational Grounds to expect, that any Numbers of them cou'd be so, I shou'd be against using Severities and Distinctions upon Account of Religion. For a Papist is not dangerous, nor ought to be ill us'd by any body, because he prays to Saints, believes Purgatory, or the real Presence in the Eucharist, and pays Divine Worship to an Image or Picture (which are the common Topicks of our Writers of Controversy against the Papists;) but because Popery sets up a *foreign Jurisdiction paramount to our Laws*. So that a *real Papist* can neither be a true *Governor* of a *Protestant* Country, nor a true *Subject*, and besides, is the most *Priest-Ridden* Creature in the World: and (when uppermost) can bear with no body [xii] that differs from him in Opinion; little considering, that whosoever is against *Liberty of Mind*, is, in effect, against *Liberty of Body* too. And therefore all Penal Acts of *Parliament* for Opinions *purely* religious, which have no Influence on the *State*, are so many Encroachments upon *Liberty*, whilst those which restrain Vice and Injustice are against *Licentiousness*.

I profess my self to have always been a Member of the *Church of England* and am for supporting it in all its *Honours*, *Privileges* and *Revenues*: but as a Christian and a *Whig*, I must have Charity for those that differ from me in *religious* Opinions, whether *Pagans*, *Turks*, *Jews*, *Papists*, *Quakers*, *Socinians*, *Presbyterians*, or others. I look upon *Bigotry* to have always been the very Bane of human Society, and the Offspring of Interest and Ignorance, which has occasion'd most of the great Mischiefs that have afflicted Mankind. We ought no more to expect to be all of one Opinion, as to the Worship of the *Deity*, than to be all of one Colour or Stature. To stretch or narrow any Man's Conscience to the Standard of

our own, is no less a Piece of Cruelty than that of *Procrustes* the Tyrant of *Attica*, who used to fit his Guests to the Length of his own Iron Bedsted, either by cutting them shorter, or racking them longer. What [xiii] just Reason can I have to be angry with, to endeavour to curb the natural Liberty, or to retrench the Civil Advantages of an honest Man (who follows the golden Rule, of *doing to others, as he wou'd have others do to him*, and is willing and able to serve the Publick) only because he thinks his Way to Heaven surer or shorter than mine? No body can tell which of us is mistaken, till the Day of Judgment, or whether any of us be so (for there may be different Ways to the same End, and I am not for circumscribing God Almighty's Mercy:) This I am sure of, one shall meet with the same Positiveness in Opinion, in some of the Priests of all these Sects; The same Want of Charity, engrossing Heaven by way of *Monopoly* to their own *Corporation*, and managing it by a joint Stock, exclusive of all others (as pernicious in Divinity as in trade, and perhaps more) The same Pretences to *Miracles, Martyrs, Inspirations, Merits, Mortifications, Revelations, Austerity, Antiquity, &c.* (as all Persons conversant with History, or that travel, know to be true) and this *cui bono*? I think it the Honour of the Reformed Part of the Christian Profession, and the Church of *England* in particular, that it pretends to fewer of these unusual and extraordinary Things, than any other Religion we know of in the World; being [xiv] convinced, that these are not the distinguishing Marks of the Truth of any Religion (I mean, the assuming obstinate Pretences to them are not;) and it were not amiss, if we farther enlarg'd our Charity, when we can do it with Safety, or Advantage to the State.

Let us but consider, how hard and how impolitick it is to condemn all People, but such as think of the Divinity just as we do. May not the Tables of Persecution be turn'd upon us? A *Mahometan* in *Turky* is in the right, and I (if I carry my own Religion thither) am in the Wrong. They will have it so. If the *Mahometan* comes with me to *Christendom*, I am in the right, and he in the wrong; and hate each other heartily for differing in Speculations, which ought to have no Influence on Moral Honesty. Nay, the *Mahometan* is the more charitable of the two, and does not push his Zeal so far; for the Christians have been more cruel and severe in this Point than all the World besides. Surely Reprizals may be made upon us; as *Calvin* burnt *Servetus* at *Geneva*, Queen *Mary* burnt *Cranmer* at *London*. I am sorry I cannot readily find a more exact Parallel. The Sword cuts with both Edges. Why, I pray you, may we not all be Fellow-Citizens of the World? And provided it be not the Principle of one or more [xv] Religions to extirpate all others, and to turn Persecutors when they get Power (for such are not to be endured;) I say, why shou'd we offer to hinder any Man from doing with his own Soul what he thinks fitting? Why shou'd we not make use of his Body, Estate, and Understanding, for the publick Good? Let a Man's Life, Substance, and Liberty be under the Protection of the Laws; and I dare answer for him (whilst his Stake is among us) he will never be in a different Interest, nor willing to quit this Protection, or to exchange it for *Poverty, Slavery, and Misery*.

The thriving of any one *single Person* by honest Means, is the Thriving of the *Commonwealth* wherein he resides. And in what Place soever of the World such Encouragement is given, as that in it one may securely and peaceably enjoy *Property* and *Liberty* both of *Mind* and *Body*; 'tis impossible but that Place must flourish in *Riches* and in *People*, which are the *truest Riches* of any Country.

But as, on the one hand, a true *Whig* thinks that all Opinions purely spiritual and notional ought to be indulg'd; so on the other, he is for *severely punishing* all *Immoralities, Breach of Laws, Violence* and *Injustice*. A Minister's Tythes are as much his Right, as any Layman's Estate can be his; and no Pretence of Religion or Conscience can warrant the substracting of them, [xvi] whilst the Law is in Being which makes them payable: For a *Whig* is far from the Opinion, that they are due by any other Title. It wou'd make a Man's Ears tingle, to hear the *Divine Right* insisted upon for any *human Institutions*; and to find God *Almighty* brought in

as a Principal there, where there is no Necessity for it. To affirm, that *Monarchy, Episcopacy, Synods, Tythes*, the *Hereditary Succession to the Crown, &c.* are *Jure Divino*; is to cram them down a Man's Throat; and tell him in plain Terms, that he must submit to any of them under all Inconveniencies, whether the Laws of his Country are for it or against it. Every *Whig* owns *Submission* to Government to be an *Ordinance* of God. *Submit your selves to every Ordinance of Man, for the Lord's Sake*, says the Apostle. Where (by the way) pray take notice, he calls them *Ordinances of Man*; and gives you the true Notion, how far any thing can be said to be *Jure Divino*: which is far short of what your high-flown Assertors of the *Jus Divinum* would carry it, and proves as strongly for a *Republican* Government as a *Monarchical*; tho' in truth it affects neither, where the very Ends of Government are destroyed.

A right *Whig* looks upon *frequent Parliaments* as such a *fundamental* Part of the Constitution, that even no *Parliament* can [xvii] part with this Right. *High Whiggism* is for *Annual* Parliaments, and *Low Whiggism* for *Triennial*, with annual Meetings. I leave it to every Man's Judgment, which of these would be the truest Representative; would soonest ease the House of that Number of Members that have Offices and Employments, or take Pensions from the Court; is least liable to Corruption; would prevent exorbitant Expence, and soonest destroy the pernicious Practice of drinking and bribing for Elections, or is most conformable to ancient Custom. The Law that lately pass'd with so much Struggle for *Triennial* Parliaments shall content me, till the *Legislative* shall think fit to make them *Annual*.

But methinks (and this I write with great Submission and Deference) that (since the passing that Act) it seems inconsistent with the Reason of the thing, and preposterous, for the *first* Parliament after any Prince's *Accession* to the *Crown*, to give the publick Revenue arising by *Taxes*, for a longer time than that *Parliament's own Duration*. I cannot see why the Members of the *first* Parliament should (as the Case now stands) engross to themselves all the Power of giving, as well as all the Merit and Rewards due to such a Gift: and why *succeeding* Parliaments should not, in their turn, have it in their [xviii] Power to oblige the Prince, or to streighten him, if they saw Occasion; and pare his Nails, if they were convinced he made *ill Use* of such a *Revenue*. I am sure we have had Instances of this Kind; and a wise Body of Senators ought always to provide against the worst that might happen. The *Honey-Moon* of *Government* is a dangerous Season; the Rights and Liberties of the People run a greater Risk at that time, thro' their own Representatives Compliments and Compliances, than they are ever likely to do during that Reign: and 'tis safer to break this Practice, when we have the Prospect of a good and gracious Prince upon the Throne, than when we have an inflexible Person, who thinks every Offer an Affront, which comes not up to the Height of what his Predecessor had, without considering whether it were well or ill done at first.

The Revenues of our Kings, for many Ages, arose out of their *Crown-Lands*; Taxes on the Subject were raised only for publick Exigencies. But since we have turn'd the Stream, and been so free of Revenues for Life, arising from *Impositions* and *Taxes*, we have given Occasion to our Princes to dispose of their *Crown-Lands*; and depend for Maintenance of their Families on such a Sort of Income, as is thought unjust and ungodly in most Parts of the [xix] World, but in *Christendom*: for many of the arbitrary *Eastern* Monarchs think so, and will not eat the Produce of such a Revenue. Now since Matters are brought to this pass, 'tis plain that our Princes must subsist suitable to their high State and Condition, in the best manner we are able to provide for them. And whilst the *Calling* and *Duration* of Parliaments was *precarious*, it might indeed be an *Act of Imprudence*, tho' not of *Injustice*, for any *one Parliament* to settle such a Sort of *Revenue* for Life on the Prince: But at present, when all the World knows the *utmost Extent* of a Parliament's *possible* Duration, it seems disagreeable to Reason, and an Encroachment upon the Right of *succeeding* Parliaments (for the future) for any *one Parliament* to do that which *another* cannot undo, or has not Power to do in its

turn.

An Old *Whig* is for chusing such Sort of *Representatives* to serve in Parliament, as have *Estates* in the Kingdom; and those not fleeting ones, which may be sent beyond Sea by Bills of Exchange by every Pacquet-Boat, but fix'd and permanent. To which end, every Merchant, Banker, or other money'd Man, who is ambitious of serving his Country as a *Senator*, shou'd have also a competent, visible *Land Estate*, as a Pledge to his *Electors* that he intends to abide by them, and has the same Interest [xx] with theirs in the publick Taxes, Gains and Losses. I have heard and weigh'd the Arguments of those who, in Opposition to this, urged the Unfitness of such, whose Lands were engaged in Debts and Mortgages, to serve in Parliament, in comparison with the *mony'd Man* who had no *Land*: But those Arguments never convinced me.

No Man can be a sincere Lover of Liberty, that is not for increasing and communicating that Blessing to all People; and therefore the giving or restoring it not only to our Brethren of *Scotland* and *Ireland*, but even to *France* it self (were it in our Power) is one of the principal Articles of *Whiggism*. The Ease and Advantage which wou'd be gain'd by uniting our own Three Kingdoms upon equal Terms (for upon unequal it wou'd be no *Union*) is so visible, that if we had not the Example of those Masters of the World, the *Romans*, before our Eyes, one wou'd wonder that our own Experience (in the Instance of uniting *Wales* to *England*) shou'd not convince us, that altho both Sides wou'd incredibly gain by it, yet the rich and opulent Country, to which such an Addition is made, wou'd be the greater Gainer. 'Tis so much more desirable and *secure* to govern by *Love* and *common Interest*, than by *Force*; to expect *Comfort* and *Assistance*, in Times of Danger, from our next Neighbours, than to find [xxi] them at such a time a *heavy Clog* upon the Wheels of our Government, and be in dread lest they should take that Occasion to shake off an uneasy Yoak: or to have as much need of entertaining a *standing Army* against our *Brethren*, as against our known and inveterate *Enemies*; that certainly whoever can oppose so publick and apparent Good, must be esteem'd either *ignorant* to a strange Degree, or to have *other Designs* in View, which he wou'd willingly have brought to Light.

I look upon her Majesty's asserting the Liberties and Privileges of the *Free Cities* in *Germany*, an Action which will shine in History as bright (at least) as her giving away her first Fruits and Tenths: To the Merit of which last, some have assumingly enough ascribed all the Successes she has hitherto been blessed with; as if *one Set of Men* were the *peculiar* Care of Providence and all others (even *Kings* and *Princes*) were no otherwise fit to be considered by *God Almighty*, or Posterity, than according to their *Kindness* to them. But it has been generally represented so, where Priests are the Historians. From the first Kings in the World down to these Days, many Instances might be given of very wicked Princes, who have been extravagantly commended; and many excellent ones, whose Memories lie overwhelmed with Loads of Curses and [xxii] Calumny, just as they proved Favourers or Discountenancers of High-Church, without regard to their other Virtues or Vices: for High-Church is to be found in all Religions and Sects, from the Pagan down to the Presbyterian; and is equally detrimental in every one of them.

A Genuine *Whig* is for promoting a *general Naturalization*, upon the firm Belief, that whoever comes to be incorporated into us, feels his Share of all our Advantages and Disadvantages, and consequently can have no Interest but that of the Publick; to which he will always be a Support to the best of his Power, by his *Person*, *Substance* and *Advice*. And if it be a Truth (which few will make a Doubt of) that we are not one *third* Part peopled (though we are better so in Proportion than any other Part of *Europe*, *Holland* excepted) and that our Stock of Men decreases daily thro our Wars, Plantations, and Sea-Voyages; that the ordinary Course of Propagation (even in Times of continued Peace and Health) cou'd not in many Ages supply us with the Numbers we want; that the Security of Civil and Religious

Liberty, and of Property, which thro God's great Mercy is firmly establish'd among us, will invite new Comers as fast as we can entertain them; that most of the rest of the World groans under the Weight of *Tyranny*, [xxiii] which will cause all that have Substance, and a Sense of Honour and Liberty, to fly to Places of Shelter; which consequently would thoroughly people us with useful and profitable Hands in a few Years. What should hinder us from an Act of *General Naturalization*? Especially when we consider, that no *private* Acts of that Kind are refused; but the Expence is so great, that few attempt to procure them, and the Benefit which the Publick receives thereby is inconsiderable.

Experience has shown us the Folly and Falsity of those plausible Insinuations, that such a Naturalization would take the Bread out of *Englishmen's* Mouths. We are convinced, that the greater Number of Workmen of one Trade there is in any Town, the more does that Town thrive; the greater will be the *Demand* of the Manufacture, and the *Vent* to foreign Parts, and the quicker *Circulation* of the *Coin*. The Consumption of the *Produce* both of *Land* and *Industry* increases visibly in Towns full of People; nay, the more shall every particular industrious Person thrive in such a Place; tho indeed *Drones* and *Idlers* will not find their Account, who wou'd fain support their own and their Families superfluous Expences at their Neighbour's Cost; who make one or two Day's Labour provide for four Days Extravagancies. And this is the [xxiv] common Calamity of most of our *Corporation Towns*, whose Inhabitants do all they can to discourage Plenty, Industry and Population; and will not admit of Strangers but upon too hard Terms, thro the false Notion, that they themselves, their Children and Apprentices, have the only Right to squander their Town's Revenue, and to get, at their own Rates, all that is to be gotten within their Precincts, or in the Neighbourhood. And therefore such Towns (through the Mischief arising by *Combinations* and *By-Laws*) are at best at a Stand; very few in a thriving Condition (and those are where the *By-Laws* are least *restrictive*) but *most* throughout *England* fall to visible Decay, whilst new Villages *not* incorporated, or more liberal of their Privileges, grow up in their stead; till, in Process of Time, the first Sort will become almost as desolate as *Old Sarum*, and will as well deserve to lose their Right of sending Representatives to Parliament. For certainly a *Waste* or a *Desert* has no Right to be represented, nor by our original Constitution was ever intended to be: yet I would by no means have those Deputies lost to the Commons, but transferr'd to wiser, more industrious, and better peopled Places, worthy (thro their Numbers and Wealth) of being represented.

[xxv]

A *Whig* is against the raising or keeping up a *Standing Army* in Time of Peace: but with this Distinction, that if at any time an *Army* (tho even in Time of Peace) shou'd be necessary to the Support of this very Maxim, a *Whig* is not for being too hasty to destroy that which is to be the Defender of his Liberty. I desire to be well understood. Suppose then, that Persons, whose known Principle and Practice it has been (during the Attempts for arbitrary Government) to plead for and promote such an *Army* in Time of Peace, as wou'd be subservient to the Will of a Tyrant, and contribute towards the enslaving the Nation; shou'd, under a *legal Government* (yet before the *Ferment* of the People was appeas'd) cry down a *Standing Army* in Time of Peace: I shou'd shrewdly suspect, that the Principles of such Persons are not changed, but that either they like not the Hands that *Army* is in, or the *Cause* which it espouses; and look upon it as an Obstruction to *another* Sort of *Army*, which they shou'd like *even in Time of Peace*. I say then, that altho the Maxim in general be certainly *true*, yet a *Whig* (without the just Imputation of having deserted his Principles) may be for the *keeping* up such a *Standing Army* even in Time of Peace, till the Nation have recover'd its *Wits* again, and chuses Representatives who are [xxvi] against *Tyranny in any Hands whatsoever*; till the Enemies of our Liberties want the Power of raising *another Army* of quite different *Sentiments*: for till that time, a *Whiggish Army* is the *Guardian of our*

Liberties, and secures to us the Power of *disbanding its self*, and prevents the raising of another of a *different Kidney*. As soon as this is done effectually, by my Consent, no such thing as a mercenary Soldier should subsist in *England*. And therefore The *arming* and *training* of all the *Freeholders* of *England*, as it is our undoubted ancient Constitution, and consequently our Right; so it is the Opinion of most *Whigs*, that it ought to be put in Practice. This wou'd put us out of all Fear of foreign Invasions, or disappoint any such when attempted: This wou'd soon take away the Necessity of maintaining *Standing Armies* of *Mercenaries* in Time of Peace: This wou'd render us a hundred times more formidable to our Neighbours than we are; and secure effectually our Liberties against any *King* that shou'd have a mind to invade them at home, which perhaps was the Reason some of our late *Kings* were so averse to it: And whereas, as the Case now stands, Ten Thousand disciplin'd Soldiers (once landed) might march without *considerable* Opposition from one End of *England* to the other; were our *Militia* well [xxvii] regulated, and *Fire-Arms* substituted in the Place of *Bills*, *Bows*, and *Arrows* (the Weapons in Use when our *training Laws* were in their Vigor, and for which our Laws are yet in Force) we need not fear a Hundred Thousand Enemies, were it possible to land so many among us. At every Mile's End, at every River and Pass, the Enemy wou'd meet with fresh Armies, consisting of Men as well skill'd in military Discipline as themselves; and more resolv'd to fight, because they do it for Property: And the farther such an Enemy advanced into the Country, the stronger and more resolved he wou'd find us; as *Hanibal* did the *Romans*, when he encamped under the Walls of *Rome*, even after such a Defeat as that at *Cannæ*. And why? Because they were all *train'd* Soldiers, they were all *Freemen* that fought *pro aris & focis*: and scorn'd to trust the Preservation of their Lives and Fortunes to *Mercenaries* or *Slaves*, tho never so able-body'd: They thought Weapons became not the Hands of such as had nothing to lose, and upon that Account were unfit Defenders of their Masters Properties; so that they never tried the Experiment but in the *utmost Extremity*.

That this is not only practicable but easy, the modern Examples of the *Swissers* and *Swedes* is an undeniable Indication. [xxviii] *Englishmen* have as much *Courage*, as great *Strength of Body*, and *Capacity of Mind*, as any People in the Universe: And if our late *Monarchs* had the *enervating* their free Subjects in View, that they might give a Reputation to *Mercenaries*, who depended only on the *Prince* for their Pay (as 'tis plain they had) I know no Reason why their Example shou'd be followed in the Days of *Liberty*, when there is no such Prospect. The Preservation of the *Game* is but a very slender Pretence for omitting it. I hope no wise Man will put a *Hare* or a *Partridge* in Balance with the *Safety* and *Liberties* of *Englishmen*; tho after all, 'tis well known to Sportsmen, that Dogs, Snares, Nets, and such silent Methods as are daily put in Practice, destroy the Game ten times more than shooting with Guns.

If the restoring us to our Old Constitution in this Instance were ever necessary, 'tis more eminently so at this time, when our next Neighbours of *Scotland* are by Law armed just in the manner we desire to be, and the *Union* between both Kingdoms not perfected. For the *Militia*, upon the Foot it now stands, will be of little Use to us: 'tis generally compos'd of Servants, and those not always the same, consequently not well train'd; rather such as wink with both Eyes at their own firing a Musket, [xxix] and scarce know how to keep it clean, or to charge it aright. It consists of People whose Reputation (especially the *Officers*) has been industriously diminished, and their Persons, as well as their Employment, rendred contemptible on purpose to enhance the Value of those that serve for Pay; insomuch that few Gentlemen of Quality will now a-days debase themselves so much, as to accept of a Company, or a Regiment in the *Militia*. But for all this, I can never be persuaded that a *Red Coat*, and *Three Pence* a Day, infuses more Courage into the poor *Swaggering Idler*, than the having a Wife and Children, and an Estate to fight for, with good wholesome Fare in his Kitchen, wou'd into a *Free-born* Subject, provided the *Freeman* were as well armed and trained as the *Mercenary*.

I wou'd not have the *Officers* and *Soldiers* of our most Brave and Honest *Army* to mistake me. I am not arguing against them; for I am convinced, as long as there is Work to do abroad, 'tis they (and not our home dwelling *Freeholders*) are most proper for it. Our War must now be an *Offensive* War; and what I am pleading for, concerns only the bare *Defensive* Part. Most of our present Generals and Officers are fill'd with the true Sprit of Liberty (a most rare thing) which demonstrates [xxx] the Felicity of her Majesty's Reign, and her standing upon a true Bottom, beyond any other Instance that can be given; insomuch, that considering how great and happy we have been under the Government of *Queens*, I have sometimes doubted, whether an *Anti-Salick Law* wou'd be to our Disadvantage.

Most of these *Officers* do expect, nay (so true do I take them to be to their Country's Interest) do wish, whenever it shall please God to send us such a Peace as may be relied upon both at home and abroad, to return to the State of *peaceable Citizens* again; but 'tis fit they should do so, with such ample Rewards for their Blood and Labours, as shall entirely satisfy them. And when they, or the Survivors of them, shall return full of Honour and Scars home to their Relations, after the Fatigues of so glorious a Service to their Country are ended; 'tis their Country's Duty to make them easy, without laying a Necessity upon them of striving for the Continuance of an *Army* to avoid *starving*. The *Romans* used to content them by a Distribution of their Enemies Lands; and I think their Example so good in every thing, that we could hardly propose a better. *Oliver Cromwell* did the like in *Ireland*, to which we owe that Kingdom's [xxxi] being a Protestant Kingdom at this Day, and its continuing subject to the Crown of *England*; but if it be too late to think of this Method now, some other must be found out by the Wisdom of *Parliament*, which shall fully answer the End.

These Officers and Soldiers thus settled and reduced to a *Civil State*, wou'd, in a great measure, compose that invincible *Militia* I am now forecasting; and by reason of their Skill in military Affairs, wou'd deserve the principal Posts and Commands in their respective Counties: With this advantageous Change of their Condition, that whereas formerly they fought for their Country only as *Soldiers of Fortune*, now they shou'd defend it as wise and valiant *Citizens*, as *Proprietors* of the Estates they fight for; and this will gain them the entire Trust and Confidence of all the good People of *England*, who, whenever they come to know their own Minds, do heartily hate *Slavery*. The Manner and Times of assembling, with several other necessary Regulations, are only proper for the *Legislative* to fix and determine.

A right *Whig* lays no Stress upon the *Illegitimacy* of the *pretended Prince* of *Wales*; he goes upon another Principle than they, who carry the *Right of Succession* so far, as (upon that Score), to undo all [xxxii] Mankind. He thinks no Prince fit to govern, whose Principle it must be to *ruin* the Constitution, as soon as he can acquire unjust Power to do so. He judges it Nonsense for one to be the *Head of a Church*, or *Defender of a Faith*, who thinks himself bound in Duty to overthrow it. He never endeavours to justify his taking the Oaths to this Government, or to quiet his Conscience, by supposing the young *Gentleman* at *St. Germain's* unlawfully begotten; since, 'tis certain, that according to our Law he cannot be looked upon as such. He cannot satisfy himself with any of the foolish Distinctions trump'd up of late Years to reconcile base Interest with a Show of Religion; but deals upon the Square, and plainly owns to the World, that he is not influenc'd by any particular Spleen: but that the Exercise of an *Arbitrary, Illegal Power* in the Nation, so as to undermine the Constitution, wou'd incapacitate either King *James*, King *William*, or any other, from being his *King*, whenever the *Publick* has a Power to hinder it.

As a necessary Consequence of this Opinion, a *Whig* must be against *punishing the Iniquity of the Fathers upon the Children*, as we do (not only to the *Third* and *Fourth Generation*, but) *for ever*: since our gracious God has declared, that he will no [xxxiii] more pursue such severe Methods in his Justice, but that *the Soul that sinneth it shall die*. 'Tis very unreasonable, that frail Man, who has so often need of Mercy, shou'd pretend to exercise

higher Severities upon his *Fellow-Creatures*, than that Fountain of Justice on his most wicked *revolting Slaves*. To corrupt the Blood of a whole *Family*, and send *all* the Offspring a begging after the Father's Head is taken off, seems a strange Piece of Severity, fit to be redressed in Parliament; especially when we come to consider, for what Crime this has been commonly done. When Subjects take Arms against their *Prince*, if their Attempt succeeds, 'tis a *Revolution*; if not, 'tis call'd a *Rebellion*: 'tis seldom consider'd, whether the first Motives be just or unjust. Now is it not enough, in such Cases, for the prevailing Party to hang or behead the *Offenders*, if they can catch them, without extending the Punishment to *innocent Persons* for *all Generations* to come?

The Sense of this made the late *Bill of Treasons* (tho it reach'd not so far as many wou'd have had it) a Favourite of the *Old Whigs*; they thought it a very desirable one whenever it cou'd be compass'd, and perhaps if not at that very Juncture, wou'd not have been obtained all: 'twas necessary for Two different Sorts of People to [xxxiv] unite in this, in order for a Majority, whose Weight shou'd be sufficient to enforce it. And I think some *Whigs* were very unjustly reproach'd by their *Brethren*, as if by voting for this Bill, they wilfully exposed the late *King's* Person to the wicked Designs of his Enemies.

Lastly, The supporting of Parliamentary Credit, promoting of all *publick Buildings* and *Highways*, the making all *Rivers Navigable* that are capable of it, employing the *Poor*, suppressing *Idlers*, restraining *Monopolies* upon Trade, maintaining the liberty of the *Press*, the just *paying* and *encouraging* of all in the publick Service, especially that best and usefulest Sort of People the *Seamen*: These (joined to a firm Opinion, that we ought not to hearken to any *Terms of Peace* with the *French King*, till it be quite out of his Power to hurt us, but rather to dye in Defence of our *own* and the *Liberties of Europe*) are all of them Articles of my *Whiggish Belief*, and I hope none of them are *heterodox*. And if all these together amount to a *Commonwealthsman*, I shall never be asham'd of the Name, tho given with a Design of fixing a Reproach upon me, and such as think as I do.

Many People complain of the Poverty of the Nation, and the Weight of the Taxes. [xxxv] Some do this without any ill Design, but others hope thereby to become *popular*; and at the same time to *enforce a Peace* with *France*, before that Kingdom be reduced to too low a Pitch: fearing, lest that *King* shou'd be *disabled* to accomplish their Scheme of bringing in the *Pretender*, and assisting him.

Now altho 'tis acknowledg'd, that the *Taxes* lye very heavy, and *Money* grows scarce; yet let the *Importance* of our *War* be considered, together with the *Obstinacy*, *Perfdy*, and *Strength* of our Enemy, can we possibly carry on such a *diffusive* War without *Money* in Proportion? Are the *Queen's* Subjects more burden'd to maintain the publick *Liberty*, than the *French King's* are to confirm their own *Slavery*? Not so much by three Parts in four, God be prais'd: Besides, no true *Englishman* will grudge to pay Taxes whilst he has a Penny in his Purse, as long as he sees the Publick Money well laid out for the great Ends for which 'tis given. And to the Honour of the Queen and her Ministers it may be justly said, That since *England* was a Nation, never was the publick Money more frugally managed, or more fitly apply'd. This is a further Mortification to those *Gentlemen*, who have *Designs* in View which they dare not own: For whatever [xxxvi] may be, the *plausible* and *specious* Reasons they give in publick, when they exclaim against the Ministry; the hidden and true one is, that thro the present prudent Administration, their so hopefully-laid Project is in Danger of being blown quite up; and they begin to despair that they shall bring in King *James* the Third by the Means of Queen *Anne*, as I verily believe they once had the Vanity to imagine.





A Short EXTRACT OF THE LIFE OF *Francis Hotoman*, ↵

Taken out of Monsieur Bayle's Hist. Dict. and other Authors.

FRANCIS HOTOMAN (one of the most learned Lawyers of that Age) was Born at *Paris* the 23d of *August*, 1524. His Family was an Ancient and Noble one, originally of *Breslaw*, the Capital of *Silesia*. *Lambert Hotoman*, his Grandfather, bore Arms in the Service of *Lewis* the 11th of *France*, and married a rich Heiress at *Paris*, by whom he had 18 Children; the Eldest of which (*John Hotoman*) had so plentiful an Estate, that he laid down the Ransom-Money for King *Francis* the First, taken at the Battel of *Pavia*: *Summo galliæ bono, summâ cum suâ laude*, says *Neveletus*, [2] *Peter Hotoman* his 18th Child, and *Maistre des Eaux & Forrests*. *Master of the Waters and Forests of France* (afterwards a Counsellor in the Parliament of *Paris*) was Father to *Francis*, the *Author* of this Book. He sent his Son, at 15 Years of Age, to *Orleans* to study the *Common Law*; which he did with so great Applause, that at Three Years End he merited the Degree of Doctor. His Father designing to surrender to him his Place of Counsellor of *Parliament*, sent for him home: But the young Gentleman was soon tired with the Chicane of the Bar, and plung'd himself deep in the Studies of *Les belles Lettres*. *Humanity* and the *Roman Laws*; for which he had a wonderful Inclination. He happen'd to be a frequent Spectator of the Protestants Sufferings, who, about that Time, had their Tongues cut out, were otherwise tormented, and burnt for their Religion. This made him curious to dive into those Opinions, which inspired so much Constancy, Resignation and Contempt of Death; which brought him by degrees to a liking of them, so that he turn'd Protestant. And this put him in Disgrace with his father, who thereupon disinherited him; which forced him at last to quit *France*, and to retire to *Lausanne* in *Swisserland* by *Calvin's* and *Beza's* Advice; where his great Merit and Piety promoted him to the *Humanity-Professor's Chair*, which he accepted of for a Livelihood, having no Subsistance from his Father. There he married a young *French Lady*, who had fled her Country upon the Score of Religion: He afterwards remov'd to *Strasburg*, where he also had a *Professor's Chair*. The Fame of his great Worth was so blown about, that he was invited by all the great Princes to their several Countries, particularly by [3] the *Landgrave of Hesse*, the *Duke of Prussia*, and the *King of Navarre*; and he actually went to this last about the Beginning of the Troubles. Twice he was sent as Ambassador from the Princes of the Blood of *France*, and the Queen-Mother, to demand Assistance of the Emperor *Ferdinand*: The Speech that he made at the Diet of *Francfort* is still extant. Afterwards he returned to *Strasburg*; but *Jean de Monluc*, the Bishop of *Valence*, over-persuaded him to accept of the Professorship of Civil Law at *Valence*; of which he acquitted himself so well, that he very much heighten'd the Reputation of that University. Here he received two Invitations from *Margaret Dutchess of Berry*, and Sister to *Henry* the Second of *France*, and accepted a *Professor's Chair* at *Bourges*; but continued in it no longer than five Months, by reason of the intervening Troubles. Afterwards he returned to it, and was there at the time of the great *Parisian Massacre*, having much-a-do to escape with his Life; but having once got out of *France* (with a firm Resolution never to return thither again) he took Sanctuary in the House of *Calvin* at *Geneva*, and publish'd Books against the Persecution, so full of Spirit and good Reasoning, that the Heads of the contrary Party made him great Offers in case he wou'd forbear Writing against them; but he refused them all, and said, The Truth shou'd never be betray'd or forsaken by him. *Neveletus*

says, "That his Reply to those that wou'd have tempted him, was this: *Nunquam sibi propugnata causam quæ iniqua esset: Nunquam quæ jure & legibus niteretur desertam præmiorum spe vel metu periculi.*"—He afterwards went to *Basel* in *Switzerland*, and from thence (being [4] driven away by the Plague) to *Mountbelliard*, where he buried his Wife. He returned then to *Basel* (after having refused a Professor's Chair at *Leyden*) and there he died of a Dropsy in the 65th Year of his Age, the 12th of *February*, 1590.

He writ a great many learned Books, which were all of them in great Esteem; and among them an excellent Book *de Consolatione*. His *Francogallia* was his own Favourite; tho' blamed by several others, who were of the contrary Opinion: Yet even these who wrote against him do unanimously agree, that he had a World of Learning, and a profound Erudition. He had a thorough Knowledge of the Civil Law, which he managed with all the Eloquence imaginable; and was, without dispute, one of the ablest Civilians that *France* had ever produced: This is *Thuanus* and *Barthius's* Testimony of him. Mr. *Bayle* indeed passes his Censure of this Work in the Text of his Dictionary, in these Words: "*Sa Francogallia dont il faisoit grand estat est celuy de tous ses ecrits que l'on aprouve le moins.*"—and in his Commentary adds, "*C'est un Ouvrage recommandable du costè de l'Erudition; mais tres indigne d'un jurisconsulte Francois, si l'on en croit mesme plusieurs Protestants.*" I wou'd not do any Injury to so great a Man as Monsieur *Bayle*; but every one that is acquainted with his Character, knows that he is more a Friend to Tyranny and Tyrants, than seems to be consistent with so free a Spirit. He has been extremely ill used, which sowres him to such a degree, that it even perverts his Judgment in some measure; and he seems resolved to be against Monsieur *Jurieu*, and that Party, in every thing, right or wrong. Whoever reads his Works, may trace throughout all Parts of [5] them this Disposition of Mind, and see what sticks most at his Heart. So that he not only loses no Occasion, but often forces one where it seems improper and unseasonable, to vent his Resentments upon his Enemies; who surely did themselves a great deal more wrong in making him so, than they did him. 'Tis too true, that they did all they cou'd to starve him; and this great Man was forced to write in haste for Bread; which has been the Cause that some of his Works are shorter than he design'd them; and consequently, that the World is deprived of so much Benefit, as otherwise it might have reap'd from his prodigious Learning, and Force of Judgment. One may see by the first Volume of his Dictionary, which goes through but two Letters of the Alphabet, that he forecasted to make that Work three times as large as it is, cou'd he have waited for the Printer's Money so long as was requisite to the finishing it according to his first Design. Thus much I thought fit to say, in order to abate the Edge of what he seems to speak hardly of the *Francogallia*; tho' in several other Places he makes my Author amends: And one may without scruple believe him, when he commends a Man, whose Opinion he condemns. For this is the Character he gives of this Work: "*C'est au fond un bel Ouvrage, bien escrit, & bien rempli d'erudition: Et d'autant plus incommode au partie contraire que l'Auteur se contente de citer des faits.*" Can any thing in the World be a greater Commendation of a Work of this Nature, than to say it contains only pure Matter of Fact? Now if this be so, Monsieur *Bayle* wou'd do well to tell us what he means by those Words, *Tres indigne d'un jurisconsulte Francois*. Whether a *French* [6] Civilian be debarr'd telling of Truth (when that Truth exposes Tyranny) more than a Civilian of any other Nation? This agrees, in some measure, with Monsieur *Teissier's* Judgment of the *Francogallia*, and shews, that Monsieur *Bayle*, and Monsieur *Teissier* and *Bongars*, were *Bons Francois* in one and the same Sense. "*Son Livre intitule, Francogallia, luy attira AVEC RAISON* (and this he puts in great Letters) *les blame des bons Francois*. For (says he) therein he endeavours to prove, That *France*, the most flourishing Kingdom in *Christendom*, is not successive, like the Estates of particular Persons; but that anciently the Kings came to the Crown by the Choice and Suffrages of the Nobility and People; insomuch, that as in former Times the Power and Authority of *Electing* their Kings belonged to the *Estates of the Kingdom*, so likewise did the Right of *Deposing* their *Princes* from their Government. And hereupon he quotes the Examples of *Philip de Valois*, of

King John, Charles the Fifth, and Charles the Sixth, and Lewis the Eleventh: But what he principally insists on, is to show, That as from Times Immemorial, the *French* judg'd Women incapable of Governing; So likewise ought they to be debarr'd from all Administration of the Publick Affairs."

This is Mr. *Boyle's* Quotation of *Teissier*, by which it appears how far *Hotoman* ought to be blamed by all true *Frenchmen*, AVEC RAISON. But provided that *Hotoman* proves irrefragably all that he says (as not only Monsieur *Bayle* himself, but every body else that writes of him allows) I think it will be a hard matter to persuade a disinterest'd Person, or any other but [7] a *bon Francois*, (which, in good *English*, is a *Lover of his Chains*) that here is any just Reason shewn why *Hotoman* shou'd be blam'd.

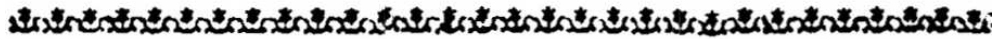
Monsieur *Teissier*, altho' very much prejudiced against him, was (as one may see by the Tenor of the above Quotation, and his leaving it thus uncommented on) in his Heart convinc'd of the Truth of it; but no *bon Francois* dares own so much. He was a little too careless when he wrote against *Hotoman*, mistaking one of his Books for another; viz. his Commentary *ad titulum institutionum de Actionibus*, for his little Book *de gradibus cognationis*; both extremely esteemed by all learned Men, especially the first: Of which Monsieur *Bayle* gives this Testimony: "*La beauté du Stile, & la connoissance des antiquités Romaines eclatoient dans cet Ouvrage, & le firent fort estimer.*"

Thuanus, that celebrated disinterest'd Historian, gives this Character in general of his Writings. "He compos'd (says he) several Works very profitable towards the explaining of the Civil Law, Antiquity, and all Sorts of fine Literature; which have been collected and publish'd by *James Lectius*, a famous Lawyer, after they had been review'd and corrected by the Author. *Barthius* says, that he excelled in the Knowledge of the Civil Law, and of all genteel Learning *Belles Literature Ceux la memes qui ont écrits contre luy* (says *Neveletus*) *tombent d'accord quil avoit beaucoup de lecture & une profonde Erudition.*"

The Author of the *Monitoriale adversus Italogalliam*, which some take to be *Hotoman* himself, has this Passage relating to the *Francogallia*: "Quomodo potest aliquis et succensere qui est tantum relator & narrator facti? *Francogallista* [8] enim tantum narrationi & relationi simplici vacat, quod si aliena dicta delerentur, charta remaneret alba."

It was objected to him, that he unawares furnish'd the Duke of *Guise* and the *League* at *Paris* with Arguments to make good their Attempts against their Kings. This cannot be deny'd; but at the same time it cannot be imputed to *Hotoman* as any Crime: Texts of Scripture themselves have been made use of for different Purposes, according to the Passion or the Interests of Parties. Arguments do not lose their native Force for being wrong apply'd: If the Three *Estates of France* had such a fundamental Power lodg'd in them; who can help it, if the Writers for the *League* made use of *Hotoman's* Arguments to support a wrong Cause? And this may suffice to remove this Imputation from his Memory.

He was a Man of a very handsome Person and Shape, tall and comely; his Eyes were blewish, his Nose long, and his Countenance venerable: He join'd a most exemplary Piety and Probity to an eminent Degree of Knowledge and Learning. No Day pass'd over his Head, wherein he employ'd not several Hours in the Exercise of Prayer, and reading of the Scriptures. He wou'd never permit his Picture to be drawn, tho' much intreated by his Friends; however (when he was at his last Gasp, and cou'd not hinder it) they got a Painter to his Bed's-side, who took his Likeness as well as 'twas possible at such a time. *Basiliius Amerbachius* assisted him during his last Sickness, and *James Grinaeus* made his Funeral-Sermon. He left two Sons behind him, *John* and *Daniel*; besides a great Reputation, and Desire of him, [9] not only among his Friends and Acquaintance, but all the Men of Learning and Probity all over *Europe*.



Explication of the Roman Names

mention'd by Hotoman.

<i>Edui</i>	People of <i>Chalons</i> and <i>Nevers</i> , of <i>Autun</i> and <i>Mascon</i> .
<i>Agrippina Colonia,</i>	<i>Cogn</i> .
<i>Arverni,</i>	P. of <i>Auvergne</i> and <i>Bourbonnais</i> .
<i>Armorica,</i>	<i>Bretagne</i> and <i>Normandy</i> .
<i>Aquitani,</i>	P. of <i>Guienne</i> and <i>Gascogn</i> .
<i>Atrebates,</i>	P. of <i>Artois</i> .
<i>Attuarii,</i>	P. of <i>Aire</i> in <i>Gascogn</i> .
<i>Augustodunum,</i>	<i>Autun</i> .
<i>Aureliani,</i>	P. of <i>Orleans</i> .
<i>Aquisgranum,</i>	<i>Aix la Chapelle</i> .
<i>Ambiani,</i>	P. of <i>Amiens</i> .
<i>Alsaciones,</i>	P. of <i>Alsace</i> .
<i>Bigargium,</i>	<i>Bigorre forté</i> .
<i>Bibracte,</i>	<i>Bavray</i> , in the Diocese of <i>Rheims</i> .
<i>Bituriges,</i>	P. of <i>Bourges</i> .
<i>Carisiacum,</i>	<i>Crecy</i> .
<i>Cinnesates,</i>	P. on the Sea-Coast, between the <i>Elb</i> and the <i>Rhine</i> .
<i>Carnutes,</i>	P. of <i>Chartres</i> and <i>Orleans</i> .
<i>Ceutrones,</i>	P. of <i>Liege</i> .
<i>Ceutones,</i>	P. of <i>Tarentaise</i> in <i>Savoy</i> .
<i>Condrusii,</i>	P. of the <i>Condros</i> in <i>Flanders</i> .
<i>Dusiaccum,</i>	<i>non liquet</i> .
<i>Eburones,</i>	P. of the Diocese of <i>Liege</i> , and of <i>Namur</i> .
<i>Gorduni,</i>	P. about <i>Ghent</i> and <i>Courtray</i> .

Grudii,	P. of <i>Lovain</i> .
Hetrusci,	P. of <i>Tuscany</i> .
Laudunum,	<i>Laon</i> .
Lexovium,	<i>Lisieux</i> .
Lentiates,	People about <i>Lens</i> .
Levaci,	P. of <i>Hainault</i> .
<i>Leuci</i> ,	P. of <i>Metz, Toul</i> and <i>Verdun</i> .
<i>Lingones</i> ,	P. of <i>Langres</i> .
<i>Lugdunum</i> ,	<i>Lyons</i> .
<i>Lutetia</i> ,	<i>Paris</i> .
<i>Massilia</i> ,	<i>Marseilles</i> .
<i>Marsua</i> ,	<i>non liquet</i> .
<i>Nervii</i> ,	P. of <i>Hainault</i> and <i>Cambray</i> .
<i>Nitiobriges</i> ,	P. of <i>Aginois</i> .
<i>Novemopulonia</i> ,	<i>Gascony</i> .
<i>Noviomagum</i> ,	<i>Nimeguen</i> .
<i>Pannonia</i> ,	<i>Hungary</i> .
<i>Pleumosii</i> ,	P. of <i>Tornay</i> and <i>Lisle</i> .
<i>Rhatia</i> ,	<i>Swisserland</i> .
<i>Rhemi</i> ,	P. of <i>Rheims</i> .
<i>Senones</i> ,	P. of <i>Sens</i> and <i>Auxerre</i> .
<i>Sequani</i> ,	P. of <i>Franche Comté</i> .
<i>Sequana</i> ,	the River <i>Seine</i> .
<i>Suessiones</i> ,	P. of <i>Soissons</i> .
<i>Trecassini</i> ,	P. of <i>Tricasses</i> in <i>Champagne</i> .
<i>Treviri</i> ,	P. of <i>Triers</i> , and Part of <i>Luxemburg</i> .
<i>Toxandri</i> ,	P. of <i>Zealand</i> .
<i>Tolbiacum</i> ,	<i>non liquet</i> .

<i>Vencti,</i>	P. of <i>Vannes.</i>
<i>Vesontini,</i>	P. of <i>Besançon.</i>
<i>Ulbanesses,</i>	<i>non liquet.</i>
<i>Witmarium,</i>	<i>non liquet.</i>

The Author's Preface. ↩



To the most Illustrious and Potent Prince *FREDERICK*, Count Palatine of the *Rhine*, Duke of *Bavaria*, &c. First Elector of the *Roman Empire*, His most Gracious Lord, *Francis Hotoman*, wishes all Health and Prosperity.

'Tis an old Saying, of which Teucer the Son of Telamon is the supposed Author, and which has been approved of these many Ages, A Man's Country is, where-ever he lives at Ease. Patria est ubicunq; est bene. For to bear even Banishment it self with an unconcern'd Temper of Mind like other Misfortunes and Inconveniencies, and to despise the Injuries of an ungrateful Country, which uses one more like a Stepmother than a true Mother, seems to be the Indication of a great Soul. But I am of a quite different Opinion: For if it be a great Crime, and almost an Impiety not to live under and suffer patiently the Humours and harsh Usage of our Natural Parents; 'tis sure a much greater, not to endure those of our Country, which wise Men have unanimously preferr'd to their Parents. 'Tis indeed the Property of a wary self-interested Man, to measure his Kindness for his Country by his own particular Advantages: But such a sort of Carelessness and [ii] Indifferency seems a Part of that Barbarity which was attributed to the Cynicks and Epicureans; whence that detestable Saying proceeded, When I am dead, let the whole World be a Fire. Which is not unlike the Old Tyrannical Axiom; Let my Friends perish, so my Enemies fall along with them. Me mortuo terra misceatur incendio. Pereant amici dum una inimici intercidant. But in gentle Dispositions, there is a certain inbred Love of their Country, which they can no more divest themselves of, than of Humanity it self. Such a Love as Homer describes in Ulysses, who preferred Ithaca, tho' no better than a Bird's Nest fix'd to a craggy Rock in the Sea, to all the Delights of the Kingdom which Calypso offer'd him.

Nescio quâ natale Solum dulcedine cunctos
Ducit, & immemores non finit esse sui:

Was very truly said by the Ancient Poet; When we think of that Air we first suck'd in, that Earth we first trod on, those Relations, Neighbours and Acquaintance to whose Conversation we have been accustomed.

But a Man may sometimes say, My Country is grown mad or foolish, (as Plato said of his) sometimes that it rages and cruelly tears out its own Bowels.—We are to take care in the first Place, that we do not ascribe other Folks Faults to our innocent Country. There have been may cruel Tyrants in Rome and in other Places; these not only tormented innocent good Men, but even the best deserving Citizens, with all manner of Severities: Does it therefore follow, that the Madness of these Tyrants must be imputed to their Country? The [iii] Cruelty of the Emperor Macrinus is particularly memorable; who as Julius Capitolinus writes, was nicknamed Macellinus, because his House was stained with the Blood of Men, as a Shambles is with that of Beasts. Many such others are mention'd by Historians, who for the like Cruelty (as the same Capitolinus tells us) were stil'd, one Cyclops, another Busiris, a 3d Sciron, a 4th Tryphon, a 5th Gyges. These were firmly persuaded, that Kingdoms and Empires cou'd not be secur'd without Cruelty: Wou'd it be therefore reasonable, that good Patriots shou'd lay aside all Care and Solitude for their Country? Certainly they ought rather to succour her, when like a miserable oppressed Mother, she implores her Childrens Help, and to seek all proper Remedies for the Mischiefs that afflict her.

But how fortunate are those Countries that have good and mild Princes! how happy are those Subjects, who, thro' the Benignity of their Rulers may quietly grow old on their Paternal Seats, in the sweet Society of their Wives and Children! For very often it happens, that the Remedies which are made use of prove worse than the Evils themselves. 'Tis now, most Illustrious Prince, about Sixteen Years since God Almighty has committed to your Rule and Government a considerable Part of Germany situate on the Rhine. During which time, 'tis scarce conceivable what a general Tranquility, what a Calm (as in a smooth Sea) has reigned in the whole Palatinate; how peaceable and quiet all things have continued: [iv] How piously and religiously they have been governed: Go on most Gracious Prince in the same Meekness of Spirit, which I to the utmost of my Power must always extol. Proceed in the same Course of gentle and peaceable Virtue; Macte Virtute; not in the Sense which Seneca tells us the Romans used this Exclamation in, to salute their Generals when they return'd all stain'd with Gore Blood from the Field of Battel, who were rather true Macellinus's: But do you proceed in that Moderation of Mind, Clemency, Piety, Justice, Affability, which have occasion'd the Tranquility of your Territories. And because the present Condition of your Germany is such as we see it, Men now-a-days run away from Countries infested with Plunderers and Oppressors, to take Sanctuary in those that are quiet and peaceable; as Mariners, who undertake a Voyage, forecast to avoid Streights, &c. and Rocky Seas, and chase to sail a calm and open Course.

There was indeed a Time, when young Gentlemen, desirous of Improvement, flock'd from all Parts to the Schools and Academies of our Francogallia, as to the publick Marts of good Literature. Now they dread them as Men do Seas infested with Pyrates, and detest their Tyrannous Barbarity. The Remembrance of this wounds me to the very Soul; when I consider my unfortunate miserable Country has been for almost twelve Years, burning in the Flames of Civil War. But much more am I griev'd, when I reflect that so many have [v] not only been idle Spectators of these dreadful Fires (as Nero was of flaming Rome) but have endeavour'd by their wicked Speeches and Libels to blow the Bellows, whilst few or none have contributed their Assistance towards the extinguishing them.

I am not ignorant how mean and inconsiderable a Man I am; nevertheless as in a general Conflagration every Man's Help is acceptable, who is able to fling on but a Bucket of Water, so I hope the Endeavours of any Person that offers at a Remedy will be well taken by every Lover of his Country. Being very intent for several Months past on the Thoughts of these great Calamities, I have perused all the old French and German Historians that treat of our Francogallia, and collected out of their Works a true State of our Commonwealth; in the Condition (wherein they agree) it flourished for above a Thousand Years. And indeed the great Wisdom of our Ancestors in the first framing of our Constitution, is almost incredible; so that I no longer doubted, that the most certain Remedy for so great Evils must be deduced from their Maxims.

For as I more attentively enquired into the Source of these Calamities, it seemed to me, that even as human Bodies decay and perish, either by some outward Violence, or some inward Corruption of Humours, or lastly, thro' Old Age: So Commonwealths are brought to their Period, sometimes by Foreign Force, sometimes by Civil Dissentions, at other Times by being worn [vi] out and neglected. Now tho' the Misfortunes that have befallen our Commonwealth are commonly attributed to our Civil Dissentions, I found, upon Enquiry, these are not so properly to be called the Cause as the Beginning of our Mischiefs. And Polybius, that grave judicious Historian, teaches us, in the first place, to distinguish the Beginning from the Cause of any Accident. Now I affirm the Cause to have been that great Blow which our Constitution received about 100 Years ago from that Lewis the XI. Prince, who ('tis manifest) first of all broke in upon the noble and solid Institutions of our Ancestors. And as our natural Bodies when put out of joint by Violence, can never be recover'd but by

replacing and restoring every Member to its true Position; so neither can we reasonably hope our Commonwealth shou'd be restor'd to Health, till through Divine Assistance it shall be put into its true and natural State again.

And because your Highness has always approv'd your self a true Friend to our Country; I though it my Duty to inscribe, or, as it were, to consecrate this Abstract of our History to your Patronage. That being guarded by so powerful a Protection, it might with greater Authority and Safety come abroad in the World. Farewel, most illustrious Prince; May the great God Almighty for ever bless and prosper your most noble Family.

Your Highness's most Obedient,

12 Kal. Sep.
1574.

Francis Hotoman.



FRANCOGALLIA.



[1]

CHAP. I. ↩

The State of Gaul, before it was reduced into a Province by the Romans.

My Design being to give an Account of the Laws and Ordinances of our *Francogallia*, as far as it may tend to the Service of our *Commonwealth*, in its present Circumstances; I think it proper, in the first place, to set forth the State of *Gaul*, before it was reduced into the Form of a *Province* by the *Romans*: For what *Cæsar*, *Polybius*, *Strabo*, *Ammianus*, and other Writers have told us concerning the *Origin*, *Antiquity* and *Valour* of that People, the Nature and Situation of their Country, and their private Customs, is sufficiently known to all Men, tho' but indifferently learned.

We are therefore to understand, that the State of *Gaul* was such at that time, that neither was the *whole* under the Government of a [2] *single Person*: Nor were the particular *Civitas*, a *Commonwealth*. *Commonwealths* under the Dominion of the *Populace*, or the *Nobles* only; but all *Gaul* was so divided into *Commonwealths*, that the most Part were govern'd by the *Advice* of the *Nobles*; and these were called *Free*; the rest had *Kings*. But every one of them agreed in this *Institute*, that at a certain Time of the Year a *publick Council* of the whole Nation should be held; in which *Council*, whatever seem'd to relate to the whole *Body* of the *Commonwealth* was appointed and establish'd. *Cornelius Tacitus*, in his 3d Book, reckons Sixty-four *Croitates*; by which is meant (as *Cæsar* explains it) so many Regions or Districts; in each of which, not only the same *Language*, *Manners* and *Laws*, but also the same *Magistrates* were made use of. Such, in many Places of his History, he principally mentions the Cities of the *Ædui*, the *Rhemi* and *Arverni* to have been. And therefore *Dumnorix* the *Æduan*, when *Cæsar* sent to have him slain, began to resist, and to defend himself, and to implore the Assistance of his *Fellow Citizens*; often crying out, That he was a *Freeman*, and Member of a *Free Commonwealth*, lib. 5. cap. 3.

To the like purpose *Strabo* writes in his Fourth Book: Ἀριστοκρατικά δ' ἦσαν αἱ πλείους τῶν πολιτειῶν, ἕνα δ' ἡγεμόνα ἠρούντο κατ' ἐνιαυτὸν τὸ παλαιὸν ὡς δ' αὐτῶς εἰς πόλεμον εἶς ὑπὸ τοῦ πλήθους ἀπεδείκνυτο στρατηγός. "Most of the *Commonwealths* (says he) were govern'd by the *Advice* of the *Nobles*: but every *Year* they anciently chose a *Magistrate*; as also the People chose a *General* to manage their Wars." The like *Cæsar*, lib. 6. Cap. 4. writes in these Words: "Those *Commonwealths* which are esteem'd to be under the best Administration, have made a Law, that if any [3] Man chance to hear a Rumour or

Report abroad among the Bordering People, which concerned the *Commonwealth*, he ought to inform the *Magistrates* of it, and communicate it to no body else. The *Magistrates* conceal what they think proper, and acquaint the Multitude with the rest: For of Matters relating to the *Community*, it was not permitted to any Person to talk or discourse, but in *Council*."— Now concerning this *Common Council* of the whole Nation, we shall quote these few Passages out of *Cæsar*. "They demanded, (says he) *lib. 1. cap. 12.* a *General Council* of all *Gallia* to be summon'd; and that this might be done by *Cæsar's* Consent." Also, *lib. 7. cap. 12.*—"a *Council* of all *Gallia* was summon'd to meet at *Bibracte*; and there was a vast Concourse from all Parts to that Town."—And *lib. 6. cap. 1*—"Cæsar having summon'd the *Council* of *Gaul* to meet early in the Spring, as he had before determin'd: Finding that the *Senenes*, *Carnates* and *Treviri* came not when all the rest came, he adjourned the *Council* to Paris."—And, *lib 7. cap. 6.* speaking of *Vercingetorix*,—"He promis'd himself, that he shou'd be able by his Diligence to unite such *Commonwealths* to him as dissented from the rest of the Cities of *Gaul*, and to form a *General Council* of all *Gallia*; the Power of which, the whole World should not be able to withstand."

Now concerning the *Kings* which ruled over certain Cities in *Gallia* the same Author makes mention of them in very many Places; Out of which this is particularly worthy our Observation: That it was the *Romans* Custom [4] to caress all those *Reguli* whom they found proper for their turns: That is, such as were busy men, apt to embroil Affairs, and to sow Dissentions or Animosities between the several *Commonwealths*. These they joined with in Friendship and Society, and by most honourable publick Decrees called them their *Friends* and *Confederates*: And many of these *Kings* purchased, at a great Expencc, this Verbal Honour from the *Chief Men* of *Rome*. Now the *Gauls* called such, *Reges*, or rather *Reguli*, which were chosen, not for a certain Term, (as the *Magistrates* of the Free Cities were) but for their Lives; tho' their Territories were never so small and inconsiderable: And these, when Customs came to be changed by Time, were afterwards called by the Names of *Dukes*, *Earls*, and *Marquisses*.

Of the *Commonwealths* or *Cities*, some were much more potent than others; and upon these the lesser *Commonwealths* depended; these they put themselves under for Protection: Such weak Cities *Cæsar* sometimes calls the *Tributaries* and *Subjects* of the former; but, for the most part he says, they were in *Confederacy* with them. *Livius* writes, *lib. 5.* that when *Tarquinius Priscus* reigned in *Rome*, the *Bituriges* had the principal Authority among the *Celtæ*, and gave a *King* to them. When *Cæsar* first enter'd *Gaul*, A.U.C. 695. he found it divided into Two Factions; the *Ædui* were at the Head of the one, the *Arverni* of the other, who many Years contended for the Superiority: But that which greatly increas'd this Contention, was, Because the *Bituriges*, who were next Neighbours to the *Arverni*, were yet *in file & imperio* that is, *Subjects* and *Allies* to the *Ædui*. On [5] the other hand, the *Sequani* (tho' Borderers on the *Ædui*) were under the Protection of the *Arverni*, *lib. 1. Cap. 12. lib. 6. cap. 4.* The *Romans* finding such-like Dissention; to be for their Interest; that is, proper Opportunities to enlarge their own Power, did all they cou'd to foment them: And therefore made a League with the *Ædui*, whom (with a great many Compliments) they titled *Brothers* and *Friends of the People of Rome*. Under the Protection and League of the *Ædui*, I find to have been first the *Senones*, with whom some time before the *Parisians* had join'd their *Commonwealth* in League and Amity. Next, the *Bellouaci*, who had nevertheless a great City of their own, abounding in Numbers of People, and were of principal Authority and Repute among the *Belgæ*, *lib. 2. cap. 4.* and *lib. 7. cap. 7.* *Cæsar* reckons the *Centrones*, *Grudii*, *Levaci*, *Pleumosii*, *Gordunni*, under the Dominion of the *Nervii*, *lib. 5. cap. 11.* He names the *Eburones* and *Condrasii* as *Clients* of the *Treviri*, *lib. 4. cap. 2.* And of the *Commonwealth* of the *Veneti* (these are in *Armorica* or *Brittanny*) he writes, that their Domination extended over all those Maritime Regions; and that almost all that frequented those Seas were their *Tributaries*, *lib. 3. cap. 2.* But the Power of the *Arverni* was so great, that it not only equall'd

that of the *Ædui*, but a little before *Cæsar's* Arrival, had got most of their Clients and Dependents from them, *lib. 6 cap. 4. lib. 7. cap. 10.* Whereupon, as *Strabo* writes in his 4th Book, they made War against *Cæsar* with Four hundred thousand Men under the Conduct of their General *Vercingetorix*. These were very averse to Kingly Government: So that *Celtillus*, Father to *Vercingetorix*, [6] a Man of great Power and Reputation (reckon'd the first Man in all *Gaul*.) was put to Death, by Order of his *Commonwealth*, for aspiring to the *Kingdom*. The *Sequani*, on the other hand, had a King, one *Catamantales*, to whom the *Romans* gave the Title of their *Friend* and *Ally*, *lib. 1. cap. 2.* Also the *Suessiones*, who were Masters of most large and fertile Territories, with 12 great Cities, and cou'd muster Fifty thousand fighting Men, had a little before that time *Divitiacus*, the most potent Prince of all *Gallia* for their King; he had not only the Command of the greatest Part of *Belgæ*, but even of *Britanny*. At *Cæsar's* Arrival they had one *Galba* for their King, *lib. 2. cap. 1.* In *Aquitania*, the *Grandfather* of one *Piso* an *Aquitanian* reigned, and was called *Friend* by the People of *Rome*, *lib. 4. cap. 3.* The *Senones*, a People of great Strength and Authority among the *Gauls*, had for some time *Moritasgus* their King; whose Ancestors had also been Kings in the same Place, *lib. 5. cap. 13.* The *Nitiobriges* or *Agenois*, had *Olovico* for their King; and he also had the Appellation given him of *Friend* by the *Senate* of *Rome*, *lib. 7. cap. 6.*

But concerning all these Kingdoms, one thing is remarkable, and must not lightly be past by; which is That *they were not hereditary*, but *conferr'd* by the *People* upon such as had the Reputation of being just Men. Secondly, That they had no *arbitrary* or *unlimited Authority*, but were bound and *circumscribed* by *Laws*; so that they were no less accountable to, and subject to the Power of the People, than the People was to theirs; insomuch that those *Kingdoms* seem'd nothing else but *Magistracies for Life*. [7] For *Cæsar* makes mention of several *private Men*, whose *Ancestors* had formerly been *such Kings*; among these he reckons *Casticus*, the Son of *Catamantales*, whose Father had been King of the *Sequani* many Years, *lib. 1. cap. 2.* and *Piso* the *Aquitanian*, *lib. 4. cap. 3.* also *Tasgetius*, whose Ancestors had been Kings among the *Carnutes*, *lib. 5. cap. 8.*

Now concerning the Extent of their *Power* and *Jurisdiction*, he brings in *Ambiorix*, King of the *Eburones*, giving an account of it, *lib. 5. cap. 8.* "The Constitution of our Government is such (says he) that the People have no less Power and Authority over me than I have over the People. *Non minus habet in me juris multitudo, quam ipse in multitudinem.*" Which Form of Government, *Plato*, *Aristotle*, *Polybius* and *Cicero* have for this Reason determined to be the *best* and *most Excellent*: "Because (says *Plato*) shou'd Kingly Government be left without a Bridle, when it has attained to supreme Power, as if it stood upon a slippery Place, it easily falls into Tyranny: And therefore it ought to be restrained as with a Curb, by the Authority of the Nobles; and such chosen men as the People have empower'd to that End and Purpose."



[8]

CHAP. II. ↩

Probable Conjectures concerning the ancient Language of the Gauls.

In this Place it seems proper to handle a Question much disputed and canvass'd by Learned Men; *viz.* What was the Language of the Gauls in those old Times? For as to what belongs to their Religion, Laws, and the Customs of the People, *Cæsar*, as I said before, has at large given us an account. In the first place we ought to take notice, that *Cæsar*, in the Beginning of his Commentaries, where he divides the Gauls into Three Nations, the *Belgæ*, the *Aquitanae*, and the *Celtae*, tells us they all differ'd, not only in their *Customs*, but in their *Language*: ἀλλ' ἐνίους μικρόν παραλλάττοντας ταῖς γλώτταις Which also *Strabo*

confirms, *lib.* 4. where he says they were not ὁμογλώττους of one Language, but a little differing in their Languages. And the same thing *Ammianus Marcellinus* testifies in his 15th Book. But what many Learned Men (especially of our own Country) have maintain'd, *viz.* That the *Gauls* commonly used the *Greek Tongue*, may be refuted by this single Instance which *Cæsar* takes notice of *lib.* 5. *cap.* 12. That when *Q. Cicero* was besieged in his Camp, he dispatched Letters written in the *Greek Language*, "*Lest (if they were intercepted) his Designs shou'd be discover'd by the Gauls.*" But to this some object, what *Strabo* writes, *lib.* 4. *viz.* "That all Sorts of good Literature (and especially that of the *Greek Language*) flourish'd at *Marseilles* to [9] such a degree, that the *Gauls*, by the Example of the *Massilians*, were mightily delighted with the *Greek Tongue*, insomuch that they began to write their very Bargains and Contracts in it." Now to this there is a short and ready Reply: For, in the first place, if the *Gauls* learnt *Greek* by the Example of the *Massilians*, 'tis plain, 'twas none of their Mother-tongue. Secondly, *Strabo* in the same place clearly shows us, that the Fashion of writing their Contracts in *Greek* began but in his Time, when all *Gallia* was in Subjection to the *Romans*. Besides, he speaks precisely only of those *Gauls* who were Borderers and next Neighbours to the *Massilians*, of whom he says, that not only many of their private Men, but even their Cities (by publick Decrees, and proposing great Rewards) invited several Learned Men of *Massilia* to instruct their Youth.

It remains that we shou'd clear that place in *Cæsar*, where he tells us the *Gauls*, in their publick and private Reckonings, *Græcis literis usos fuisse*. But let us see whether the word *Græcis* in that place ought not to be left out, not only as *unnecessary* but *surreptitious*. Since it was sufficient to express *Cæsar's* Meaning to have said, that the *Gauls* made no use of *Letters* or *Writing* in the Learning of the *Druids*, but in all other Matters, and in publick and private Accounts, they did make use of *Writing*: For *uti litteris*, *to use Letters*, is a frequent Expression for *Writing* among Latin Authors. Besides, it had been a Contradiction to say the *Gauls* were unskill'd in the *Greek Tongue*, as *Cæsar* had averr'd a little before; and afterwards to say, that they wrote all their publick and private Accounts in *Greek*. As to what many suppose, that the [10] words *litteris Græcis* in that place, are not to be taken for *Writing Greek*, but only for the *Characters* of the *Letters*; I can less approve of this Explanation than the former; because though many ancient Writers (as we just now said) frequently used the Expression, *Uti litteris* for *Scribere*; yet I never observ'd, that any of them ever used it to signify the *Forms* and *Fashions* of the *Characters*. Neither does it make at all for their Opinion, what *Cæsar* says in the First Book of his Commentaries, *viz.* That there were found in the *Helvetian Camp*, Tablets, *litteris Græcis conscriptas*; as if the same Person, who had learnt to make use of the *Greek Forms* of *Characters*, might not as easily have learnt the *Greek Language*; or as if there might not be among the *Helvetii*, *Priests* or *Gentlemens Sons*, who might then have learnt *Greek*, as our's now learn *Latin*; *Greek* being at that Time a Language in Vogue and Esteem. The very Neighbourhood of the School of *Massilia* is sufficient to confute that Opinion: And therefore *Cæsar*, when he speaks of his own Letter to *Cicero*, tells us, he sent that Letter written in *Greek Characters*, lest (in case it were intercepted) his Designs shou'd be discover'd by the Enemy. *Justinius*, *lib.* 20. says, there was a Decree of the Senate made, that no *Carthaginian*, after that Time, shou'd study the *Græcis literas*. *Greek Language* or *Writing*, lest he shou'd be able to speak or write to the Enemy without an Interpreter. *Tacitus*, in his Book *de moribus Germanorum*, tells us, that several Tombs and Monuments were yet to be seen in the Confines of *Germany* and *Swisserland* with *Greek* Inscriptions on them. *Livius*, *lib.* 9. says, The *Roman* Boys formerly studied the *Tuscan Language*, as now they do the *Greek*. And in his [11] 28th Book,—"*Hanibal* erected an Altar, and dedicated it with a large Inscription of all his Atchievements, in the *Greek* and *Punick* Tongues. *Idem* *Lib.* 40. Both Altars and Inscriptions on them in the *Greek* and *Latin* Tongues." Lastly, I cannot imagine, that *Cæsar* wou'd have expressed himself (if he had meant, as these wou'd have him) *Græcis literis scribere*; but rather, *Græcarum literarum formâ*, as we see in *Tacitus*, *Lib.* 11. "*Novas literarum formas addidit.*" He added new

Characters of Letters: Having found, that the *Greek* Literature was not begun and perfected at once. And again,—"*Et forme literis latinis quæ veterrimis Græcorum, &c.*"

Now lest any body shou'd wonder, how the Word *Græcis* crept into *Cæsar's* Text, I will instance you the like Mischance in *Pliny*, *lib. 7. cap. 57.* where 'tis thus written,—"*Gentium consensus tacitus primum omnium conspiravit ut IONUM literis uterentur.*" And afterwards,—"*Sequens gentium consensus in tonsoribus fuit.*" And again,—"*Tertius consensus est in Horarum observatione.*" Now who is there that sees not plainly the Word *IONUM* ought to be left out, as well because 'tis apparently unnecessary, (for *Pliny* had no farther Design than to let us know, that Men first of all consented in the Writing and Form of their Letters) as because 'tis false, that the *Ionian* Letters were the first invented; as *Pliny* himself in his foregoing Chapter, and *Tacitus*, *lib. 11.* have told us? I have observed however two Places, (*Gregorius Turonensis*, *lib. 5.* and *Aimoinus*, *lib. 3. cap. 41.*) wherein 'tis intimated, that the *Gauls* used the *Forms* of the *Greek* Letters: For where they speak of King *Chilperick*,—"He added (say [12] they) *some Letters to our Letters*; and those were, ω , ψ , ζ , ϕ ; and sent Epistles to the several Schools in his Kingdom, that the Boys should be so taught." *Aimoinus* mentions only three Letters, χ , θ , ϕ . But we must understand, that these were *Franks*, not *Gauls*; or rather *Franco-gauls*, who made use of their own native Language, the *German* Tongue; not that ancient Language of the *Gauls*, which had grown out of use under the *Roman* Government: Besides, if the *Francogalli* had made use of the *Greek* Letters, how came they at first to except these, when they made use of all the rest? But we have said enough, and too much of this Matter. As for their Opinion who believe that the *Gauls* spoke the *German* Language, *Cæsar* confutes it in that single place, wherein he tells us, that *Ariovistus*, by Reason of his long Conversation in *Gallia*, spoke the *Gallick* Tongue.

Now for two Reasons their Opinion seems to me to be most probable, who write, that the *Ancient Gauls* had a peculiar Language of their own, not much differing from the *British*: First, because *Cæsar* tells us it was the Custom for these *Gauls* who had a mind to be thoroughly instructed in the Learning of the *Druyds*, to pass over into *Britain*; and since the *Druyds* made no use of Books, 'tis agreeable to Reason, that they taught in the same Language which was used in *Gallia*. Secondly, because *Tacitus* in his Life of *Agricola*, writes, that the Language of the *Gauls* and *Britains* differ'd but very little: neither does that Conjecture of *Beatus Rhenanus* seem unlikely to me, who believes the Language which is now made use of in *Basse Bretayne* [*Britones Britonantes*] to be [13] the Remains of our ancient Tongue. His Reasons for this Opinion may be better learn'd from his own Commentaries, than told in this Place. The Language which we at present make use of, may easily be known to be a Compound of the several Tongues of divers Nations. And (to speak plainly and briefly) may be divided into four Parts. One half of it we have from the *Romans*, as every one that understands *Latin* ever so little, may observe: For besides, that the *Gauls* being subject to the *Romans*, wou'd naturally fall into their Customs and Language, 'tis manifest that the *Romans* were very industrious to propagate their Tongue, and to make it universal, and (as it were) venerable among all Nations. And to that End settled Publick Schools up and down, at *Autan*, *Besancon*, *Lyons*, &c. as *Valerius Maximus*, *Tacitus*, and *Ausonius* tell us. The other half of it may be subdivided thus. One third of it we hold from the *Ancient Gauls*, another from the *Franks*, and the last from the *Greek* Language: For it has been demonstrated long since by many Authors, that we find innumerable *Frank* (that is, *German*) Words (as we shall hereafter prove) in our daily Speech. And several learned Men have shewn us, that many *Greek* Words are adapted to our common Use, which we do not owe to the Learning and Schools of the *Druyds*, (who I believe spoke no *Greek*); but to the Schools and Conversation of the *Massilians*, whom we formerly mentioned.

[14]

The State of Gaul, after it was reduced into the form of a Province by the Romans.

'Tis very well known to all learned Men, that *Gaul*, after having been often attempted with various Success, during a ten Years War, and many Battels, was at last totally subdued by *Cæsar* and reduced into the Form of a Province. It was the Misfortune of this most valiant and warlike People, to submit at length to the *Great Beast*, as it is called in Scripture, with which however they so strove for Empire for eight hundred Years, (as *Josephus* informs us) that no Wars with any other Nation, so much terrified *Rome*. And *Plutarch* in his Lives of *Marcellus* and *Camillus*; *Appian* in his 2d Book of the Civil Wars; *Livius*, lib. 8. & 10. have recorded, that the *Romans* were so afraid of the *Gauls*, that they made a Law, whereby all the Dispensations (formerly granted to Priests and old Men, from serving in their Armies) were made void, in Case of any Tumult or Danger arising from the *Gauls*: which *Cicero* takes notice of in his 2d *Philippick*. *Cæsar* himself in his 6th Book, and after him *Tacitus*, lib. *de moribus Germanorum*, do testify, That there was a time wherein the *Gauls* excell'd the *Germans* in Valour, and carried the War into their Territories, settling Colonies (by reason of their great Multitudes of People) beyond the *Rhine*.

[15]

Now *Tacitus* in his Life of *Agricola*, attributes, the Loss of this their so remarkable Valour, to the Loss of their Liberty. "*Gallos in bellis floruisse accepimus, mox segnitie cum otio intravit, amissa Virtute pariter ac Libertate—*." And I hope the Reader will excuse me, if the Love of my Country makes me add that remarkable Testimony of the Valour of the *Gauls*, mentioned by *Justin*, lib. 24.—"The *Gauls* (says he) finding their Multitudes to increase so fast, that their Lands cou'd not afford them sufficient Sustenance, sent out Three hundred thousand Souls to seek for new Habitations. Part of these: seated themselves in *Italy*; who both took and burnt the City of *Rome*. Another part penetrated as far as the Shores of *Dalmatia*, destroying infinite Numbers of the *Barbarians*, and settled themselves at last in *Pannonia*. A hardy bold and warlike Nation; who ventured next after *Hercules*, (to whom the like Attempt gave a Reputation of extraordinary Valour, and a Title to Immortality) to cross those almost inaccessible Rocks of the *Alps*, and Places scarce passable by Reason of the Cold: Where after having totally subdued the *Pannonians* they waged War with the bordering Provinces for many Years.—And afterwards—being encouraged by their Success, subdivided their Parties; when some took their Way to *Græcia* some to *Macedonia*, destroying all before them with Fire and Sword. And so great was the Terror of the Name of the *Gauls*, that several Kings (not in the least threatned by them) of their own accord, purchased their Peace with large Sums of Money—. And in the following Book, he [16] says,—So great was the Fruitfulness of the *Gauls* at that time, that like a Swarm they fill'd all *Asia*. So that none of the *Eastern* Kings either ventured to make War without a mercenary Army of *Gauls*, or fled for Refuge to other than the *Gauls*, when they were driven out of their Kingdoms." And thus much may suffice concerning their warlike Praises and Fortitude, which (as *Tacitus* tells us) was quite gone, as soon as they lost their Liberty. Yet some Cities, or *Commonwealths*, (as *Plinius*, lib. 4. cap. 11. tells us) were permitted to continue free, after the *Romans* had reduced *Gallia* to the Form of a Province. Such were the *Nervii*, *Ulbanesses*, *Suessiones* and *Leuci*. Also some of the Confederates: and among these he reckons the *Lingones*, *Rhemi*, *Carnutes* and *Ædui*.

But we may easily learn from these Words of *Critegnatus* the *Arvernian*, mentioned by *Cæsar*, lib. 7. what the Condition was of those *Commonwealths*, which had the Misfortune to be reduced into the Form of a Province. "If" (says he) "you are ignorant after what manner far distant Nations are used by the *Romans*, you have no more to do, but to look at our neighbouring *Gallia*, now reduced into the Form of a Province: Which having its Laws and Customs chang'd, and being subjected to the Power of the *Axes*, is oppress'd with perpetual

We are to understand, there were three kinds of Servitude, or Slavery. First, *To have a Garrison of Soldiers imposed upon them, to keep them in Awe*; yet such Provinces as seemed peaceable and quiet, had no great Armies maintained in them. For *Josephus* writes in [17] his 2d Book of the Hist. of the *Jews*, "That in the Emperor *Titus's* time, the *Romans* had but 1200 Soldiers in Garrison in all *Gaul*, altho'" (says he) "they had fought with the *Romans* for their Liberty, almost 800 Years, and had near as many Cities, as the *Romans* had Garrison-Soldiers." A Second Sort of Servitude was, when any Province was made Tributary, and compelled to pay Taxes; and to that End were forced to endure a Number of Tax-gatherers, that is, *Harpies* and *Leeches*, which suck'd out the very Blood of the *Provincials*. *Eutropius* tells us, in his 6th Book, That *Cæsar*, as soon as he had subdued *Gaul*, impos'd a Tax upon it, by the Name of a Tribute, which amounted to *H. S. Quadringenties*: which is about a Million of our Crowns. A Third Sort of Servitude was, when the Provinces were not permitted to be govern'd by their *own Laws*; but had Magistrates and Judges, with full Power and Authority (*cum imperio & securibus*) over Life and Estate, sent them by the People of *Rome*. This Threefold Slavery not only our *Gallia*, but all the other Provinces, took most bitterly to heart; and therefore in *Tiberius's* Reign, not long after *Cæsar's* Conquest, *Tacitus* tells us, That the Cities of *Gaul* rebell'd, because of the Continuance of Taxes, the Extortions of Usurers, and Insolence of the Soldiery. And afterwards in *Nero's* Reign, *Suetonius* writes, "That the *Gauls* being weary of his Tyranny, revolted. The World" (says he) "having for near 13 Years, endured such a Sort of Prince, at last shook him off: The *Gauls* beginning the Defection." Now all *Gallia* was divided by the *Romans* into 16 Provinces, *viz. Viennensis*, [18] *Narbonensis prima*, *Narbonensis secunda*, *Aquitania prima*, *Aquitania secunda*, *Novempopulana*, *Alpes maritimæ*, *Belgica prima*, *Belgica secunda*, *Germania prima*, *Germania secunda*, *Lugdunensis prima*, *Lugdunensis secunda*, *Lugdunensis tertia*, *Maxima Sequanorum*, & *Alpes Græcæ*, as *Antoninus* in his *Itinerary*, and *Sextus Rufus*, give an Account of them. But *Ammianus Marcellinus* treats of them more particularly.

But to return to what we were speaking of: 'Tis not to be imagined how grievously, and with what Indignation the *Gauls* bore the Indecencies and Plunderings of the *Romans*; nor how frequently they revolted upon that Account and because they were not strong enough of themselves to shake off the *Roman* Tyranny, 'twas common Custom with them, to hire *German* Auxiliaries. These were the first beginnings of the Colonies of the *Franks*; For those *Germans*, whether they were beaten by the *Romans*, or (which is more likely) were bought off by them, began by little and little, to settle themselves in the borders of *Gallia*. This gave to *Suetonius*, in his Life of *Augustus*, to say,— "He drove the *Germans* beyond the River *Elb*; but the *Suevi* and *Sicambri* (submitting themselves); he transplanted into *Gallia* where he assign'd them Lands near the river *Rhine*."— Also in his Life of *Therius*,—"He brought (says he) forty thousand of those that had surrendred themselves in the *German* War, over into *Gallia*, and allotted them Settlements upon the Banks of the *Rhine*."— Neither must we omit what *Flavius Vepiscus* records, concerning the Reign of *Probus* the Emperor; in whose time almost all *Gallia*, that is, sixty Cities, [19] revolted from the *Romans*; and with common Consent, took up Arms for the Recovery of their Liberty:—"Having done these things (says he) he march'd with a vast Army into *Gaul*, which after *Posthumus's* Death was all in Commotion, and when *Aurelianus* was kill'd, was In a Manner possessed by the *Germans*; there he gain'd so many Victories, that he recover'd from the *Barbarians* sixty of the most noble Cities of *Gallia*: And whereas they had overspread all *Gallia* without Controul, he slew near four hundred thousand of those that had seated themselves within the *Roman* Territories, and transplanted the Remainders of them beyond the Rivers *Neckar*, and *Elb*."

But how cruel and inhuman the Domination of the *Romans* was in *Gallia*: How intolerable their Exactions were: What horrible and wicked Lives they led; and with how great Inveteracy and Bitterness they were hated upon that Account by the *Gauls*, (especially by the *Christians*) may best be learn'd from the Works of *Salvianus*, Bishop of *Marseilles*, which treat of Providence: Therefore 'tis incredible to tell, what Multitudes of *Germans* pour'd themselves into *Gallia*; the *Gauls* not only not hindring, but even favouring and calling them in. *Latinus Pacatus*, in his Speech to *Theodesius*, has this Passage; "From whence shou'd I begin my Discourse, but from thy Mischiefs, O *Gallia*! who may'st justly challenge a Superiority in Sufferings, above all the Nations of the Earth, that have been vexed with this Plague?"—Now 'tis most plain both from *Sidonius Apollinaris*, and especially from the above-mentioned *Salvianus*, in many Places of [20] his Writings, that our *Franks* were a Part of those *German Nations*, who thus entred into *Gallia*.



CHAP. IV. ↩

Of the Original of the Franks; who having possessed themselves of Gallia, changed its Name, into that of Francia, or Francogallia.

The Order of our Discourse requires, that we should now enquire into the Original of the *Franks*, and trace them from their first Habitations, or (as it were) their very Cradles: In which Disquisition 'tis very much to be admired, that no mention has been made of them by *Ptolomy*, *Strabo*, or even by *Tacitus* himself, who of all Writers was most accurate in describing the Names and Situations of all the *German Nations*: and 'tis plain, the *Franks* were a *German People*, who possessed most part of *Europe* for many Years, with great Reputation; of which we will quote but a few Instances out of many.

First, *Johannes Nauclerus* says thus,—"*Charles* the Great was call'd *King of the Franks*; which is as much as to say, *King of Germany and France*." Now 'tis demonstrable, that at that time all *Gallia Transalpina*, and all *Germany* from the *Pyrenæen Mountains*, as far as *Hungary*, was called *Francia*: This last was called [21] *Eastern France*, the former *Western France*; and in this all true Historians agree.

Eguinartus, in his Life of *Charlemain*, says,—"The Banks of the River *Sala*, which divides the *Taringi* from the *Sorabi*, were afterwards inhabited by those called the *Eastern Franks*." *Otto Frising. Chron. 5. cap. 4.* speaking of *King Dagaber's* Reign, "The Bounds of the *Franks* Dominions reach'd now (says he) from *Spain*, as far as *Hungary*, being two most noble Dukedoms, *Aquitania* and *Bavaria*";—but much more at large, *lib. 6. cap. 17.* And after him *Godfrey of Viterbo*, in his *Chronic. part. 17. sub Anno 881*, "*Arnulphus* (says he) ruled all *Eastern Francia*, which is now called the *Teutonic Kingdom*, or *Germany*; that is to say, *Bavaria*, *Suabia*, *Saxonia*, *Turingia*, *Frisia* and *Lotharingia*; but *Odo* was king of *Western France*." Again, *sub Anno 913*. "It is apparent by the Authority of many Writers, that the Kingdom of *Germany*, which the Emperor *Frederick* at present holds, is part of the Kingdom of the *Franks*; for there (on both sides of the *Rhine*) the first *Franks* were seated; which as far as to the Limits of *Bavaria*, is now called *Eastern France*: But *Western France* is that Kingdom which lies on both Sides the Rivers *Seine* and *Loire*"—And again he says, "In the time of *Charles* the Great, King of the *Franks*, all *Gallia*, that is, *Celtica*, *Belgica*, and *Lugdunensis* and all *Germany* which reaches from the *Rhine* as far as far as *Dalmatia*, made but one Kingdom; which was called *Francia*"—Almost all which Quotations have been taken out of *Otto*, as I said before. 'Tis to be noted, that *Rhegino* writes thus, in [22] *Chron. anni 577*.—"After the Death of *King Pipin*, *Lewis* his Son (who had been present at his Father's Decease and celebrated his Funerals) kept his Residence at *Francfort*, the principal

Seat of the *Eastern Kingdom*." *Luitprandus Ticinensis* says, *lib. 1. cap. 6.*—"It was order'd that *Wido* shou'd have for his Share, that which Men call the *Roman France*, and *Berengarius* shou'd have Italy." And a little after,— "When he had march'd thro' the Territories of the *Burgundians*, he purpos'd to enter *Roman France*, &c." Now it was call'd *Roman France*, first, because the *Franks* had possessed themselves of that *Gallia*, which was under the *Roman* Obedience. Secondly, because the *Roman* Language prevail'd in that Country, as we formerly told you: Whence arose the Saying, *Loqui Romanum*, of such as used not the *German* or *Frank*; but the *Latin* Tongue. *Otto Frisingius*, *chron. 4. cap. penult.* says,— "It seems to me, that those *Franks* who dwell in *Gallia*, borrowed the Language, which they make use of to this Day, from the *Romans*; for the others who stay'd about the *Rhine*, and in *Germany* use the *Teutonick* Tongue."—And in Imitation of him, *Godfridus*, *part. 17. cap. 1.* — "The *Franks* (says he) seem to me to have learn'd the Language which they make use of to this Day, from the *Romans*, who formerly dwelt in those Parts—." From all these 'tis apparent, that the Reputation and Power of the *Franks* was extraordinary great; as 'twas fitting for such as were Masters of a great Part of *Europe*.

Moreover we find, that those *Germans* which were transplanted by the Emperor *Frederick [23]* the *IId*, into the Kingdoms of *Naples* and *Sicily*, and establish'd there as a presidiary Colony, were called *Franks*. *Petrus de Vineis*, *lib. epist. 6. cap. 25.* These are only broken pieces of Sentences, to prove, that the *Germans* (establish'd in *Naples* and *Sicily*) were called, and actually were *Franks*. — "*Following (says he) the Law and Custom of the Franks, in this Instance, that the Eldest Brother to the Exclusion of all the Younger succeeds, even in the Camp it self.*" *Imp. Freder. 2. Neapol. constit. lib. 2. tit. 32.* speaking of those *Franks*, "*who upon Occasion trusted the Fortune of their Lives, and of all their Estates, to the Event of a Duel, or single Combat.*" And again,— "*The aforesaid manner of Proof, which all who observe the Rites of the Franks made use of*" —. Also *lib. 2. tit. 33.*— "*which Law, our Will is, shall in all Causes be common both to the Franks and Longobards.*"

Matters being thus plain, 'tis strange that *Gregory* Bishop of *Tours* (who writ concerning the Original of the *Franks* 800 Years ago) shou'd say, in the first Part of his History, That altho' he had made diligent Enquiry about the Rise and Beginning of the *Franks*, he could find nothing certain: notwithstanding he had seen an ancient Book of a certain Historian of theirs, called, *Salpitius Alexander*; who affirms nothing, either of their first Habitations, or the Beginnings of their Domination.

But we have found out, that these People originally came from that Country which lies between the *Rhine* and the *Elb*, and is bounded on the *West* by the Sea, almost in the same Tract where the greater and the lesser *Chauci* dwelt. "A People (says *Tacitus*) the most noble among all the *Germans*, who founded their [24] Greatness and maintained it by Justice." These were next Neighbours to the *Batavians*; for 'tis agreed on all Hands, that the *Franks* had their first Seats near the Sea-shore, in very marshy Grounds; and were the most skilful People in Navigation, and Sea-fights, known at that time: Whereof we have the following Testimonies. First, in *Claudian*, who congratulating *Stilicon's* Victory, writes thus;

— *Ut jam trans fluvium non indignante Chayco Paseat Belga pecus, mediumque
ingressa per Albin Gallica Francorum montes armenta pererrent.*

In which Place he makes use of a Poetical License, and calls those People *Chayci*, which the Geographers call *Chauci*. Now that they were seated near the Sea, that Panegyric Oration made to *Constantine* the Great, is a Testimony: "*Quid loquar rursus, &c.* What should I speak more of those remote Nations of the *Franks*, transplanted not from Places which the *Romans* of old invaded; but plucked from their very original Habitations, and their farthest *Barbarous Shores*, to be planted in the waste Places of *Gallia*; where with their Husbandry, they may help the *Roman* Empire in time of Peace; and with their Bodies, supply

its Armies in time of War—." And in another Panegyrick, by *Eumenius* the Rhetorician, we find this Passage, "*Aut hæc ipsa, &c.* Or this Country, which was once overspread with the Fierceness of the *Franks*, more than if the Waters of their Rivers, *or their Sea*, had cover'd it;" but now ceases to be barbarous, and is civilized. To the same Purpose is *Procopius* Testimony, in his first Book [25] of the *Gothick War*; for where he describes the place where the *Rhine* falls into the Ocean; "In these Parts (says he) there are great Marshes, where of old the *Germans* dwelt; a barbarous People, and at that time of small Reputation, which now are called *Franks*—." And *Zonaras*, in the 3d Tome of his *Annals*, quotes this very Passage of *Procopius*. Also *Flavius Vopiscus*, in his Life of *Probus*, tells us, That the *Franks* were discomfited by *Probus* in their inaccessible Marshes.—*Testes sunt Franci inviis strati paludibus*. Also *Sidonius Apollinaris* says thus;

*"Francorum & penitissimas paludes,
Intrares venerantibus Sicambris."*

Now what we have said concerning the Neighbourhood of the *Franks* to the *Chauci*, may be plainly proved by comparing of Places, and the Descriptions of their particular Seats. Those of the *Chauci* are described by *Pliny*, *lib. 16. cap. 1*. Those of the *Franks* by the *Rhetorician Panegyrist*, above mentioned: For *Pliny* says thus, "We have seen in the Northern parts the Nations of the *Chauci*, called *Majores & Minores*, where twice every 24 Hours the Ocean is forcibly driven in a great way over the Land; thro' a vast Passage which is there, making it a perpetual Controversy of Nature; and a Doubt, whether it ought to be reckon'd part of the Land or of the Sea."

The Panegyrist speaks in these Terms, "*—Quanquam illa Regio, &c.* When thy noble Expeditions, O *Cæsar*, have proceeded so far, as to clear and conquer that Country, [26] which the *Rhine* runs through, with his cunning Mæanders or Windings, [*Meatibus callidis*, for so it must be read, and not *Scaldis*, as in some Copies,] and embraces in his Arms a Region, which I can scarce call Land; 'tis so soak'd with Water, that not only the Marshy part of it gives way, but even that which seems more firm, shakes when trod upon, and trembles at a Distance under the Weight of the Foot."

We think therefore we have made it plain from what *Seats* the Nation of the *Franks* first came into *Gallia*; that is to say, from that marshy Country which lies upon the *Ocean*, between the Rivers *Elb* and *Rhine*: which may be further confirm'd by this Argument. That the *Franks* were very well skill'd in maritime affairs, and sail'd far and near all about those Coasts; For so says *Eutropius*, *lib. 9*. where he gives a short History of the Emperor *Galienus*. "After this time, when *Carausius* had in charge to scour the Sea-coasts of *Belgia* and *Armorica*, then infested by the *Franks* and *Saxons*, &c." The very same thing *Paulus Orosius* mentions, *lib. 7*. Also what the *Panegyrist*, before cited, says in a certain Place, has Reference to this.— "The *Franks* (says he) are cruel above all others; the tide of whose warlike Fury surmounting that of their very Ocean it self, carried them to the Sea-coasts of *Spain*, which they very much infested with their Depredations." And therefore the Emperor *Justinian*, when he explains to the *General Governor* of *Africk* the duty of his Office, makes mention of those *Franks* which were seated in a certain part of *Gallia*, bordering upon *Spain*.

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But we find a very memorable Passage; which highly sets forth the great Glory of their war-like Atchievements, in another place of that Panegyrick; *viz.* That a small Body of *Franks*, which *Probus*, the Emperor had overcome and carried captive into *Pontus*, seiz'd on some Ships, wandred all about the Sea-coasts of *Græcia* and *Asia*, invaded *Sicily*, took *Syracusa*, and afterwards laden with Booty, return'd into the Ocean thro' the *Streights* of *Gibraltar*. "*Recurabat in animos sub Divo Probo & paucorum ex Francis Captivorum*

incredibilis audacia, & indigna foelicitas: qui à Ponto usque correptis navibus, Græciam Asiamque populati, nec impunè plerisque Lybiæ littoribus appulsi, ipsas postremò navalibus quondam victoriis nobiles ceperant Syracusas: & immenso itinere permensi, Oceanum, qua terras rupit intraverant: atque ita eventu temeritatis, offenderant, nihil esse clausum piraticæ desperationi quò navigiis pateret accessus."

And, as farther Arguments of what I have been proving, may be added all those Places in several Authors, which inform us that the Habitations of the *Franks* were Bordering upon the *Batavians*. The same *Rhetorician*, in his Speeches to *Maximianus* and *Constantine*, says, — "Many thousand *Franks*, who had crossed the *Rhine*, and invaded *Batavia*, with other Countries on this Side, were slain, driven out, or carried away captive."

Besides there is a notable Instance in *Corn. Tacitus*, lib. 20. where speaking of the Neighbourhood of *Frisia* and *Batavia* to each other, he mixes the *Caninesates* among them, whose Custom in Electing their Kings was, (as I shall hereafter shew) the very same with that of the [28] *Franks*. — "Ambassadors (says he) were sent to the *Caninesates*, to persuade them to enter into the Confederacy: That People inhabit one part of the Island, equal as to their Descent, Laws and Valour, to the *Batavians*; but inferior in Number.—And again—*Brinnio* being set upon a Shield (according to the Custom of the Country) and hoisted up on Men's Shoulders, was chosen their Commander." Which Words will prove of no small Authority for us, when we come hereafter to that Part of the Controversy.

The Case being so; I cannot forbear wondring at the Opinion of the Learned *Andreas Tarnebus*, who despising the Authority of so many grave and ancient Writers, says, that he thinks the *Franks* were originally of *Scandinavia*: because in *Ptolomy* he finds the *Phirassi* seated in that Peninsula, which Word he will needs suppose to be corrupted; and that, instead of it, the Word *Franci* ought to be there: but brings no Reason for his Opinion more than his own mere guess, tho' this Opinion differs manifestly from all other ancient Authors.

As to all those who are pleas'd with Fables, and have deduced the Original of the *Franks* from the *Trojans*, and from one *Francion*, a Son of *Priam*, we can only say, that they furnish Materials for *Poets* rather than *Historians*: And among such, *William Bellay* deserves the first Place; who, tho' he was a Person of singular Learning and extraordinary Ingenuity; yet in his Book, which treats of the Antiquities of *Gallia* and *France*, seems rather to have design'd a *Romance*, like that of *Amadis*, than a true History of the *Francogallican* Affairs.

[29]

CHAP. V. [↪](#)

Of the Name of the Franks, and their sundry Excursions; and what time they first began to establish a Kingdom in Gallia.

But I think it requisite that we should enquire a little more carefully into this Name of *Franks*; which, as we told you before, is not to be found in any of the ancient Descriptions of *Germany*. That I may no longer detain the Reader in Suspence, it must needs be, that either the Nation of the *Franks*, by which such mighty things were done, was at first very obscure and mean, (as we see in *Switz*, an ordinary Village) yet because the first beginning of the Liberty of those Countries proceeded from thence, gave the name of *Switzers* to all the rest of the *Cantons*: Or (which seems to me most probable) this Appellation had its Original from the Occasion; *viz.* When those that set up for the prime Leaders and Beginners, in recovering the publick Liberty, called themselves *Franks*; by which name the *Germans* understood such as were *Free*, and under no Servitude; as the Writers of that Nation do unanimously hold: And therefore in ordinary Speech, by a *Frank* was meant a *Freeman*, by a *Franchise*, an *Asylum*, or Place of Refuge; and *Francisare* signified to restore to liberty and freedom. The

first Proof we shall give of this, is, what *Procopius* in his first Book of the *Gothick* [30] Wars relates. The *Franks* (says he) were anciently by a general name call'd *Germans*; but after they exceeded their Limits, they obtain'd the name of *Franks*: Of the same Opinion I find *Gregory of Tours*, the *Abbot of Ursperg*; *Sigibertus* and *Ado of Vienne*, and *Godfrey of Viterbo* to have been, viz. That they had the Name of *Franks* from their *freedom*, and from their *ferocity*, (alluding to the sound, of the words *Francos Feroce*s), because they refused to serve as Soldier under *Valentinian* the Emperor, and to pay Tribute as other Nations did. A second Proof may be that of *Cornelius Tacitus*, who in his 20th Book, speaking of the *Caninesates*, whom we have formerly demonstrated to have been the very-next Neighbours, if not the true *Franks* themselves, and, of their Victory over the *Romans*, he has this expression: *Clara ea victoria, &c.* "That Victory (says he) was of great Reputation to them immediately after it, and of great Profit in the Sequel; for having by that Means got both Weapons and Ships into their Possession, which before they were in great want of; their Fame was spread over all *Germany* and *Gaul*, as being the first beginners of liberty;" *Libertatis Auctores celebrabantur*. For the *Germans* thereupon sent Ambassadors, offering their Assistance. May the *Omen* prove lucky! and may the *Franks* truly and properly deserve that name; who after having shaken off that Yoke of *Slavery*, imposed upon them by *Tyrants*, have thought fit to preserve to themselves a commendable *liberty* even under the Domination of *Kings*: *For to obey a King is not servitude*: neither are all who are govern'd by Kings, presently for that Reason to be counted *Slaves*, but such as submit themselves to the [31] unbounded Will of a *Tyrant*, a *Thief*, and *Executioner*, as Sheep resign themselves to the Knife of the Butcher. Such as these deserve to be called by the vile names of *Servants* and *Slaves*.

Therefore the *Franks* had always *Kings*, even at that very time when they profess'd themselves the *vindicators* and *assertors* of the *publick liberty*: And when they constituted *Kings*, they never intended they shou'd be *Tyrants* or *Executioners*, but *keepers* of their *Liberties*, *Protectors*, *Governors* and *Tutors*. Such, in short, as we shall describe hereafter, when we come to give an Account of the *Francogallican* Government.

For, as to what a certain, foolish and ignorant *Monk*, called *John Turpin*, has wrote (in his Life, or rather Romance of *Charlemagn*) concerning the Origins of the Word *Frank*, viz. That whoever contributed Money towards the Building of *St. Denis's Church*, should be called *Francus*, that is, a freeman, is not worthy of being remembred, no more than all the rest of his trifling Works; stuff'd full of old Wives Tales, and meer Impertinencies.

But this may be truly affirm'd, that this name of *Franks*, or (as *Corn. Tacitus* interprets it) *Authors of Liberty*, was an *Omen* so lucky and fortunate to them, that through it they gain'd almost innumerable Victories. For after the *Franks* had quitted their ancient Seats upon that glorious Design, they deliver'd not only *Germany*, their common Country, but also *France* from the Tyranny and Oppression of the *Romans*; and at last (crossing the *Alps*) even a great part of *Italy* itself.

The first mention made of this illustrious name, we find in *Trebellius Pollios* Life of the Emperor *Gallienus*, about the 260th Year after [32] *Christ*. His Words are these: "Cum, &c. Whilst *Gallienus* spent his time in nothing but Gluttony and shameful Practices, and govern'd the Commonwealth after so ridiculous a manner, that it was like Boys play, when they set up Kings in jest among themselves; the *Gauls*, who naturally hate luxurious Princes, elected *Posthumus* for their Emperor, who at that time was *Gallienus's* Lieutenant in *Gaul* with imperial Authority. *Gallienus* thereupon commenced a War with *Posthumus*; and *Posthumus* being assisted by many Auxiliaries, both of the *Celtæ* and the *Franks*, took the Field along with *Victorinus*—." By which Words we may plainly perceive, that the *Gauls* crav'd the Assistance of the *Franks*; that is, of these *Authors* or *Beginners of liberty*, to enable them to shake off the Tyrant *Gallienus's* Yoke: Which same thing *Zonaras* hints at in his Life of *Gallienus*, when he says, ἐπολέμισε δὲ φράγγοις &c.— We find another mention made of

the same People in *Flavius Vopiscus's* Life of *Aurelian*, in these Words:—"At Mentz the Tribune of the 6th Legion discomfited the *Franks*, who had made Incursions, and overspread all *Gallia*; he slew 700, and sold 300 Captives for Slaves."—For you must not expect that our *Franks*, any more than other Nations in their Wars, were constantly victorious, and crown'd with Success. On the contrary, we read that *Constantine*, afterwards call'd the *Great*, took Prisoners two of their Kings, and exposed them to the Wild Beasts at the publick shews. Which Story both *Eutropius* in his 9th Book, and the *Rhetorician* in that Panegyrick so often quoted, make mention of.

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And because the same *Rhetorician* in another place speaks of those Wars in the Confines of the *Batavi*, which we have shewn not to be far distant from the *Franks*, I will set down his Words at Length. *Multa Francorum millia, &c.* "He slew, drove out, and took Prisoners many thousand *Franks*, who had invaded *Batavia*, and other Territories on this side the *Rhine*." And in another Place says, "He clear'd the Country of the *Batavians*, which had before been possess'd by several Nations and Kings of the *Franks*; and not satisfied with only overcoming them, he transplanted them into the *Roman* Territories, and forced them to lay aside their Fierceness as well as their Weapons." From which place we are given to understand, not obscurely, that *Constantine*, (being constrain'd to do so by the *Franks*) granted them Lands within the Bounds of the *Roman* Empire. *Ammianus*, lib. 15. writes, that the *Franks*, during the Civil Wars between *Constantine* and *Licinius*, sided with *Constantine*, and fought very valiantly for him. And in other places of the same Book he records, that during the Reign of *Constantine*, the Son of *Constantine*, great numbers of *Franks* were at that Court in high favour and authority, with *Cæsar*. "Afterwards, says he, *Malarichus* on a sudden got power, having gained the *Franks*; whereof at that time great numbers flourish'd at Court."—During the Reign of *Julian*, call'd the *Apostate*, the same *Franks* endeavour'd to restore the City of *Cologne* (which was grievously oppress'd by *Roman* Slavery) to its liberty: and forced it, after a long Siege, to surrender thro' Famine; as the same *Ammianus* tells us, lib. 12. And because one Band of those *Franks* fix'd their [34] Habitations upon the Banks of the River *Sala*, they were thereupon called *Salii*; concerning whom he writes in the same Book,—"Having prepar'd there things, he first of all march'd towards the *Franks*; I mean those *Franks* which were commonly called *Salii*, who had formerly with great boldness fix'd their Habitations within the *Roman* Territories, near a place called *Toxiandria*." Again, in his 20th Book he makes mention of that Country possess'd by the *Franks* beyond the *Rhine*, and called *Francia*.—"Having on a sudden pass'd the *Rhine*, he enter'd the Country of those *Franks* called *Attuarii*, a turbulent sort of People, who at that time made great Havock on the Frontiers of *Gallia*."—And in his 30th Book, where he speaks of King *Macrianus*, with whom *Valentinian* the Emperor had lately made a Peace on the Banks of the *Rhine*, in the Territory of *Mentz*,—"He died, says he, in *Francia*, whilst he was utterly wasting with Fire and Sword all before him, being kill'd in an Ambush laid for him by that valiant King *Mellobandes*." Now of this *Mellobandes*, King of the *Franks*, the same Author in his following Book gives this Character; "That he was brave and valiant, and upon the score of his Military Virtue constituted great Master of the Houshold by the Emperor *Gratianus*, and Lieutenant-General (in conjunction with *Nannienus*) of that Army which was sent against the *Lentiates*, a People of *Germany*." Afterwards, by virtue of a Treaty concluded between the *Franks* and the Emperor *Honorius*, they defended the Frontiers of the *Roman Gallia* against *Stilicon*: For *Orosius* tells us in his last Book, "That the Nations [35] of the *Alani*, *Suevi* and *Vandali*, being (together with many others) encouraged by *Stilicon*; pass'd the *Rhine*, wasted the Territories of the *Franks*, and invaded *Gallia*."

After the Emperor *Honorius's* time, we have very little in History extant concerning the *Frank's* Warlike Deeds. For to those Times must be apply'd what St. *Ambrose* writes in his Letter (the 29th) to *Theodesius* the Emperor: That the *Franks* both in *Sicily* and many other Places, had overthrown *Maximus* the *Roman* General. "He (says he, speaking of *Maximus*) was presently beaten by the *Franks* and *Saxons* in all places of the Earth." But in the Reign of *Valentinian* the 3d, that is, about the 450th Year of *Christ*, 'tis plain, by the consent of all Writers, that *Childeric*, the Son of *Meroveus*, King of the *Franks*, compleated the Deliverance of *Gallia* from the *Roman* Tyranny, after a continued Struggle of more than 200 Years; and was the first that established in *Gallia* a firm and certain Seat of Empire: For altho' some reckon *Pharamond* and *Clodio-crinitus* as the first Kings of the *Franks*, yet without doubt there were many before them, who (like them) had cross'd the *Rhine*, and made Iruptions into *Gallia*: but none had been able to settle any peaceable Dominion within the Limits of *Gallia*. Now *Meroveus*, who is commonly reckon'd the 3d King; tho' he was indeed King of the *Franks*, yet he was a Stranger and a Foreigner, not created King in *Gallia*, not King of the *Francogalli*; that is to say, not elected by the joint Suffrages of both Nations united: In short, all these were Kings of the *Franci*, and not of the *Francogalli*. But *Childeric*, the Son of *Meroveus*, was (as we said [36] before) the first that was elected by the publick Council of the associated *Franks* and *Gauls*, and he was created King; of *Francogallia* presently after his Father *Meroveus* had been kill'd in a Battel against *Attila*, during the Reign of *Valentinian* the Third, a dissolute and profligate Prince. At which time the *Angli* and *Scoti* took Possession of *Great Britain*; the *Burgundians* of *Burgundy*, *Savoy* and *Dauphine*; the *Goths* of *Aquitain*: the *Vandals* of *Africk* and *Italy*, nay of *Rome* it self; the *Hanni* under their Leader *Attila* wasted *Gallia* with Fire and Sword. This *Attila* having an Army of about Five hundred thousand Men, over-ran all *Gallia* as far as *Thoulouse*. *Ætius* was at that time Governor of *Gallia*, who fearing the Power of *Attila*, made a League with the *Goths*, and by their assistance defeated *Attila* in a Battel; wherein, 'tis said, they slew no fewer than a Hundred and eighty thousand Men. But the Conqueror *Ætius* being suspected by *Valentinian* of aspiring to the Empire, was afterwards, by his Command, put to Death; and within a little while after, he himself was slain by *Maximus* before-mention'd.

During these Transactions, *Meroveus*, King of the *Franks*, taking his Opportunity, pass'd the *Rhine*, with a great Army; and joyning in Confederacy with many Cities, who assisted in the common Cause of the publick Liberty, possess'd himself at length of the innermost Cities belonging to the *Celtæ*, between the *Seine* and the *Garonne*. He being dead, and both Nations (the *Gauls* and *Franks*) united into one Commonwealth; they unanimously elected *Childeric*, the Son of *Meroveus*, for their King, placing him upon a Shield according to [37] ancient Custom; and carrying him upon their Shoulders thrice round the place of Assembly, with great Acclamations of Joy, and universal Congratulation, saluted him *King of Francogallia*. Of all which particulars, *Sidonius Apollinaris*, *Gregorius Turonensis*, *Otto Frising*, *Aimoinus* and others are Witnesses; whose Testimonies we shall further produce, when we come to treat of the Manner of the Inauguration of the King.

The Words of the same *Otto*, in the last Chapter but one of his 4th Book concerning their taking possession of several Cities, are these.—"The *Franks*, after having pass'd the *Rhine*, in the first place put to flight the *Romans*, who dwelt thereabouts; afterwards they took *Tournay* and *Cambray*, Cities of *Gallia*; and from thence gaining ground, by degrees they subdued *Rheims*, *Soissons*, *Orleans*, *Cologne* and *Triers*." And thus much may briefly be said touching the first King of *Francogallia*. To which we shall only subjoin this Remark: Hotoman's *Francogallia* was written Anno 1573. That altho' the *Francogallican* Kingdom lasted from that time to this, almost One thousand two hundred Years; yet during so long a space, there are but three Families reckon'd to have possess'd the Throne, viz. the *Merovingians*; who beginning from *Meroveus*, continued it to their Posterity two hundred eighty three Years. The *Carlovingians*, who drawing their Original from *Charles the Great*, enjoy'd it 337 Years: And

lastly, the *Capevignians*, who being descended from *Hugh Capet*, now rule the Kingdom, and have done so for Five hundred and eighty Years past.

[38]

CHAP. VI. ↩

Whether the Kingdom of Francogallia was hereditary or elective; and the manner of making its Kings.

But here arises a famous Question; the Decision of which will most clearly show the Wisdom of our Ancestors.—*Whether the Kingdom of Francogallia were Hereditary, or conferr'd by the Choice and Suffrages of the People*, That the *German Kings* were created by the *Suffrages of the People*. *Cornelius Tacitus*, in his Book *Demoribus Germanorum*, proves plainly; and we have shown, that our *Franks* were a *German People*: *Reges ex nobilitate, Duces ex virtute sumunt*; "Their *Kings* (says he) they chuse from amongst those that are most eminent for their *Nobility*; their *Generals* out of those that are *Famous for their Valour*:" Which Institution, 1574. to this very day, the *Germans, Danes, Sweeds and Polanders* do retain. They *elect* their *Kings* in a *Great Council of the Nation*; the *Sons of whom* have this privilege (as *Tacitus* has recorded) to be preferr'd to other *Candidates*. I do not know whether any thing cou'd ever have been devised more prudently, or more proper for the Conversation of a *Commonwealth*, than this Institution. For so *Plutarch*, in his *Life of Sylla*, plainly advises. "Even (says he) as expert *Hunters* not only endeavour to procure a *Dog* of a right good *Breed*, but a *Dog* that is known to be a right good *Dog* himself; or a *Horse* [39] descended from a generous *Sire*, but a tryed good *Horse* himself: Even so, those that constitute a *Commonwealth*, are much mistaken if they have more regard to *kindred*, than to the *qualification* of the *Prince* they are about to set over them."

And that this was the Wisdom of our Predecessors in constituting the *Francogallican Kingdom*, we may learn, First, from the last Will and Testament of the Emperor *Charlemagn*, publish'd by *Joannes Nauclerus* and *Henricus Mutius*; in which there is this Clause—"And if any *Son* shall hereafter be born to any of these, my three *Sons*, whom the *People* shall be *willing to Elect* to succeed his *Father* in the *Kingdom*; My Will is, that his *Uncles* do consent and suffer the *Son* of their *Brother* to reign over that portion of the *Kingdom* which was formerly his *Father's*." Secondly, What *Aimoinus*, *lib. I. cap. 4.* says, of *Pharamond*, commonly counted the first *King* of the *Franks*, in these Words.—"The *Franks* *electing* for themselves a *King*, according to the custom of other *Nations*, raised up *Pharamond* to the *Regal Throne*." And again, *lib. 4.*—"But the *Franks* took a certain *Clerk* or *Priest* called *Daniel*; and as soon as his *Hair* was grown, *establish'd* him in the *Kingdom*, calling him *Chilperic*." And *lib. 4. cap. 67.*—"King *Pipin* being dead, his two *Sons*, *Charles* and *Carlomannus*, were *elected Kings* by the *consent of all the Franks*." And in another place—"As soon as *Pipin* was dead, the *Franks* having appointed a solemn *Convention*, *constituted* both his *Sons* *Kings* over them, upon this foregoing condition, that they should divide the whole *Kingdom* equally between them."— [4] And again, after the *Death* of one of the *Brothers*—"But *Charles*, after his *Brother's* *Decease*, was *constituted King* by the *consent* of all the *Franks*." Also, towards the end of his *History of Charles the Great*, he says, "The *Nobility* of the *Franks* being solemnly assembled from all parts of the *Kingdom*; he, in their presence, called forth to him *Lewis King of Aquitain*, (the only one of *Heldegardis's* *Sons* then living) and by the *advice and consent of them all*, constituted him his *Associate* in the whole *Kingdom*, and *Heir* of the *Imperial Dignity*." Thus much out of *Aimoinus*.

Many Testimonies of the like nature we find in *Gregorius Turen* whereof we shall cite only these few following, *lib. 2. cap. 12.*—"The *Franks* (says he) having *expelled Childeric*; unanimously *elected Eudo* for their *King*."—Also *lib. 4. cap. 51.*—"Then the *Franks* (who

once looked towards *Childebert the Elder*) sent an Embassy to *Sigebert*, inviting him to leave *Chilperic* and come to them, that they by *their own Authority* might make him King."—And a little after—"The whole Army was drawn up before him; and having set him upon a Shield, *they appointed* him to be their King."—And in another place—"Sigebert agreeing to the *Franks* Proposals, was placed upon a Shield, according to the Custom of that Nation, and proclaimed King; and so got the Kingdom from his Brother *Chilperic*"—And presently after—"The *Burgundians* and *Austrasians* concluded a Peace with the *Franks*, and made *Clotharius* King over them in all the three Kingdoms," Which particular the *Abbot of Ursperg* confirms. "The *Burgundians* (says he) and *Austrasians* having [41] struck up a Peace with the *Franks*, advanced *Clotharius* to be King and sole Ruler of the whole Kingdom."—And in another place—"The *Franks* appointed one of his Brothers, called *Hilderic*, who was already King of the *Austrasians*, to be also their King."

To this matter belongs what *Luitprandus Ticinensis* writes, *lib. i. cap. 6*. "And when he was about to enter into that *Francia* which is called *Roman*, (after having cross'd the Countries of the *Burgundians*) several Ambassadors of the *Franks* met him, acquainting him that they were returning Home again; because being tired with long expectation of his coming, and not able any longer to be without a King, they had *unanimously* Chosen *Odo* or *Wido*, tho' 'tis reported the *Franks* did not take *Wido* upon this occasion for their King, &c."

But concerning this *Odo*, the Story is memorable which *Sigibert* relates; from whence we may more clearly be inform'd of the manner of their *rejecting* their King's Son, and "*setting up another* in his stead." For (*sub anno* 890.) he says thus—"But the *Franks* neglecting *Charles* the Son of *Lewis the Stammerer*, a Boy scarce ten years old; Elected, *Odo* for their King, who was Son of *Duke Robert*, slain by the *Normans*." Also *Otto Frising*, *Chronic. lib. 6. cap. 10*. "The *Western Franks* (says he) with the consent of *Arnolphus*, chose for their King *Odo* a valiant Man, and Son of *Robert*."—Also in the *Appendix to Gregory of Tours*, *lib. 15. cap. 30*. "After the Death of *Dagobert*, *Clodoveus* his Son obtain'd his Father's Kingdom, being at that time very young, and all his *Leudes* (that is, Subjects) *rais'd* him to the Throne, [42] *in Villa Masolano*."—Also *Sigebert*, in *chronic. anno 987*.—"Lewis King of the *Franks* being dead, the *Franks* had a mind to transfer the Kingdom to *Charles* the Brother of *Lotharius*; but whilst he spent too much time, deliberating with his Council concerning that Affair, *Hugo* acquires the Kingdom of the *Franks*, &c." There are many Testimonies, of the same Kind in *Ado*, viz. *anno 686*.—"Clodoveus the King dying, the *Franks* elect *Clotarius* his Son for their King." And again,—"Clotarius having reigned four Years, died, in whose stead the *Franks* elected *Theodorick* his Brother—." Again, *anno 669*. "The *Franks* establish'd in the Kingdom a certain Clerk, called *Daniel*, having caused him to quit his Tonsure and Orders, and name him *Chilperic*." And again,— "The *Franks* appoint, as King over them, *Theodoric* the Son of *Dagobert*"—. Also *Otto Frising* *chron. 6. cap. 13*.—"Otto (says he) King of the *Franks* being dead, *Charles* was created King by unanimous Consent —." The *Appendix to Greg. Turon. lib. 11. cap. 101*. says thus, "When *Theodoric* was dead, the *Franks* elected *Clodoveus* his Son, who was very young, to be their King." And *cap. 106*. "But the *Franks* appoint one *Chilperick* to be their King." Also *Godfrey of Viterbo, chron. part. 17. cap. 4*.—"But *Pipin* in being elected by the *Franks*, was declared King by Pope *Zacharias*, *they having thrust their cowardly King Hilderic into a Monastery*."

From these Proofs, and very many others like them, I think 'tis most plain, that the Kings of *Francogallia* were made such rather by the *Suffrages* and *Favour* of the *People*, than by any [43] *Hereditary Right*. Of which a farther Argument may be the *Forms* and *Ceremonies* used by our *Ancestors*, at the Inauguration of their *Kings*. For we observe, the very same Custom was continued at the *Election* of our Kings, which we told you before out of *Cornelius Tacitus*, was formerly practised by the *Caninesates*, (the *Franks* own Countrymen) viz. that they set their *Elected King* upon a *Shield*, and carried him on high on Men's

Shoulders. So did we; for whoever was chosen by the Votes of the People, was set upon a Shield, and carried thrice round the place of publick Meeting for *Election*, or round about the Army on Men's Shoulders, all the People expressing their joy by Acclamations, and clapping of Hands. *Greg. Turen. lib. 2.* where he makes mention of King *Clodoveus's* Election,— "But they (says he) as soon as they heard these things, applauding him both with their Hands and Tongues, and hoisting him on a Shield, *appointed* him to be their King—." Also *lib. 7. cap. 10.* where he speaks of *Gondebaldus*,—"And there (says he) placing their King upon a *Shield*, they lifted him up; but 'tis reported, that as they were carrying him round the third time, he fell down; so that he was scarcely kept from tumbling to the very Ground by those that stood about him." Of which Accident *Aimoinus, lib. 3. cap. 6.* gives us this Account,—"They called forth *Gondebaldus*, and according to the Custom of the ancient *Franks*, proclaimed him their King, and hoisted him on a Shield; and as they were carrying him the third time round the whole Army, of a sudden they fell down with him, and could scarce get him up again [44] from the Ground—." The like says *Ado. Vien. Ætat. 6.*—"Sigebertus consenting to the *Franks*, was placed upon a Shield, according to the *Custom of that Nation*, and proclaimed King": And peradventure from hence arose that Form among those Writers, who treat of the Creation of a King;—*In Regem elevatus est.*

But now we come to the third Part of this Controversy, in order to understand, how great the *Right and Power of the People* was, both in *making* and *continuing* their Kings. And I think it is plainly prov'd from all our Annals, that the *highest Power* of *abdicating* their Kings, was lodged in the *People*. The very first that was created King of *Francogallia*, is a remarkable instance of his Power. For when the People had found him out to be a profligate lewd Person, wasting his time in Adulteries and Whoredoms, they removed him from his Dignity by universal Consent, and constrain'd him to depart out of the Territories of *France*: and this was done, as our Annals testify, in the Year of Christ 469. Nay, even *Eudo*, whom they had placed in his stead, abusing his Power thro' excessive Pride and Cruelty, was with the like Severity *turned out*. Which Fact we find attested by *Gregory of Tours, lib. 2. cap. 12.* *Aimoinus, lib. 1. cap. 7.* *Godfrey of Viterbo, part. 17. cap. 1.* *Sigibertus, sub annis 461, & 469.* "*Childeric* (says *Gregorius*) being dissolved in Luxury, when he was King of the *Franks*, and beginning to deflower their Daughters, was by his Subjects *cast out of the Throne with Indignation*; whereupon he finding they had a Design to kill him, fled into *Thoringia*." But the *Abbot of Ursperg* says, "the People were unwilling to kill him, but [45] contented themselves with having *turn'd him out, because he was a dissolute Man*, and a Debaucher of his Subjects Daughters—." *Sigibertus* says,—"*Hilderick* behaving himself insolently and luxuriously, the *Franks thrust him out of the Throne*, and made *Ægidius* their King."

And this most glorious and famous Deed of our Ancestors, deserves the more diligently to be remark'd, for having been done at the very Beginning, and as it were, the Infancy of that Kingdom; as if it had been a Denunciation, and Declaration, that the Kings of *Francogallia* were made such, upon certain *known terms and Conditions*; and were *not Tyrants* with *absolute unlimited and arbitrary Power*.

Their Successors also, keeping up the same Custom, in the Year of *Christ 679*, forced *Childeric*, their Eleventh King, to *Abdicate*, because he had behaved himself insolently and wickedly in his Government. And he having formerly caused a certain Nobleman, called *Bodilo*, to be tied to a Stake and whipp'd, without bringing him to a Tryal, was a few Days after slain by the same *Bodilo*. Our Authors are *Aimoinus, lib. 4. cap. 44.* *Trithemius, anno 678.* and *Sigibertus, anno 667.*

The Severity of our Ancestors appear'd in the same Manner a little while after, in the Instance of their 12th King *Theodoric*; who being a wicked and covetous Prince, "the *Franks* (says *Aimoinus*) *rose up against him*, and *cast him out of the Kingdom*, cutting off his hair by

force," lib. 4. cap. 44.—*Ado*, Ætat. 6. anno 696. but *Sigebertus* sub anno 667. imputes a great many of his Crimes to *Ebroinus* his Favourite and chief General. *Præfectus Regius*. "King *Theodorick*" [46] (says he) "was *deposed* by the *Franks*, because of the Insolence of *Ebroinus*, and his Brother *Hilderick* was with unanimous Consent *chosen* King." And *Ado* says, "The *Franks* cast *Theodorick* out of the Kingdom, shaved *Ebroinus* in the Monastery of *Lexovium*, and afterwards raised *Childerick* to be King over them." Also the Appendix to *Greg. of Tours*, lib. II. cap. 64.—"The *Franks* rise up in Arms against *Theodorick*, cast him out of the Kingdom, and cut off his Hair: They shaved also *Ebroinus*."

The like Virtue our Ancestors exerted in the Case of *Chilperick* their 18th King, whom they forced to abdicate the Kingdom, *Regno se abdicare coegerunt*. and made him a Monk, judging him unworthy to sit at the Helm of so great an Empire, *Propter inertiam*. by reason of his Sloth. Whereof *Aimoinus*, lib. 4. cap. 61. *Sigibertus* and *Trithemius*, anno 750. and *Godfrey*, Chronic. part. 17. cap. 4. are our Witnesses.

Again, a sixth Example of the like Severity is extant in *Charles the Gross* their 25th King; who for the like Cowardise, and because he had granted away part of *France* to the *Normans*, suffering his Kingdom to be dismembered, was *Ab optimatibus Regni repudiatas*. rejected and turn'd out by the Nobility and Gentry of the Kingdom, as *Sigebertus* tells us anno 890. Which same thing *Godfridus* records, part. 17. But more at large *Otto Frising*, chron. 6. cap. 9. where he adds this memorable Passage,— "This Man (says he) who next to *Charles the Great*, had been the King of greatest Power and Authority of all the Kings of the *Franks*, was in a short time reduced to so low a Condition, that he wanted Bread to eat, and miserably begged a small Allowance from *Arnolphus*, who was *chosen* King in his stead, [47] and thankfully accepted of a poor Pension: From whence we may observe the uncertain and miserable State of all Human Greatness; that he who had govern'd all the *Eastern* and *Western* Kingdoms, together with the *Roman* Empire, shou'd at last be brought down to such a Degree of Poverty, as to want even Bread." A Seventh Instance is *Odo* the 26th King, who after he had been elected King in the Room of *Charles* the Son of *Lewis* the *Stammerer*, was in the 4th Year of his Reign, by the *Franks*, banish'd into *Aquitain*, and commanded to abide there; they replacing in his stead the same *Charles* the Son of *Lewis*. Which Fact is recorded by *Sigebertus*, sub anno 894. *Aimoinus* lib. 5. cap. 42. and *Godfridus* part. 17.

We must add to this Number *Charles* the 27th King, surnamed (because of his Dullness) *Propter Stuporem ingenii*. *Charles the Simple*: Who having thro' his Folly suffer'd his Kingdom to run to Decay, and lost *Lorrain* (which he had before recover'd) was taken and cast into Prison, and *Rodolphus* was *chosen* in his place, as *Aimoinus*, lib. 5. cap. 42. and *Sigebertus*, anno 926. do testify.

[48]

CHAP. VII. ↩

What Rule was observ'd concerning the Inheritance of the deceased King, when he left more Children than one.

All that we have above said, tends to prove, that the Kingdom of *Francogallia* in old times, did not descend to the Children by *Right of Inheritance* (as a private Patrimony does); but was wont to be bestow'd by the *Choice and publick Suffrages of the People*: So that now there is the less Room left for the Question,—What Rule was observed in Relation to the Children of the deceased King, when he left more than one behind him. For since the Supreme Power nor only of *Creating*, but also of *dethroning* their Kings, was lodged in the *Convention of the People*, and *Publick Council* of the Nation; it necessarily follows, that the ordering the *Succession* (whether they should give it entirely to one, or divide it) was

likewise in the *People*. Altho' in this place another Question may arise, viz. supposing the People shou'd *reject* the Son of their King, and *elect* a Stranger, whether any thing should be allowed to the first to maintain his Dignity? For the Solution, of which 'tis to be understood, that Lawyers reckon four Kinds of such Goods, as may be properly said to be under the King's *In Regis ditione*. Governance; viz. the Goods of *Cæsar*, the Goods of the *Exchequer*; the Goods of the [49] *Publick*, and *Private* Goods. The Goods of *Cæsar* are such as belong to the *Patrimony* of every Prince, not as he is *King*, but as he is Ludovicus, or *Lotharius*, or *Dagobertus*. Now this *Patrimony* is called by the *Gallican* Institutions, *The King's Domain*; which cannot be alien'd, but by the Consent of the *publick Council* of the Nation, as we shall make it appear hereafter, when we come to treat of the Authority of that *Council*. The Goods of the *Exchequer* are such as are given by the *People*, partly to defend the King's Dignity, and partly appropriated to the Uses and Exigencies of the *Commonwealth*. The Goods of the *Publick* (as the Lawyers call them) are such as inseparably belong to the *Kingdom* and *Commonwealth*. The *private* Goods are reckon'd to be such Estate, Goods and Fortune, as are esteemed to belong to every Father of a Family. Therefore upon the Death of any King, if the Kingdom be conferr'd on a Stranger, the *Patrimonial* Estate, as Lawyers call it, (being what was not in the King's Power to alienate) shall descend by Inheritance to his Children: But that which belongs to the *Kingdom* and *Commonwealth*, must necessarily go to him who is chosen King, because it is part of the *Kingdom*. Altho' it may be reasonable, that Dukedoms, Counties, and such like (by Consent of the *publick Convention* of the People) may be assigned to such Children for the Maintenance of their Quality; as *Otto Frising*, Chron. 5. cap. 9. and *Godfrey of Viterbo*, tell us, That *Dagobert* Son of *Lotharius* being made King, assigned certain Towns and Villages near the *Loire*, to his Brother *Heribert* for his Maintenance. Which *Aimoinus* confirms, lib. 4. cap. 17. and further [50] adds, that he made a Bargain with him, to live as a private Person, and to expect no more of his Father's Kingdom. Also in his 61. chap. where he speaks of King *Pipin*, "He bestowed (says he) some Counties on his Brother *Grison*, according to the *Order* of the Twelve Peers." And to this belongs what *Greg. Turon.* writes, lib. 7. cap. 32.—"*Gondobaldus* sent two Ambassadors to the King with consecrated Rods in their hands, (that no Violence might be offer'd them by any body, according to the Rites of the *Franks*) who spoke these Words to the King, *Gondobaldus* says, he is a Son of King *Clotharius*, and has sent us to claim a due Portion of his Kingdom."

But to return to the Question, as far as it relates to the Succession of the Kingdom; I can find out no certain Rule or Law in *Francogallia* touching that Matter; because (as I said before) the Kingdom was not hereditary. 'Tis true, that in many *Noble Patrimonies* there was what we call *Fiefs*, Feuda; as *Otto Frising*. lib. 2. cap. 29. observes, "'Tis the Custom (says he) in *Burgundy*, which is also in most of the other Provinces of *France*, that the Authority of the Paternal Inheritance always falls to the Elder Brother, and his Children, whether Male or Female; the others looking on him as their Lord—." And that the same was practised among the whole Nation of the *Franks*, *Petrus de Vincis*, lib. epist. 6. epist. 25. and in other Places of his Writings, sets forth at large. But in the Succession of the Kingdom a different Rule was observ'd. For our Records do testify, that in old times the Kingdom of *Francogallia*, upon the Death of the King, was very often, [51] not bestowed by the People on any one of his Sons, but divided into convenient Parcels, and a part assigned to each of them. Therefore when *Clodoveus* the 2d King dyed, anno 515. who left four Sons, *Theodorick*, *Clodoveus*, *Childebert*, and *Clotharius*, we find the Kingdom was thus divided among them; *Theodorick* had the Kingdom of *Metz* for his Share, *Clodoveus* that of *Orleans*, *Clotharius* that of *Soissons*, and *Childebertus* that of *Paris*, as 'tis recorded by *Agathius*, lib. hist. 1. *Greg. Taron.* lib. 3. cap. 1. *Aimoinus* lib. 2. cap. 1. *Rhegino* sub anno 421.

Again, after the Death of *Clotharius* the 4th King, the Kingdom was divided among his four Sons. So that *Cherebertus* had that of *Paris*: *Guntranus*, *Orleans*: *Chilpericus*, *Soissons*: and *Sigebertus* that of *Rheims*—, *Greg.* lib. 4. cap. 22. *Aimoinus* lib. 3. cap. 1. *Rhegino* sub

On the other hand, *Otto Frising.* chron. 5. cap. 9. and *God. Viterb.* tell us, That about the Year 630, when *Lotharius* the 7th King died, *Dagobertus* his Son reigned *singly* in *France*, and assigned to his Brother *Heribert* some Cities and Villages on the River *Loire*, for his Maintenance. For from *Clodoveus's* Time till now, the Kingdom of the *Franks* was confusedly subdivided among the Sons, and the Sons Sons, each of which reigned over the part allotted him.—"The Extent of the Kingdom of the *Franks* reaching now from *Spain*, as far as to *Hungary*: *Dagobert* being sole King of all the *Franks*, gave Laws to the *Bavarians*." So says *Godefridus*, not without good Grounds, as many wise Men have thought. For, as *Justin* tells us, *lib. 21.* "That Kingdom will be much more potent, which remains under the Domination of one Person, [52] than when 'tis divided among many Brothers."

But after some Years, when the Kingdom of the *Franks* was excessively enlarged on all Sides, and King *Pipin* was dead, the *General Council* of the *Gauls* changed this Method again. Which serves to confirm what we said before; *viz.* That the *whole Power*, relating to that Matter, was lodged in that *Council*. For *Eguinartus*, in his Life of *Charlemagn*, writes thus, "—After King *Pipin's* Death, the *Franks* having assembled themselves in a *solemn general Convention*, did there *appoint* both his Sons to be their Kings, upon this Condition, that they shou'd equally divide the whole body of the Kingdom between them: And that *Charles* shou'd reign over that part of it, which their Father *Pipin* enjoy'd; and *Carloman* over the other Part which their *Uncle* held."

Also the *Abbot of Ursperg* says,—"When *Pipin* was dead, his two Sons *Charles* and *Carloman*, by the *Consent of all the Franks*, were created Kings, upon Condition, that they shou'd divide the whole body of the Kingdom equally between them.—" The same Method in dividing the Kingdom, was practised after the Death of *Charlemagn*, as 'tis manifest by his last Will and Testament, recorded by *Joannes Naucleus*, and *Eguinartus's* History of his Life. Wherein we find almost all *Europe* so divided among his three Sons, that nothing was assigned either as a Portion or Dower, to his Daughters; but the marrying and providing for them was entirely trusted to the Care and Prudence of their Brothers. *Otto Frisingensis*, chron. 6. cap. 6. and *Rhegino* in chron. anno [53] 877. assure us, that the same Manner of dividing the Kingdom was practis'd in *East-France*, after the Death of King *Lewis the Stammerer*, in 874. Again, some Years after, anno 880. after King *Lewis* the 23d King's Death, the very same way of dividing the Kingdom was made use of; which however we are to observe, was *not in the Power and Arbitriment of the Kings themselves*; but done by the *Authority of the Publick Council*, as we may easily collect from these Words of *Aimoinus*, *lib. 5. cap. 40.* "The Sons (says he) of *Lewis*, late King of the *Franks*, met at *Amiens*, and divided their Father's Kingdom between them, *according to the Direction of their faithful Subjects.*"

From all which Arguments 'tis very plain, that anciently there was no certain Law or Right of *Francogallia* touching this Matter; but the *whole Power of disposing* of it was lodged in the *Publick Council* of the Nation. Indeed afterwards in the Reign of *Philip* the 3d, (the 41st King) it was ordained, that certain Lordships might be set out and assigned to younger Brothers: But even of this Law there were various Interpretations, and many Controversies arose concerning Daughters; so that we can deliver nothing for certain in this Affair; only thus much we may truly say, That *if the Ancient Institution of our Ancestors ought to be our Rule, the Determination of this whole Matter must be left to the Publick General Council of the Nation*: that according to the Number of Children, some particular Lordships or Territories, may (*by its Authority*) be assigned for their Maintenance.

[54]

Of the Salick Law, and what Right Women had in the King's their Father's Inheritance.

Because we have undertaken to give an Account of the *Law and Right of Regal Inheritance*, we must not omit making Mention of the *Salick Law*; which is both daily discours'd of by our Countrymen, and in the Memory of our Forefathers serv'd to appease a great and dangerous Contention, which arose touching the Succession to the Crown. For when (*Anno 1328.*) *Charles the Fair*, Son of *Philip the Fair*, died, leaving his Wife with Child of a Daughter, (which some Months after was born) *Edward King of England* (Son of *Isabella*, the Daughter of *Philip the fair*, and Sister to *Charles* lately dead) claimed the Inheritance of his Grandfather's Kingdom as his Right. But *Philip of Valois*, Cousin germain by the Father's Side to the deceased King, standing up, alledged that there was an ancient Regal Law, called the *Salick Law*, by which *all Women* were excluded from the Inheritance of the Crown. Now this Law both *Gaguinus* and other Writers of like Stamp tell us, was written by *Pharamond*; and he calls it a most famous Law, even to his Time. For in his Life of *Philip of Valois*; "The *Salick Law* (says he) was a Bar to *Edward's Title*; which Law being first given by *Pharamond* to the *Franks*, has been religiously observed, even to those Days. By [55] that Law, only the Heirs Male of our Kings are capable of governing the Kingdom, and no Females can be admitted to that Dignity. The Words of that Law are these: *Nulla hereditatis portio de terrâ Salicâ ad mulierem venito*; *Let no Part of the Inheritance of Salick Land come to a Woman*. Now (says *Gaguinus*) the *French Lawyers* call *Salick Land*, such as belongs only to the King, and is different from the *Alodial* which concerns the Subjects; to whom, by that Law, is granted a free Dominion of any thing, not excluding the Princely Authority." And to the same Purpose, not only almost all the *Francogallican Historians*, but even all the *Lawyers* and *Pettifoggers* have wrote to this Day, as *Paponius* testifies, *Arrest. lib. 4. cap. 1.* So that now the mistake has prevailed so far, as to have obtain'd the Force of a Law. To explain this, it must be remembred (which we formerly gave an Account of) that the *Franks* had two Seats of their Empire, and two Kingdoms; One in *France*, which remains to this Day; The other beyond the *Rhine*, near the River *Sala*; from whence they were called *Salii*, and *Salici Franci* (joyning the two Names together) but for the most part briefly *Salici*; the Kingdom of these last, and even their very Name is in a Manner extinct. *Ammianus Marcellinus* makes mention in his History (as we told you before) of these *Salii*, and shews, that they are called the *Eastern Franks*, as the others were called the *Western*. Now as there were two Kingdoms of the *Franks*, so they had different Laws: those that belonged to the *Salii*, were called *Salick*; those that belonged to the *Francogalli*, were called *French*. *Eguinartus* in his Life of *Charles* the [56] Great says thus:—"After he had assumed the Imperial Title, finding that his Peoples Laws were in many Things deficient, (*for the Franks have two Laws very different from each other in many Cases.*) he thought of adding such as were wanting."—The Author of the Preface to the *Salick Law* has this Passage.—"The renowned Nation of the *Franks*, before it was converted to the Catholick Faith, enacted the *Salick Law* by the Great Men of the Nation, who at that Time were their Governors; and from among a great many, four Persons were chosen; *Wisogast*, *Arbogast*, *Salogast*, and *Windogast*; who, during three Conventions [*tres mallos*] carefully perusing all Causes from their Original, gave their Judgment and Decree of every one of them in this Manner, &c.—" *Sigebertus* in *Chron. anni 422.* & *Otto Frising*, *lib. 4. cap. penult.* make use of almost the same Words. "From that time (say they) the Laws recommended to them by *Wisigastaldus* and *Salogastus*, began to be in Force. By this *Salogastus*, they tell us, that Law was invented, which from his Name is to this Day called the *Salick Law*; and the most noble of the *Franks*, called *Salici*, observe it at this time."—Thus say the old Chronographers. By which we may refute the Error of such as derive the *Salick Law*, à *Sale*, that is, *Prudence*; or what is called corruptly *Lex Salica*, instead of *Gallica*; than which nothing can be more absurd. But much

greater Errors spring from the same Fountain: First, That People are so far imposed upon by those Authors, as to believe the *Salick* Law had reference to the *Publick Right* of the *Commonwealth* and the *Government*, also to the *Hereditary* [57] *Succession* of the Kingdom. Now the very Records or Tables of this *Salick* Law were not many Years ago found and brought to Light; from whose Inscription it appears, that they were first written and publish'd about *Pharamond's* time: Besides, that all the Heads and Articles, both of the *Salick* and *French* Laws, were Constitutions relating only to *private Right* between Man and Man, and meddled not with the *Publick* Right of the Kingdom or Commonwealth: among the rest, one Chapter, *tit. 62.* has this in it.—"Of the *Salick* Land, no Part or Portion of Inheritance passes to a Female; but this falls to the Male Off-spring; that is, the Sons shall succeed to the Inheritance: But where a Dispute shall arise (after a long Course of Time) among the Grandsons and great Grandsons, *de alode terræ; Allodium* is the contrary to *Feudum*, *Gothick* words, for which 'tis difficult to find proper *English*. let it be divided, *Non per stirpes sed per capita.*" The like Law, *Extat apud Ripuarios, tit. 58. Item apud Anglos, tit. 7.* Where they are so far from enacting any thing relating to the Inheritances of Kingdoms, that they do not so much as affect *Feudal* Successions, but only belong to *Allodial*; altho' a Portion was assigned to Women out of those *Allodial* Lands. Which Way soever this Matter may be, 'tis manifest in the first Place, that altho' no Article, either of the *Frank* or *Salick* Law were extant, which debars Women from the Inheritance of the Crown; yet the Customs and Institutions of a Nation, preserv'd inviolate by universal Consent, during so many Ages, obtain the Force of a written Law: For tho' *Childeric*, the Third King, left two Daughters behind him at his Death, the Kingdom was given to his Brother *Lotharius*, and his Daughters excluded. Again, [58] after the Death of *Cherebert* the 5th King, who left three Daughters; the Succession devolv'd upon his Brother *Sigebert*. Also when *Gontrannus* King of *Burgundy* and *Orleans* died, the Kingdom was conferr'd on his Brother *Sigebert*, not on his Daughter *Clotilda*. Lastly, *Philip of Valois's* Advocates might with greater Caution, as well as Efficacy, have argued for him out of the *Feudal* Law, by which all Inheritances of *Fiefs* descend to the Male Issue only, and not to the Female, who are not admitted to them. And when there happens a Want of Heirs Males in that Line or Branch wherein the Fief is lodged, then the *Feudum* or *Fief* returns back to the other Stock or Branch: which was the very Case at that Time. But such *Fiefs* as thro' a Depravation of the Law, are convey'd down to Women, cannot properly be called *Feuda*, but *Feudastra*, as in other of our Writings we have made it appear.



CHAP. IX. ↩

Of the Right of Wearing a large Head of Hair peculiar to the Royal Family.

It will not be amiss in this Place to give some Account of a Custom of our Ancestors, relating to the Hair worn by the Royal Family: For 'tis recorded, that our Forefathers had a particular Law concerning it; *viz.* That such as were chosen Kings by the People, or were [59] of the Regal Family, shou'd preserve their Hair, and wear it parted from the Forehead, on both Sides the Head, and anointed with sweet Oyl, as an Ornament and peculiar Mark of their being of the Royal Family; whilst all other Persons, how nobly born soever, had no right to wear a large Head of Hair; but were obliged to go with their Heads shorn or shaved, upon the Account (as 'tis probable) that they shou'd be more ready and expedite in their continual military Exercises, as the *Roman* Histories tell us of *Julius Cæsar*, and several others. *Aimoinus* lib. 1 cap. 4. says—"The *Franks* chusing for themselves a King, according to the Custom of other Nations, raised, *Pharamond* to the Throne, to whom succeeded his Son *Clodio crinitus*; For at that Time the Kings of the *Franks* wore large Heads of Hair. Also lib. 3. cap. 61. *Gundoaldus* being brought up by his Mother after the regal Manner, wore a long Head of Hair, according to the Custom of the ancient Kings of the *Franks.*" In like Manner

Agathius, lib. de Bell. Goth. I. where he speaks of *Clodoveus*, one of our Kings, who was taken in Battel by the the *Burgundians*, (he calls him *Clodamirus*). "As soon (says he) as his Horse had thrown him, the *Burgundians* espying his large Head of Hair, which fell back over his Shoulders, presently knew him to be the Enemy's *General*; for 'tis not lawful for the Kings of the *Franks* to cut off their Hair, but even from their Childhood they remain untrimm'd, and always keep a large Head of Hair hanging low down upon their Backs." And we have many Instances that it was our Ancestors Custom, whenever they either deprived any one of the Crown, [60] or took away all Hopes of obtaining the Kingdom, to cut off his Head of Hair. *Aimoinus* in the same Place—"He earnestly beholding him, commanded his Hair to be cut off, denying him to be his Son.—Also—Having caused his Hair to be cut off a second Time, he put him in Prison at *Cologne*; from whence making his Escape, he fled to *Narses*, and suffer'd his Hair to grow again, &c." Which Story *Gregory of Tours*, lib. 6. cap. 24. likewise records. Also cap. 44. where he speaks of King *Theodorick*.—"The Franks (says he) rose up in Arms against him, and cast him out of the Kingdom, and cut off his Head of Hair by Force." But there is a very remarkable, or rather horrible Story related by *Gregory of Tours*, concerning *Crotilda*, the Queen Mother; who chose rather to have the Heads of her two Grandsons cut off than their Hair. 'Tis in his 3d Book, cap. 18.—"Our Mother (says the King to his Brother) has kept our Brother's Sons with her, and intends to advance them to the Throne; we must concert what Measures ought to be taken in this Affair; whether we shall order their Hair to be cut off, and to reduce them to the State of common Subjects; or whether we shall cause them to be put to Death, and afterwards divide the Kingdom between us: Then they sent *Archadius* with a Pair of Scissars in one Hand, and a naked Sword in t'other to the Queen; who approaching her, showed them both to her, and said, Your Sons, most Glorious Queen, have sent me to know your Pleasure, what Destiny you are pleased to allot to these two Youths; whether by suffering their Hair to be cut off, you will have them [61] to live; or whether you had rather have both their Throats cut. Whereupon She chose rather to see them both kill'd, than to have their Hair cut off." I further observe, that it was the Fashion when our Kings went to single Combat, to have their long Hair tied up in a large Knot a-top of their Helmets like a Crest; and that was their Cognizance or Mark in all their Fights. Therefore *Aimoinus*, lib. 4. cap. 18. where he speaks of the dreadful Combat between King *Dagobert* and *Bertoaldus*, Duke of the *Saxons*: "The King (says he) having his Hair, together with a Part of his Helmet, cut off with a Blow of a Sword on his Head, sent them by his Esquire to his Father, desiring him to hasten to his Assistance."

Now when I consider what might be the Reasons of this Institution, I can find none but this. That since it had been the ancient Custom of the *Gauls* and *Franks* to wear their Hair long (as it was also of the *Sicambri*, and of most others in those Parts) our Ancestors thought fit to continue, and in Process of Time to appropriate this Ornament, and Mark of Distinction to the Regal Family. No Person, tho' but indifferently learn'd, needs any Proof that the *Gauls* wore their Hair long, especially when he calls to mind that of the Poet *Claudian*, ex lib. in *Ruffin*. 2.

Inde truces flavo comitantur vertice Galli
Quos Rhodanus velox, Araris quos tardior ambit,
Et quos nascentes explorat gurgite Rhenus.

Now that the *Franks* did so too, whom we have shewn to be descended from the *Chauci* or [62] *Chaiici*, that single Passage of the Poet *Lucan* is sufficient to confirm.

Et vos Crinigeros bellis arcere Chaycos
Opposui, petitis Roman, &c.

Which being so, we may easily comprehend the Reason why Strangers, who were ill affected towards our Nation, contumeliously called our Kings, who wore so great a Head of Hair, *Reges setatos, bristled Kings*; and not only so, but (tho' Bristles and long Hair be common to Lyons, Horses and Swine, all which are therefore called *Setosi, or Setigeri*) they stretched the Contumely so far, as to say, they had Hogs Bristles. From whence arose that filthy Fiction and foul Name, *τριχοραχάτων* of which *Georgius Cedrenus* writes thus in his History, "Ἐλέγοντο δὲ οἱ ἐκ τοῦ γένους ἐκείνου καταγόμενοι κριστάτοι, ὃ ἐρμηνεύεται τριχοραχάτοι' εἶχον γὰρ κατὰ τῆς ῥάχεως αὐτῶν τρίχας ἐκφυομένας ὡς χοῖροι" that is, "They who were of the Kingly Race were called *Cristati*, which may be interpreted *Bristleback'd*; because they had all along their Back bones, Bristles growing out like Swine" —, Which Passage of *Cedrenus*, I believe, is corrupted, and instead of the Word, *κριστάτοι* ought to be *Σέτάτοι* or perhaps both. For as some Persons called them pleasantly *Christati* by Reason of their large erected Bunch of Hair upon the Tops of their Helmets; so their Ill-Willers called them upbraidingly *Setati, or Setigeri*. If *Cedrenus* had not been so very plain in this Passage, and the Appellation of *Cristati* be to be retained, I shou'd rather have thought they might have been called *τριχοχάρακτοι*, as being remarkable for their large Heads of Hair.

[63]

CHAP. X. ↩

The Form and Constitution of the Francogallican Government.

These Things being thus briefly premised, we think it proper now to set forth in what Manner the Kingdom of *Francogallia* was constituted. And we have already made it plain, that the *People* reserv'd to themselves all the Power not only of *Creating*, but also of *Abdicating* their *Kings*. Which Form of Government 'tis manifest our Ancestors had; before they were brought under by the *Romans*, "So that *the People* (as *Cæsar* tells us) *had no less authority and Power over their Kings, than the Kings had over the People*. *Populus non minus in Regem, quam rex in populum imperii ac Potestatis retinet.*" Altho' 'tis probable the *Franks* did not derive this Constitution of their Commonwealth from the *Gauls*; but from their Countrymen, the *Germans*; of whom *Tacitus*, lib. de mor. *Germ.* says,—"*Regibus non est infinita aut libera Potestas. Their Kings have not an Arbitrary or Unlimited Power.*" Now 'tis manifest, that no Form of Government is more remote from Tyranny, than this: for not one of the three distinguishing Marks, or Characteristicks of *Tyranny*, which the old Philosophers make mention of, can be found in the Form and Constitution of our Government. First, as to a forced Obedience; *i. e.* that a King shou'd rule over a People against their Wills; we have shewn you [64] already, that the *Supreme Power*, both of *Electing* and *Abdicating* their *Kings*, was in the *People*. Secondly, as to a Life-guard composed of Foreigners, (which they reckon the Second Mark of *Tyranny*); so far were our *Francogallican* Kings from making use of Mercenary Strangers for their Guards, that they had not so much as their own Countrymen and Citizens, for that Purpose; but placed their whole Trust and Confidence in the Love and Fidelity of their Subjects; which they thought a sufficient Guard.

As an Argument of this, we may observe what *Gregory of Tours* writes, lib. 7. cap. 18. and *Aimoinus*, lib. 3. cap. 63.—"King *Gontrannus* being inform'd by an ordinary Fellow at *Paris*, that *Faraulphus* lay in Wait for him, presently began to secure his Person by Guards and Weapons; so that he went no whither (not even to the Holy Places) without being surrounded with armed Men and Soldiers." We have at present a very famous History extant of St. *Lewis*, written by that excellent Person *Joannes Jonvillæus*, who lived very familiarly with that King for many Years; in which whole History there is not the least Mention made of

Guards or Garisons, but only of Porters or Doorkeepers; which in his native Tongue, he calls Ushers.

Now as to the third Mark of *Tyranny*, which is when Matters are so carried, that what is done tends more to the Profit and Will of the *Person governing*, than to that of the *governed*, or the Good of the *Commonwealth*; we shall hereafter prove, that the *Supreme Administration of the Francogallican Kingdom was lodged in the Publick Annual Council of the Nation, which [65] in After-Ages was called the Convention of the Three Estates*. For the Frame of this Government was the very same which the *Ancient Philosophers*, and among them *Plato* and *Aristotle* (whom *Polybius* imitates) judged to be the best and most excellent in the World, as being made up and constituted of a Mixture and just Temperament of the three Kinds of Government, *viz.* the *Regal, Noble, and Popular*. Which Form of a *Commonwealth, Cicero* (in his Books *de Republicâ*) prefers to all other whatsoever. For since a *Kingly* and a *Popular* Government do in their Natures differ widely from each other, it was necessary to add a *third and middle State* participating of both, *viz.* that of the *Princes or Nobility*; who, by Reason of the Splendor and Antiquity of their Families, approach, in some Degree, to the *Kingly Dignity*; and yet, being *Subjects*, are upon that Account on the same Foot and Interest with the *Commons*. Now of the Excellency of this Temperament in a *Commonwealth*, we have a most remarkable Commendation in *Cicero*, taken by him out of *Plato's* Books *de Republicâ*; which, because of its singular Elegancy, we shall here insert at length.

"Ut in fidibus (inquit) ac tibiis, atque cantu ipsò, ac vocibus, tenendus est quidam concentus ex distinctis sonis, quem immutatum ac discrepantem aures eruditæ ferre non possunt; isque concentus ex dissimillimum vocum moderatione concors tamen efficitur, & congruens; Sic ex summis, & mediis, & infimis interjectis ordinibus, ut sonis, moderatâ ratione *civitas*, consensu dissimillimorum, concinit, & quæ *harmonia* a musicis dicitur in *cantu*, ea est in *Civitate concordia*: artissimum [66] atq; optimum in *Repub.* vinculum incolunitatis, quæ fine justitiâ nullo pacto esse potest. *i. e.* As in Fiddles and Flutes, and even in Singing and Voices, a certain Consort of distinct Sounds is to be observed; which if it be alter'd, or not tunable, skilful Hearers cannot bear or endure: And this Consort of very different Tones, is, through as just Proportion of the Notes, rendred Concord, and very agreeable: Even so a *Commonwealth*, judiciously proportioned, and composed of the *first*, the *middlemost*, and the *lowest* of the *States*, (just as in the Sounds) through the Consent of People very unlike to each other, becomes agreeable: And what Musicians in Singing call *Harmony*, that in a *Commonwealth* is *Concord*; the very best and strongest Bond of Safety for a Government, which can never fail of being accompanied with *Justice*." Our Ancestors therefore following this Method, of a just Mixture of all the three Kinds, in the constituting their *Commonwealth*, most wisely ordained, that every Year on the *Calends of May*, a *Publick Council* of the whole Nation should be held: at which *Council* the great Affairs of the *Republick* shou'd be transacted by the common Consent and Advice of all the *Estates*. The Wisdom and Advantage of which Institution, appears chiefly in these three things: First, That in the Multitude of prudent Counsellors, the Weight and Excellency of Counsel shews it self more apparently, as *Solomon* and other Wise Men have said. Secondly, *Because it is an essential part of liberty, that the same persons, at whose cost and peril any thing is done, shou'd have it done likewise by their authority and advice: for* ('tis a common Saying) *what [67] concerns all, ought to be approved by all*. Lastly, That such Ministers of State as have great Power with the Prince, and are in high Employments, may be kept within the Bounds of their Duty, thro' the Awe they stand in of this *great Council*, in which all the Demands and Grievances of the Subject are freely laid open.—"For such Kingdoms as are ruled by the arbitrary Will and Pleasure of *one Prince*, may most justly (as *Aristotle* in his third Book of *Politicks* observes) be reckon'd Governments of Sheep; and brute Beasts, without Wit or judgment; not of Freemen, who are endued with Understanding, and the Light of Reason."

The Case is thus—That even as Sheep are not guided or tended by one of their own Kind, nor Boys govern'd by one of themselves, but by something of more Excellency; even so a Multitude of Men ought not to be ruled and govern'd by one single Person, who perhaps understands and sees less than several others among them; but by many select Persons, who, in the Opinion of all Men, are both very prudent and eminent; and who act by united Counsels, and, as it were, by one Spirit, composed and made up of the Minds of many Wise Men.

Now whereas it may be objected, that most Kings have a constant *Privy Council* to advise them in the Administration of publick Affairs: We answer, That there is a great deal of Difference between a Counsellor of the *King*, and a Counsellor of the *Kingdom*. This last takes care of the Safety and Profit of the whole Commonwealth; the other serves the Humour and studies the Conveniences of one Man only; and besides, these King's Counsellors reside, for [68] the most part, in one certain Place; or at least near the Person of the Prince, where they cannot be supposed to be thoroughly acquainted with the Condition of the more remote Cities or Provinces; and being debauched by the Luxury of a Court life, are easily depraved, and acquire a lawless Appetite of Domineering; are wholly intent upon their own ambitious and covetous Designs; so that at last they are no longer to be consider'd as Counsellors for the Good of the Kingdom and Commonwealth, but Flatterers of a single Person, and Slaves to their own and Prince's Lusts.

Concerning this Matter, we have a most excellent Saying of the Emperor *Aurelian*, recorded by *Flavius Vopiscus*.—"My Father used to tell me (says *Aurelian*) that the Emperor *Dioclesian*, whilst he was yet a private Man, frequently said, That nothing in the World was more difficult than to govern well. For, four or five Persons combine together, and unanimously agree to deceive the Emperor they determine what shall be approved or disapprov'd. The Emperor, who, for the most part, is shut up in his Palace, knows nothing of the Truth of Affairs; he is compell'd to hear and see only with their Ears and Eyes; he makes judges, such Persons as do not deserve to be made so; he removes from Offices in the Commonwealth such as he ought to keep in; in short, a good, provident and excellent Emperor is sold by such Counsellors."—Now our Ancestors, in the constituting their Commonwealth, wisely avoiding these Mischiefs (as Mariners wou'd do dangerous Rocks) decreed that the *Publick* Affairs shou'd be managed by the joynt Advice and [69] Counsel of *all* the *Estates* of the *Kingdom*. To which Purpose the *King*, the *Nobles*, and the *Representatives* of the *Commons* out of the several Provinces, were obliged to meet at a certain Time every Year. And this very same Institution we find to have been that of many other Nations. First in our Ancient *Gallia*, where the Administration of Publick Affairs was intrusted with the *Common Council of the chosen Men in the whole Nation* as we have above demonstrated. But because we are now speaking of a Kingdom, I shall give Instances of them. 'Tis man felt, that in old Times the Council of the *Amphictions* was instituted in *Greece* (as *Suidas* and others testify) by King *Amphyction*, Son of *Deucalion*; and therein it was ordained, that at a certain appointed Time every Year, *Representatives* chosen out of the Twelve Commonwealths of *Greece* shou'd meet at *Thermopylae*, and deliberate concerning all the weighty Affairs of the Kingdom and Commonwealth: For which Reason, *Cicero* calls this the *Common Council of Gracia*, *Pliny* calls it the *Publick Council*.

We find the like Wisdom in the Constitution of the *German Empire*, wherein the *Emperor* represents the *Monarchical* State, the *Princes* represent the *Aristocratical*, and the *Deputies of the Cities* the *Democratical*; neither can any Matter of Moment appertaining to the whole *German Republick* be firm and ratified, but what is first agreed upon in that *great Convention of the Three Estates*. To this End was framed that ancient and famous Law of the *Lacedemonians*, which joyned the *Ephori* to their *Kings*; "Who, as *Plato* writes, were designed to be like Bridles to the Kings, and the Kings were obliged to govern the

Commonwealth by their [70] Advice and Authority." *Pliny*, lib. 6. cap. 22. makes mention of the like Practice in the Island of *Taprobana*, where the King had thirty Advisers appointed by the People; by whose Counsel he was to be guided in the Government of the Commonwealth; "For fear (says he) lest the King if he had an unlimited Power should esteem his Subjects no otherwise than as his *Slaves* or his *Cattel*."

Furthermore, we find the very same Form of Administration of the Kingdom of England, in *Polydore Virgil's History of England*, lib. 11. where he has this Passage in the Life of *Henry* the First.—"Before this Time the Kings used to summon a publick Convention of the People in order to consult with them, but seldom: So that we may in some Manner say, that the Institution derived its Original from *Henry*: which took such deep Root, that it has always continued ever since, and still does so; *viz.* That whatever related to the Well governing or Conservation of the *Commonwealth*, ought to be debated and determin'd by the *great Council*. And that if either the *King* or the *People* shou'd act any thing *alone*, it shou'd be esteemed *invalid*, and as *nothing*, unless it were first approved and established by the *Authority of that Council*. And for fear this *Council* shou'd be cumbred with the Opinions of an *unskilful Multitude*, (whose Custom it is to distinguish nothing justly) it was at first establish'd by a certain Law, what *Sort* of Persons, and what *Numbers* either of the *Priests* or of the *People* shou'd be called to this *Council*, which, after a *French* Name, they commonly call *A Parliament*; which every King at the Beginning of his [71] Reign uses to hold, and as often afterward as he pleases, or as *Occasion* requires." Thus far *Polydore Virgil*.

But among all the Laws and Customs of this Kind, there is none so remarkable as that of the *Spaniards*; who, when they *elect* a King in the *Common-Council* of *Arragon*, (in order to keep up a perpetual Remembrance of their Privileges) represent a Kind of Play, and introduce a certain *Personage*, whom they call by the Name of *The Law of Arragon*, *La justitia di Arragon*. whom (by a publick Decree) they declare to be greater and more Powerful than their King; and afterwards they harangue the King (who is elected upon certain Terms and Conditions) in Words which (because of the remarkable Virtue and Fortitude of that Nation in repressing the *unbridled Will* of their Prince,) we will here set down at length.—"Nos que valemus tanto come vos, ii podemos mas que vos; vos elegimos Reii con estas ii estas Conditiones; intra vos ii nos un que manda mas que vos: That is, We, who are of as great Value as you, and can do more than you, do elect you to be our King, upon such and such Conditions: Between you and us there is *one of greater Authority* than you."

Seeing then that the Case is so, and that *this has always been a constant and universal Law of all Nations, that are governed by a Kingly, and not by a Tyrannical Power*: 'Tis very plain, that this most valuable Liberty of holding a *Common-Council* of the Nation, is not only a Part of the *People's Right*; but that all Kings, who by Evil Arts do oppress or take away this *Sacred Right*, ought to be esteemed *Violators of the Laws of Nations*; and being no better than *Enemies of [72] Human Society*, must be consider'd not as *Kings*, but as *Tyrants*.

But to return to the Matter in Hand. Our Commonwealth being constituted by the Laws of our Ancestors, upon the Bottom above-mention'd, and participating of all the three Kinds of Government; it was ordain'd, that once every Year (and as much oftner as important Occasions should make it necessary) a *Solemn General Council* shou'd be held: Which for that Reason, was called a *Parliament* of the *Three Estates*. By that Word was meant a Convention or Meeting of Men out of several Parts of the Country to one Place, there to confer and deliberate concerning the Publick Welfare: And therefore all Conferences (tho' between Enemies) in order to a Peace or Truce are always in our Chronicles called by the Name of *Parliaments*. Now of this Council, the *King* sitting in his Golden Tribunnal, was *chief*; next to him were the *Princes* and *Magistrates* of the Kingdom; in the third Place were the *Representatives* of the several Towns and Provinces, commonly called the *Deputies*: For as soon as the Day prefix'd for this Assembly was come, the *King* was conducted to the

Parliament House with a Sort of Pomp and Ceremony, more *adapted to popular Moderation*, than to *Regal Magnificence*: which I shall not scruple to give a just account of out of our own Publick Records; it being a Sort of *Piety* to be pleas'd with the Wisdom of our Ancestors; tho' in these most profligate Times, I doubt not but it wou'd appear ridiculous to our flattering Courtiers. The King then was seated in a *Waggon*, and drawn by *Oxen*, which a *Waggoner* drove with his *Goad* to [73] the Place of Assembly: But as soon as he was arrived at the Court, or rather indeed the Venerable *Palace of the Republick*, the Nobles conducted the King to the Golden Throne; and the rest took their Places (as we said before) according to their Degrees. This *State*, and in this *Place*, was what was called *Regia Majestas*, *Royal Majesty*. Of which we may even at this Day observe a signal Remain in the King's Broad Seal, commonly called the *Chancery Seal*. Wherein the King is not represented in a *military Posture* a Horse-back, or in a *Triumphant Manner* drawn in his Chariot by Horses, but sitting in his Throne *Robe'd* and *Crown'd*, holding in his Right Hand the Royal Sceptre, in his Left the Sceptre of Justice, and presiding in his *Solemn Council*. And indeed, in that Place only it can be said that *Royal Majesty* does truly and properly reside, where the great Affairs of the Commonwealth are transacted; and not as the unskilful Vulgar use to profane the Word; and whether the King plays or dances, or prattles with his Women, always to stile him YOUR MAJESTY.

Of all these Matters, we shall give only a few Proofs, out of many which we could produce. First, out of *Eginarthus*, who was *Chancellor* to *Charles the Great*, and wrote his Life. These are his Words: "Wherever he went (speaking of *Charlemagn*) *about the publick Affairs*: he was drawn in a *Waggon* by a Pair of *Oxen*, which an ordinary *Waggoner* drove after his rustical Manner. Thus he went to the Courts of Justice, thus to the Place of the Publick Convention of his People, which every Year was [74] celebrated for the Good of the Realm; and thus he used to return Home again."

Joannes Nauclerus gives us an Account of the very same Thing, in almost the same Words, in *Chron. Generat.* 26. So does the *Author* of the *Great Chronicle*, in the Beginning of his Life of *Charlemagn*, Fol. 77. Neither ought this to seem so great a Wonder to any, who considers it was the Fashion in those Days for our Kings and Queens, and the Royal Family, to be drawn by *Oxen*; of which we have one Instance in *Greg. Turon. lib. 3. cap. 26*. "*Deuteria*, (says he) Wife of King *Childebert*, seeing her Daughter by a former Husband grown to Woman's Estate, and fearing lest the King (being in Love with her) should lye with her, caused her to be put into a Sort of Litter with untamed *Oxen*, and thrown Headlong off a Bridge." *Aimoinus, lib. 4. cap. 30*. makes mention of the Golden Throne, where he speaks of King *Dagobert*: "He proclaimed, says he, *Generale PLACITUM in loco nuncupato Bigargio*, a *Great Council* in a Place named *Bigargium*: To which all the Great Men of *France* assembling with great Diligence on the Kalends of *May*, the King thus began his Speech to them, sitting on his *Golden Throne*." Also in his 41st Chapter, speaking of King *Clodoveus*—Sitting in the midst of them, on his *Golden Throne*, he spoke in this Manner, &c. *Sigebertus in Chron. Anni 662*.—"Tis the Ancient Custom (says he) of the Kings of the *Franks*, every *Kalends of May*, to preside in a Convention of all the People, to salute and be saluted, to receive Homage, and give and take Presents." *Georgius Cedrenus [75]* expresses this in almost the same Words: κατὰ δὲ τὸν Μάϊον μήνα προκαίθεσσαι ἐπὶ παντὸς τοῦ ἔθνους καὶ προσκυνῆν αὐτοῖς καὶ ἀντιπροσκυνῆσθαι ὑπ' αὐτῷ, δωροφορεῖσθαι τε κατὰ συνήθειαν καὶ ἀντιδιδόναι αὐτοῖς.

Now, concerning the *Authority* of the *People*, who were thus gather'd together at the *Great Council*, we have many Testimonies, *Aimoinus, lib. 4. cap. 41*. speaking of *Clodoveus* the Second; "Altho' (says that King in his Speech) the Care of our Earthly Principality *obliges* us to call you together *Francigenæ cives*, and to consult you in Affairs relating to the Publick, &c."—Also in his 74th Chapter of the same Book—"In the Beginning of the Year he

went into *Saxony*, and there he held a *General Convention every Year*, as he used to do every Year in *France* also."—Again, *lib. 4. cap. 13.* where he speaks of *Charles the Great*—"When the Hunting near *Aix la Chapelle* was ended, as soon as he return'd, he held a *General Convention* of his People, according to usual Custom, &c. *Cap. 116.* The Emperor having held Two *Conventions*, one at *Nimeguen*, the other at *Compiegn*, wherein he receiv'd the Annual Presents, &c. Again, *Cap. 117.* In the Month of *August* he came to *Wormes*, and holding there the *General Convention* according to constant Practice, he received the Yearly Gifts which were offer'd him, and gave Audience to several Ambassadors, &c. Again, *Lib. 5. cap. 31.* The *General Placitum* was held on the Ides of *June*, in the Town *Dusiacum.*"

And this may suffice touching this solemn *General Council*, which both *French* and *German* Historians, thro' a deprav'd Custom of the [76] *Latin* Tongue, called by different Names; sometimes *Curia*, sometimes *Conventus Generalis*, but for the most Part *Placitum.* *Gregorius, lib. 7 cap. 14* says thus:—"Therefore when the Time of the *Placitum* approached, they were directed by King *Childebert*, &c. *Aimoinus, lib. 4. cap. 109.* In the middle of the Month he held the *General Convention* at *Thionville*, where there was a very great Appearance of the People of the *Franks*; and in this *Placitum*, the singular Compassion of the most Pious Emperor eminently show'd it self, &c."

Now it was the Custom in that *Council* to send Presents from all Parts to the King; as may appear from many Places which might be quoted, wherein that *Council* is called *Conventus Generalis.* *Aimoinus, lib. 4. cap. 64.* speaking of King *Pipin*—"He compell'd them (says he) to promise they would obey all his Commands, and to send him every Year at the Time of the *General Convention*, Three Hundred Horses, as a Gift and Token of Respect. *Item, cap. 85.* Not forgetting the Perfidy of the *Saxons*, he held the *General Convention* beyond the *Rhine*, in the Town of *Kufftein*, according to the usual Custom."

This *Council* was sometimes called by another Name, *Curia*, the *Court*; from whence proceeded the common Saying, when People went to the *King's Hall* or *Palace*, *we are going to Court*; because they seldom approach'd the King, but upon great Occasions, and when a *Council* was call'd. *Aimoinus, lib. 5. cap. 50.* "*Charles*, (says he) the Son of the *Danish King*, sued (or prosecuted) several [77] Noblemen of *Flanders* very conveniently at this *Curia*, or *Court.* *Item, cap. sequenti*; *Henry King* of the *Romans* being dead, at that Great and General *Court, Curia*, held at *Mentz.* &c. Also *Otto Frising. Lib. Frideric. I. cap. 40.* After these Things, the Prince enter'd *Bavaria*, and there celebrated a *General Curia, Court*, in the Month of *February.* *Item, cap. 43.* *Conrade King* of the *Romans*, calling the Princes together at *Francfort*, a City of *East France*, celebrated there a *General Court.*"



CHAP. XI. ↩

Of the Sacred Authority of the Publick Council; and what Affairs were wont to be transacted therein.

We think it necessary in this Place to consider what Kind of Affairs were wont to be transacted in this general *Annual Council*, and to admire the great *Wisdom* of our Ancestors in *constituting our Republick.* We have (in short) observed that they are these that follow. First, the *Creating or abdicating of their Kings.* Next, the *declaring of Peace or War.* The *making of all Publick Laws:* The *Conferring* of all great *Honours, Commands, or Offices* belonging to the *Commonwealth:* The *assigning* of any part of the *deceased King's Patrimony* to his Children, or [78] giving *Portions* to his *Daughters*, which they usually called by a *German Name Abannagium*; that is, *pars exclusoria*, a Part set out for younger Children. Lastly, all such Matters as in Popular Speech are commonly called *Affairs of State:*

Because it was not lawful to determine or debate of any Thing relating to the *Commonwealth*, but in the *General Council* of the *States*.

We have already produced sufficient Proofs of the *Electing* and *Abdicating* their *Kings*, as well from the last *Will* and *Testament* of *Charles the Great*, as from several other Authors: To which we will add this one Passage more out of *Aimoinus*, lib. 5. cap. 17. where speaking of *Charles the Bald*, he says thus,—"Having summon'd a *General Council* at *Crecy. Carifiacum*, he there first gave his Son *Charles arma virilia*; that is, he girt him with a *Sword*, or knighted him, and putting a *Regal Crown* upon his *Head*, assign'd *Neustria* to him, as he did *Aquitain* to *Pippin*."

Now concerning the *Administration* of the *Kingdom*, *Aimoinus* gives us this remarkable Instance, lib. 5. cap. 35. speaking of *Charles the Bald*. "*Charles* (says he) being about taking a *Journey to Rome*, held a general *Placitum* on the *Kalends of June* at *Compeign*; and therein was ordained under particular *Heads*, after what *Manner* his Son *Lewis* should govern the *Kingdom of France*, in *Conjunction* with his *Nobles*, and the rest of the *Faithful People* of the *Realm*, till such time as he returned from *Rome*."

Also in the same Book, cap. 42. speaking of *Charles the Simple*: "Whose *Youth* (says he) the principal *Men of France* judging (as it was indeed) very unfit for the exercise of [79] the *Government* of the *Realm*, they held a *General Council* touching these weighty *Affairs*; and the great *Men* of the *Franks*, *Burgundians*, and *Aquitanians* being assembled, elected *Odo* to be *Charles's Tutor* and *Governor* of the *Kingdom*."

Now concerning the *Power* of making *Laws* and *Ordinances*, that single Passage in *Gaguinus's* *Life of St. Lewis* is a sufficient Proof. "As soon (says he) as *King Lewis* arrived at *Paris*, he called a *General Convention*, and therein reformed the *Commonwealth*; making excellent *Statutes* relating to the *Judges*, and against the *Venality* of *Offices*, &c."

Concerning the conferring the great *Honours* and *Employments* upon *Persons* of approved *Worth*, *Aimoinus* lib. 5. cap. 36. gives us this Instance; speaking of *Charles the Bald*, he tells us, "That whereas he began (before his *Inauguration*) to distribute the *Governments* and great *Offices* of the *Realm* according to his own liking; the *Great Men* summoned a *General Council*, and sent *Ambassadors* to the *King*; neither would they admit him to be crowned till he had made use of their *Advice* and *Authority* in disposing of those great *Employments*. The *Nobles* (says he) being very much displeas'd, because the *King* conferr'd *Honours* without their *Consent*; for that Reason, agreed together against him, and summoned a *general Convention* in the *Town of Witmar*, from whence they sent *Ambassadors* to *Lewis*, as *Lewis* likewise sent his *Ambassadors* to them, &c."

Also the Appendix to *Gregory of Tours*, lib. 11. cap. 54. "That same *Year* (says he) *King Clotharius*, cum *Proceribus & Leudibus*, i. e. with [80] the *Nobility* and free *Subjects* of *Burgundy*, met at *Troyes*, and when he earnestly solicited them to advance another *Person* to the same *Place* and *Degree* of *Honour* which *Warnhar* (lately deceased) had enjoy'd, they unanimously refused to do it; and said, they would by no *Means* have any *Mayor of the Palace*, earnestly desiring the *King* to excuse them:" And thus they gained their *Point* with the *King*.

To this *Head* may be refer'd all the *Contentions* of such *Princes*, as were foreseen might be dangerous to the *Commonwealth*. These were debated in the *General Council*. For *Aimoinus*, lib. 4 cap. I. where he speaks of *Clotharius*, Son of *Chilperic*, from whom *Queen Brunehild* demanded the *Kingdom of Austratia*, says thus:—"Clotharius made answer, that she ought to call a *Convention* of the *Nobles* of the *Franks*, and there debate (by common *Consent*) an *Affair* relating to the *Community*. That as for him, he would submit to their judgment in all *Things*, and would not obstruct in any *Measure* whatever they should

command." The same Thing is recorded in the *Appendix to Gregory of Tours*, lib. II. "*Clotharius* (says he) made Answer to her, that he would refer the Difference between them, to the Determination of the *Select Franks*, and promis'd to fulfil whatsoever they should ordain." Also *Aimoinus* lib. 5. cap. 12. where he speaks of King *Lewis the Pious*, who was grievously tormented with the Contentions of his Sons, says thus,— "When Autumn approached, they whose Sentiments differ'd from the Emperor's, were for having the *General Convention* held in some Town of *France*.—*Item* [81] cap.13. He appointed the *General Convention* of his People to be held at *Thionville*. And after a little Time, summon'd his People to meet on the Feast of *St. Martin*, and used all his Endeavours to recal his Son *Pipin* who had absented himself; but he refused to come, &c." *Gaguinus* making Mention of this Same Passage, says; "When the Conspirators found out they should not be able to dethrone the King, without the Consent of the *Nobility in Convention*, they labour'd by all Means to have the *Great Council* held within the Limits of *France*. But *Lewis* knowing for certain that those *Franks* were gained by his Enemies against him, refused it, and summon'd the Convention to meet at *Mentz*, and ordered that none should be admitted *Armed* to the Council. But his Sons, (who had conspired against their Father) lest they should want the *Authority* of a *Publick Convention*, assembled a Council at *Compiègne*, consisting of the Bishops and Nobility of the Kingdom. And *Lotharius* taking his Father out of Custody, brought him to *Compiègne*."

Again, *Aimoinus*, lib. 5. cap. 38. where he speaks of *Lewis the Stammerer*, who held a *Council* at *Marsua*, wherein he treated a Peace with his Cousin, says: "In that *Placitum*, or *Parliament*, these Articles which follow were agreed upon between them, *by and with the Consent of the faithful Subjects of the Realm*."

To proceed, We find further, that it was the Custom (when any *Prince*, or *Person of Extraordinary Quality*, was *accused of any Crime*) to summon him to appear before the *Great Council*, and there he was to stand his *Trial*. Thus in the Reign of King *Clotharius*, when [82] *Queen Brunehild* stood accused, and was found guilty of many capital Crimes, the King made a Speech to the Estates of the *Great Council of Francogallia*, in these Words; which are recorded by *Aimoinus*, lib. 4. cap. 1. "It belongs to you, my most dear Fellow-Soldiers, and high Nobility of *France*, to appoint what Kind of Punishment ought to be inflicted on a Person guilty of such enormous Crimes, &c." And *Ado Ætat 6. sub Anno 583*. tells us, "The *Franks* passing Sentence upon her in the King's Presence, condemn'd her to be torn in Pieces by wild Horses."

Now concerning the *dividing* of the *Royal Patrimon*, and the *Appanages*, we have the same Person's Testimony, *lib. 5. cap. 94*. where speaking of *Charlemagn*, he has these Words — "These Matters being ended, the King held a *Convention* of the *Nobility and Gentry* of the *Franks*, for the making and maintaining a firm Peace among his Sons, and dividing the Kingdom into Three Parts, that every one of them might know what Part of it he ought to defend and govern, in Case they survived him."—Also in that Place where he speaks of the Partition made among the Children of *Lewis*, lib. 5. cap. 40. he says thus.— "They went to *Amiens*, and there they divided their Father's Kingdom among them, *according to the Advice and Direction of their faithful Subjects*." Further, *cap. 41*. where he writes of *Carloman*, who held his *Great Council* then at *Worms*.—"To this *Placitum* (says he) came *Hugo*, and preferred his Petition for that Part of the Kingdom, which his Brother *Lewis* (*in Locarium acceperat*) had rented of him, or received in Pawn."

[83]

We may further observe, from very many Instances, that whenever the King had any expensive Design in Hand, such as the Building of Churches or Monasteries, he took first the Advice of the *Council* of the *Estates*. For *Aimoinus*, lib. 4. cap. 41. where he speaks of

Clodoveus the Second, tells us, that sitting on his Throne, he began his Oration to the *General Council* in these Words.—"*Quamquam Francigenæ cives, &c.* Altho' (says he) the Care I ought to take of my Kingdom, obliges me to take your Advice in all Matters relating to the Publick, &c."

And thus much may suffice on this Point. From all which we think it appears plainly, that the whole Power of the Administration of the Kingdom was lodg'd in the *Publick Council*, which they called *Placitum*; because according to the Idiom of the *Latin Tongue*, that is properly termed *Placitum*, which after having been proposed and debated in a Council of many Persons, is at last agreed to, and resolved upon by them. And therefore *Cicero*, with others of the Ancients, were wont to call such-like Determinations, *Placita Philosophorum*.

Since therefore the Matter is so, I hope the Opinion which we have formerly given in some of our other Books, will not be esteemed absurd; *viz.* That the common Form used by the King's Secretary in the last Clause of our Ordinances and Edits, *Quia tale est PLACITUM nostrum*, arises from hence: For anciently those Laws were written in the *Latin Tongue*, (as is sufficiently proved by *Aimoinus*, the *Capitulary of Charles the Great*, and many other Records); but afterwards when the King's Secretaries or Clerks began to make Use of the [84] *Vulgar Tongue*, thro' Ignorance, or rather Malice, they translated it thus,—*Car tel est nostre Plaisir: For such is our Will and Pleasure.*

Now as to the *Power of the People*, we have this farther Argument extant in the same *Capitulary of Charles the Great*.—"Let the *People* (says it) be consulted touching all the Heads of the new Laws, which are to be added to the former; and after they have *all given their Consents*, let them set their Hands and Seals to every Article."

From which Words, 'tis apparent that the *People of France* were wont to be bound by such Laws *only*, as they had publickly agreed to in their *Parliaments*. Also in *fine Leg. Aleman.* we find this Passage.—"This is decreed by the *King* and his *Nobles*, and all the *Christian People* which compose the Kingdom of the *Merovingians*." Also *Aimoinus*, lib. 5 cap. 38.—"In this *Placitum* the Laws which follow were agreed upon, to be observed between them, by the *Consent* of the faithful *Subjects*.—An Agreement made between the Glorious Kings, &c. by the *Advice* and *Consent* of their faithful Commons, &c."

Lastly, we cannot omit observing, that so great was the *Reputation* and *Authority* of this *General Council*, even among *Strangers*, that *foreign Princes* submitted to have their Controversies and Differences decided by it. The *Appendix to Greg. Turon.* lib. 11. cap. 37. *Anno 12.* of *Theodorick's* Reign, has this Passage in it.—"When *Alsaciones*, [perhaps *Alsatia*] in which Country he had been brought up, and which was left him by his Father *Childebert*, fell nevertheless to *Theodebert*, according to the Custom in Use among the *Barbarians*; the two [85] Kings agreed that their Difference should be decided by the judgment of the *Franks*, (in *Salocissa castro*) in their Camp near the River *Sala*."



CHAP. XII. ↩

Of the Kingly Officers, commonly call'd Mayors of the Palace.

Before we treat farther of the *uninterrupted Authority* of the *Publick Council*, we think it not improper to say somewhat of those Regal great Officers, which, during the *Merovingian* Race were called (*Majores domus*) Masters, or *Mayors of the Palace*. These having for some Time encroach'd upon the Kingly Power, finding at last a fit Opportunity, seiz'd upon it entirely as their own. Their Dignity near the Persons of our Kings seems to have been much

the same with that of *Præfecti Pretorio*, or Generals of the Guards in the Time of the *Roman* Emperors, who were sometimes also titled *Aulæ Præfecti*. They were usually appointed in and by the same *Convention* which chose the *Kings*, and were wont to be Chiefs or Heads of the *Publick Council*. And upon this Account we frequently meet with such-like Expressions as these among our Historians.—"They elected such and such a Man to the Dignity of *Mayor of the Palace*. *Herchinold*, *Mayor of the Palace*, being dead, the *Franks* conferr'd that Dignity upon *Ebroinus*, and appointed him to be *Mayor* [86] in the King's Court." Also —"They chose *Hilderick* for their *King*, and *Wolfold* for *Mayor of the Palace*." Which Quotations of ours might indeed have been made as properly in our foregoing Chapter, where we proved that the greater Employments were not usually given by the *Kings*, but appointed by the Yearly *General Council*, and conferred upon Men of the greatest Fidelity and Probity.

But in this Magistracy, the same Thing hapned, which *Plutarch* tells us (in his *Life of Lysander*) came to pass when *Agesilaus* was appointed by the *Lacedemonians* to be *General* of their Army, and *Lysander* to be *Legate* or *Lieutenant-General*: "Even as in Stage-Plays, (says he) the Actors who represent a Servant or Messenger, have better Parts, and are more regarded than him that wears the Crown and Scepter, who scarce speaks a Word in the whole Play: So the chief Authority and Command was lodg'd in *Lysander*, whilst with the *King* remained only a naked and empty Title."—Just so it fell out in our *Francogallia*; Fair Opportunities of increasing the Power of these *Mayors* of the *Palace*, being offer'd by the Sloth and Negligence of our *Kings*; among whom we may reckon *Dagobert*, *Clodoveus*, *Clotharius*, *Childericus*, *Theodoricus*, &c. For the Author of the History of the *Franks*, often cited by *Venericus Vercellensis*, tho' without naming him, writes, That during the Reign of *Clotharius*, Father of *Dagobert*, the Kingdom of the *Franks* began to be administred and govern'd by some which were called *Provisores Regiæ*, or *Majores Domus*. The same says *Godf. Viterb. parte Chron.* 16. Whereupon, whilst those *Mayors* of the *Palace* [87] executed all the important Affairs of the Commonwealth, and commanded all the Armies in Time of War; and the *Kings* (spending their Days in Sloth and Idleness) tarried at Home, content with the bare Title of a *King*; Matters at last were brought to such a Pass, that during the Reign of *Childerick* the 18th *King*, *Pipin*, *Mayor of the Palace*, (who in the *King's* Name had waged great and long Wars, and had overcome and reduced the *Saxons* to Terms of Submission) finding a fit Occasion to assume the Regal Title which was offer'd him, did not let it slip: Especially seeing himself at the Head of a great and victorious Army, that espoused his Interests. Of which we have the Testimony of many Authors. First, *Otto Frisingius*, *Chron.* 5. cap. 12. and his Transcriber *Godf. Viterb.* Part. 16. who write thus.—"The *Kings* of *France*, before the Time of *Pipin the Great*, (formerly *Mayor of the Palace*) were in a Manner but titular Princes, having very little to do with the Government of the Realm." *Sigebertus* says almost the same Thing *sub Anno* 662.—"From this Time, (says he) the *Kings* of the *Franks* degenerating from their ancient Wisdom and Fortitude, enjoy'd little more than the bare Name of *King*. They did indeed bear the Title according to Custom, *as being of the ancient Regal Race*; but neither acted nor disposed of any Thing: The whole Administration and Power of the Kingdom, was lodg'd in the Hands of the *Mayor of the Palace*."

Yet in Reading such-like Authorities, we ought to take this Observation along with us. That since *Pipin* and his Sons laboured (as 'tis probable they did) under a great Load of Envy, [88] for having violently wrested the Royal Dignity from *King Childerick*, they made it their Business to find out and employ *plausible ingenious Historians*, who magnified the Cowardliness of *Childerick* and his Predecessors, upbraiding them with Sloth and Idleness, beyond what they deserv'd. And among such as these, we may reckon *Eguinarthus*, Chancellor to *Charles the Great*, and one that did him special Service of this Nature; who in the Beginning of his Book writes thus.—"The Family of the *Merovingians*, out of which the *Franks* used to *Elect* their *Kings*, is supposed to have lasted as long as to *Hilderic*; who by the Appointment of Pope *Stephen*, was deposed, shaven, and thrust into a Monastery. Now

tho' it may be said to have ended in him, yet in Truth, for a long Time before, it ceased to have any Value or Excellency, bearing the bare empty Title of King. For both the Riches and Power of the Kingdom, were at the Disposition of the *Prefects of the Palace*, commonly called *Majores Domus*; with whom was also lodg'd the Authority of the Empire: Neither was there any Thing left remaining to the King, but only that contenting himself with the Title, he should sit on a Throne, wearing his Hair and Beard very long, and representing the Person of a Ruler; sometimes giving the first and last Audience to Ambassadors from Foreign Parts, and returning such Answers as were made for him, as if they proceeded immediately from himself. But besides the unprofitable Name of a King, and a precarious Allowance for his private Expences, (which the Mayor of the Palace was pleased out of Bounty to give him) he [89] had nothing that he could call his own, except one Village of very small Revenue, where he had a little House, and a few Servants, barely sufficient for his necessary Occasions, &c."

Sigebertus, sub Anno 662. taking *Eguinarthus* for his Pattern, inveighs against the former Kings in almost the same contumelious Terms. "Whose Custom (says he) it was, indeed, to make an Appearance like a Prince, according to what had been usual to their Family; but neither to act, nor dispose of any thing, only to tarry at Home, and to Eat and Drink like Irrational Creatures."—As if the like Sloth and Cowardise ought to be imputed to all the former Kings, among whom we nevertheless find many brave Men, such as *Clodoveus*, who not only defeated a great Army of *Germans*, which had made an Irruption into *France*, in a great Battel near *Tolbiacum*; but also drove the Remainder of the *Romans* out of the Confines of *Gallia*. What shall we say of *Childebert* and *Clotharius*, who rooted the *Visigoths* and *Ostrogoths* out of *Provence* and *Aquitain*, where they had seated themselves? In the Histories of all which Princes, there is no Mention made of any *Mayor of the Palace*, but cursorily, and by the By, as one of the *King's Servants*. This we may see in *Gregorius*, lib 5. cap. 18, where he speaks of *Gucilius*, Lib. 6. cap. 9. and cap. 45. Lib. 7. cap. 49. And we find this Employment to have been not only in the *King's Palace*, but also in the *Queen's*: For the same *Gregorius*, lib. 7. cap. 27. mentions one *Waddo* as *Mayor of the Palace*, in the Court of *Queen Rigntha*: And in very many other Places of their Histories, we find both *Gregorius* and *Aimoinus* [90] making Mention of these *Masters of the Court* and *the King's House*.

Now the first Beginning of the great Authority of these *Praefecti Regii*, was (as we told you before) during the Reign of King *Clotharius* the Second, about the Year of our Lord 588. that is, about 130 Years after the constituting the *Francogallican Kingdom*; which we may also learn from the before-mention'd Historian, so often quoted by *Venericus*.

Yet there are two other Historians, (tho' not of equal Credit) *Sigibertus* and *Trithemius*, who refer the Beginning of so great a Power in the *Mayor of the Palace*, to the Reign of *Clotair* the Third; whose *Magister Palatii* was one *Ebroinus*, a Man of extraordinary Wickedness and Cruelty: But however this may be, we find Historians calling them by several other Appellations; such as *Comites Domus Regie*, *Praefecti Aulae*, *Comites Palatii*, &c.



CHAP. XIII. ↩

Whether Pipin was created King by the Pope, or by the Authority of the Francogallican Council.

Having in the former Chapter given an Account, that after the Expulsion of *Childerick*, (a stupid Prince, in whom the Line of the Merovingians ended) *Pipin*, from being *Mayor of the Palace*, was created *King*; It will be worth our Enquiry, to know by whose [91] Authority the Kingdom was conferr'd upon him. For *Pope Gelasius* says thus, *Cap. 75. Quest. 6.* — "A

Roman Pope, viz. *Zacharias*, deposed the King of the *Franks*, not so much because of his evil Actions, as because he was stupid, and unfit for the Exercise of so great a Trust; and in his Stead, substituted *Pipin*, Father of *Charles* the Emperor: Absolving all the *Franks* from the Oath of Allegiance to *Childeric*."

And there is scarce an Author who does not acquiesce in this Testimony of one *Pope*, concerning the Power of another: Thus *Ado*, *Lambertus*, *Rhegino*, *Sigibertus*, *Aimoinus*, *Landulphus*, nay, even *Venericus Vercellensis*, (in the Book which we formerly quoted) cites these Words out of the Epistle of *Pope Gregory* the VIIth. to *Herman* Bishop or *Metz*; viz. "A certain *Pope of Rome* deposed the King of the *Franks* from his Kingdom, nor so much for his Wickedness, as his being unfit for so great a Power; and after having absolved all the *Franks* from the Oath of Fidelity they had sworn to him, placed *Pipin* in his Room.—Which *Otto Frisingius*, lib. Chron. 5. cap. 23. and *Godfrey*, Chron. Part. 17. laying presently hold of, break out into this Exclamation—From this Action, the Popes of *Rome* derive an Authority of changing and deposing Princes, &c."

But pray let us enquire whether the Truth of this Story, as to the Matter of Fact, be sufficiently proved and attested. For in the first Place, 'tis manifest, That *not one* of all that *great Number of Kings* of the *Franks*, which we have instanced to have been Elected or Abdicated, was either created or abdicated by the [92] *Pope's* Authority. On the contrary we have irrefragably prov'd, that the whole Right, both of *making* and *deposing* their Kings, was lodg'd in the yearly *great Council* of the Nation; so that it seems incredible the *Franks* shou'd neglect or forgo their Right, in this single Instance of *Pipin*. But to make few Words of this Matter, *Venericus Vercellensis* gives us the Testimony of an ancient Historian, who has written of all the *Francogallican* Affairs; whereby that whole Story of the *Pope*, is prov'd to be a Lye: And 'tis clearly demonstrated, that both *Childerick* was deposed, and *Pipin* chosen in his room, according to the *usual* Custom of the *Franks*, and the *Institutions* of our Ancestors: That is to say, by a *solemn General Council of the Nation*; in whose Power *only* it was, to transact a Matter of so great Weight and Moment; as we have before made it appear. The Words of that Historian are these:—"That by the *Counsel*, and with the *Consent* of all the *Franks*, (a Relation of this Affair being sent to the Apostolick See, and its Advice had) the most noble *Pipin* was advanced to the Throne of the Kingdom, *By the Election of the whole Nation*, the Homage of the Nobility, with the Consecration of the Bishops, &c." From which Words, 'tis most apparent that *Pipin* was not appointed King by the *Pope*, but by the *People themselves*, and the *States of the Realm*. And *Venericus* explains this Matter out of the same Historian. "*Pipin*, *Mayor of the Palace* (says he) having all along had the Administration of the Regal Power in his Hands, was the first that was appointed and elected to be King, from being *Mayor of the Palace*; the *Opinion of Pope Zachary* being [93] first known, because the Consent and *Countenance* of a *Pope of Rome*, was thought necessary in an Affair of this Nature."—And presently after he tells us; "The *Pope* finding that what the Ambassadors had deposed was just and profitable, agreed to it; and *Pipin* was made King by the unanimous Suffrages and Votes of the Nobility, &c."—To the very same Purpose writes *Ado of Vienna*, *Ætat. 6. sub Anno 727.*—"Ambassadors (says he) were sent to *Pope Zacharias*, to propose this Question to him; Whether or no the Kings of the *Franks*, who had scarce any *Power* in their Hands, but contented themselves with the bare *Title*, were fit to continue to be *Kings*?" To which *Zacharias* return'd this Answer,— "That he thought the *Person who governed* the Commonwealth, ought rather to have also the *Title* of King: Whereupon the *Franks*, after the Return of the Ambassadors, cast out *Childeric*, who then had the Title of King; and by the *Advice* of the *Ambassadors*, and of *Pope Zacharias*, *Elected Pipin*, and made him King."

Besides the above Proofs, we have *Aimoinus's* Testimony to the same Purpose, *lib. 4. cap. 61.* where he concludes thus.—"This Year *Pipin* got the Appellation of King of the *Franks*, and according to their ancient Customs was elevated to the Royal Throne in the City of *Soissons*, &c." Nay, even *Godfrey of Viterbo* himself; *Chron. part. 17. cap. 4.* "*Pipin* (says he) was made King by Pope *Zacharias*, (*ex electione Francorum*) through the Election of the *Franks*, *Hilderic* their slothful King being, by the *Franks*, thrust into a Monastery."

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In like Manner *Sigebertus*, sub Anno 752.— The Authors of the *Miscellany History*, lib. 22. — *Otto Frising.* lib. 5. Cap. 21, 22, 23. And the Author of the Book intituled *Fasciculus temperum*, do all clearly agree in the Account given of this Transaction. From which we may easily gather, that altho' the *Franks* did consult the *Pope* before they created *Pipin* King, yet it cannot therefore be any Ways inferr'd from thence, that he was made King by the *Pope's* Authority; for 'tis one Thing to make a King, and another to give Advice touching the making him: 'Tis one Thing to have a Right of Creation, and another that of only giving Advice; nay; no Man has a Right of so much as giving Advice in Matters of this Nature, but he whose Advice is first ask'd.

Lastly, no Man has more clearly explain'd this whole Matter than *Marsilius Patavinus*; who during the Reign of *Lewis* of *Bavaria*, writ a Book—*de translatione imperii*, in which, *Cap. 6.* he has these Words.—"*Pipin*, a very valiant Man, and Son of *Charles Martel*, was (as we read) raised to the Dignity of being King of the *Franks*, by *pope Zacharias*. But *Aimoinus* more truly informs us, in his History of the *franks*, that *Pipin* was legally elected King by the *Franks* themselves, and by the Nobility of the Kingdom was placed in the Throne. At the same Time *Childeric*, a dissolute Prince, who contenting himself with the bare Title of a King, wasted both his Time and Body in Wantonness, was by them shaven for a Monk: So that *Zacharias* had no Hand in the deposing him, but consented (as some say) to those that did. For such deposing of a King for just Causes, [95] and electing of another, does not belong to any Bishop or Ecclesiastick, nor to any College of Clergymen; but to the whole Body of citizens [ad universitatem civium] inhabiting that Region, and to the Nobles of it, or to the Majority of them both." Therefore those Pretences of the *Popes*, to a Power of creating or abdicating Kings, are apparently false to every Body. But besides this fabulous Device, which is a sufficient Instance of their Wickedness and Malice, I think it worth my while to add a remarkable Letter of *Pope Stephen*, adapted to the foregoing Fable; by which we may make a judgment of the Madness and folly of that old crafty Knave. This Letter is extant in *Rhegino*, a Benedictine Monk, and Abbot of *Prunay*, *Abbot Pruniacensis* an irrefragable Testimony in an Affair of this Nature; 'tis in *Chron. anni 753.* —"*Stephen* the Bishop, Servant of the Servants of God, &c. As no Man ought to boast of his Merits, so neither ought the wonderful Works of God which are wrought upon his Saints without their Desert, to be buried in Silence, but published abroad as the Angel admonished *Tobias*. I being constrained thro' the Oppression of the holy Church, by that most wicked, blasphemous, and not worthy to be named Wretch, *Aistolphus*, to fly for Refuge to that excellent and faithful Votary of *St. Peter*, *Lord Pipin*, the most *Christian* King, took my Journey into *France*; where I fell into a mortal Distemper and remained some Time in the District of *Paris*, in the venerable Monastery of *St. Denis* the Martyr. And being now past Hopes of Recovery, methought I was one Day at Prayers in the Church of the same [96] blessed Martyr, in a Place under the Bells: And that I saw standing before the great Altar our Master *Peter*; and that great Master of the *Gentiles*, our Master *Paul*; whom I knew very well by their Vestments. And a little after, I saw the blessed *Lord Denis*, a tall and slender Man, standing at the Right Hand of our *Lord Peter*. And then that good Pastor the *Lord Peter* said—This good Brother of ours asks for Health. Then reply'd the blessed *Paul*—He shall be healed presently. And thereupon approaching to our *Lord Denis*, he amicably put his Hand upon his Breast, and look'd back

upon our Lord *Peter*, and Lord *Peter* with a chearful Countenance said to our Lord *Denis*, His Health shall be your particular Act of Favour. Then presently Lord *Denis* taking a Censer full of Incense, and holding a Branch of Palm-tree in his Hand, accompanied with a Presbyter and Deacon, who assisted him, came near to me, and said, Peace be with thee, Brother, be not afraid, thou shalt not die until thou return in Prosperity to thy own See. Rise and be healed, and dedicate this Altar to the Honour of God, and the Apostles St. *Peter* and St. *Paul*, whom thou seest standing before thee, with Masses of Thanksgiving. Whereupon I was presently made whole. And being about to accomplish that which I was commanded to do, they that were present said I was mad. So I related all that I had seen, to them, to the King, and all his People, and how I had been cured; and I fulfilled all that I was bid to do. These Things happen'd in the 753d Year, from the Incarnation [97] of our Lord on the Ides of *August*; at which Time being strengthened by the Power of *Christ*, between the Celebration of the Consecration of the above-mention'd Altar, and the Oblation of the Sacrifice, I anointed King *Pipin* and his two Sons, *Charles* and *Carloman*, Kings of the *Franks*. Moreover, I laid Hands upon, and blessed *Bertranda* the King's Wife, cloathed with her Royal Mantle, and the Grace of the Sevenfold Holy Spirit: And the Nobles of the *Franks* being sanctified by the Apostolical Benediction, and the Authority delivered by *Christ* to St. *Peter*, obliged themselves solemnly, and protested, That neither they, nor any of their Posterity, wou'd at any Time hereafter, presume to constitute any Person, as King over them, but only such as were of the Race of King *Pipin*."



CHAP. XIV. [↪](#)

Of the Constable, and Peers of France.

Besides the great Office of *Mayor* of the *Palace* before spoken of, there was another which we must take Notice of; because it seems, in the Memory of our Forefathers, to have succeeded in Place of the former: And that was the Office of *Count* of the *King's Stable*; called at first, *Comes stabuli*; and by Corruption at last, *Connestabuli*. Now all those who enjoy'd any extraordinary Honours or [98] Employments in the King's Court, and assisted in the Administration of the Commonwealth, were commonly called *Comites*, *Counts*; which was likewise the Custom of the Ancients, as I have in some other of my Works demonstrated. So *Cicero*, in many Places, calls *Callisthenes*, *Comitem Alexandri magni*. This *Comes stabuli* was in a Manner the same with the *Magister Equitum* among the *Romans*, that is, *General* of the *Horse*; to whom were subject those Keepers of the Horses commonly called *Querries*. *Greg. Turen* lib. 5. cap. 39. says,— "The Treasurer of *Clodoveus* being taken out of the City of *Bourges*, by *Cuppan*, *Count* of the *Stable*, was sent in Bonds to the Queen, &c." And again, cap. 48. where he speaks of *Leudastes*,—"She took him (says he) into Favour, rais'd him, and made him Keeper of the best Horses; which so filled him with Pride and Vanity, that he put in for the *Constableness*; [*Comitatum Stabulorum*] and having got it, began to despise and undervalue every Body." From these Quotations it appears, that tho' the Custody of the Horses was a very honourable Employment, yet 'twas much inferior to that of *Constable*. *Aimoinus*, lib. 3. cap. 43. gives the same Account of this *Leudastes*.—"Being grown very intimate with the Queen, he was first made Keeper of the Horse; and afterwards obtaining the Constableness above the rest of the Keepers, he was (after the Queen's Death) made by King *Charibert*, *Count* of *Tours*." And cap. 70. "*Leudegesilus*, Præfect of the King's Horses, whom they commonly call *Constable*, being made General of that Expedition by the King, order'd the Engines to be drawn [99] down &c." Also lib. 4. cap. 95. where he speaks of *Charles* the Great,— "The same Year (says he) he sent *Burchard*, *Comitem Stabuli sui*, which we corruptly call *Constabulum*, with a Fleet against *Corsica*" —. The Appendix to *Gregory* calls him, *Comestabulum*, lib. II. *Brunechildis* (says he) was brought out of the Village, *ab exporre*

This being so, *Albertus Krantzius*, lib. Suet. 5. cap. 41. ventures to affirm, that this *Constable* was the same with what the *Germans* call *Mareschal*. "They named (says he) a *Governor*, one of the best Soldiers, who might have the Power of Convocating the *Assembly* of the Kingdom, and of acting in all Matters like the *Prince*. Our *Countrymen* call him a *Mareschal*, the French call him *Constable*, &c." This seems the more probable, because I do not remember any Mention to have been made in ancient Times, of a *Mareschal* in our *Francogallia*; so that 'tis very likely to have been an Institution of our latter Kings, accommodated to the Custom of the *Germans*.

That this *Comitatus Stabulorum*, a *Constableness*, had its Rise from the Institution of the *Roman Emperors*, I do not at all question; altho' it grew by Degrees among us from slender Beginnings, to the Height of chief *Governor* of the *Palace*. In former Times that Dignity was a Sort of *Tribunatus Militaris*. *Ammianus*, lib. 26. has this Expression where he speaks of *Valentinian* the Emperor,— "Having fixed his Stages, or Days Journeys, he at last entred into *Nicomedia*; and about the Kalends of *March*, appointed his Brother *Valens* to be Governor of his Stables, *cum tribunatus dignitate*, with *tribunitial Dignity*." What Kind of Dignity that was, [100] we may find in the Code of *Justinian*, lib. 1. Cod. *de comitibus & tribunis Schol*. Where 'tis reckoned as a great Honour for them to preside over the Emperor's Banquets, when they might adore his Purple. Also in lib. 3. Cod. *Theodos. de annon. & tribut. perpensa*, 29. Cod. *Theod. de equorum Collatione & lib. 1. Cod. Theod.* wherein we may find a Power allowed them, of exacting Contribution to a certain Value from the Provincials who were to furnish War-Horses for the Emperor's Service.

It now remains that we discourse a little of those Magistrates, which were commonly called *Peers of France*; whereof we can find no Records or Monuments, tho' our Endeavours have not been wanting. For among so great a Number of Books, as are called Chronicles and Annals of *Francogallia*, not one affords us any probable Account of this Institution. For what *Gaguinus*, and *Paulus Æmilius* (who was not so much an Historian of *French* Affairs, as of the *Pope's*) and other common Writers do affirm, to wit, That those Magistrates were instituted by *Pipin* or *Charlemagn*, appears plainly to be absurd; because not one of all the *German* Historians, who wrote during the Reigns of those Kings, or for some Time after, makes the least Mention of those Magistrates. *Aimoinus* himself who wrote a History of the Military Atchievements and Institutions of the *Franks*, down to the Reign of *Lewis the Pious*, and the *Appendix*, which reaches as far as the Time of *Lewis the Younger*, being the 37th King, speak not one Word of these *Peers* in any Place of their Histories; so that till I am better inform'd, I must concur in Opinion with *Gervase of Tilbury*, who (as *Gaguinus* says in the Book [101] which he wrote to the Emperor *Otho* the IVth, *de otii imperialibus*) affirms. That this Institution is first owing to King *Arthur* of *Britain*, who ruled some time in Part of *France*.

For I suppose the Original of that Institution to be this; that as in the *Feudal Law* such are called, *Pares curie beneficiari*, i. e. *equal Tenants by Homage of the Court*, or *Clientes*, *ὀμότιμοι* *Clients of like holding*, or *Convassilli*, *Fellow Vassals*, who hold their *Fiefs* and *Benefices* from one and the same *Lord* and *Patron*; and upon that Account are bound to him in *Fealty* and *Obedience*: just so King *Arthur* having acquired a new Principality, selected *twelve great Men*, to whom he distributed the several Parts and *Satrapies* of his Kingdom, whole Assistance and Advice he made use of in the Administration of the Government. For I cannot approve of their Judgment, who write, that they were called *Peers*, because they were *Pares Regi*, the *King's Equals*; since their Parity has no Relation to the *Regal Dignity*, but only to that Authority and Dignity they had agreed should be common among them. Their Names were these, the *Dukes of Burgundy*, *Normandy*, and *Aquitain*; the *Counts of Flanders*, *Tholouse*, and *Champagne*; the *Archbishops of Rheims*, *Laon*, and *Langres*; the *Bishops of*

Beauvais, Noyon, and Chalons. And as the *Pares Curtis*, or *Curia*, in the *Feudal Law*, can neither be created, but by the Consent of the Fraternity; nor *abdicated*, but by Tryal before their Colleagues; nor *impeach'd* before any other Court of Judicature; so these *Peers* were not bound by any judgment or Sentence, but that of the *Parliament*, that is, of this imaginary Council; nor could be *elected* into [102] the *Society*, or *ejected* out of it, but by their *Fellows in Collegio*.

Now altho' this Magistracy might owe its Original to a foreign Prince; yet when he was driven out, the succeeding Kings finding it accommodated to their own Ends and Conveniences, ('tis most probable) continued and made use of it. The first mention I find made of these *Peers*, was at the Inauguration of *Philip the Fair*, by whom also (as many affirm) the Six *Ecclestial Peers* were first created.

But *Budæus*, an extraordinary Learned Man, calls these *Peers* by the Name of *Patritians*; and is of Opinion that they were instituted by one of our Kings, who was at the same Time *Emperor of Germany*; because, *Justinian* says, those *Patres* were chosen by the *Emperor*, *quasi Reipub. patronos tutoresque*, as it were *Patrons* and *Tutors* of the Commonwealth. I do not reject this Opinion of that Learned Person; such a Thing being very agreeable to the Dignity of these *Peers*. For in the Times of the later *Roman Emperors*, we find the *Patritian* Dignity not to have been very unlike that of the *Peers*; because (as *Suidas* assures us,) they were (partly) the *Fathers of the Republick*, and were of *Council* with the *Emperor* in all weighty Concerns, and made use of the same Ensigns of Authority with the *Consuls*; and had greater Honour and Power than the *Præfectus Prætorio*, tho' less than the *Consul*; as we may learn *ex Justiniani Novellis*; from *Sidon. Apollin. Claudian*; and *Cassiodorus* especially.

But when the *Empire* was transferr'd to the *Germans*, we do not believe this Honour was in use among them. Neither is it likely, that none of the *German* Historians should have [103] made the least Mention of it, if any *Patritians* of that Kind had been instituted by a *German* *Emperor*, who at the same Time was King of *Francogallia*.

Lastly, The same *Budæus* tells us in that Place, tho' a little doubtingly, that the like Dignity of *Peers* had been made use of in other neighbouring Nations; and that in the *Royal Commentaries*, Anno 1224, 'tis found written, that a certain Gentleman of *Flanders*, called *Joannes Nigellanus*, having, a Controversy there, appeal'd from the *Countess of Flanders* to the *Peers of France*; having first taken his Oath that he could not expect a fair and equal Tryal before the *Peers of Flanders*. And when afterwards the Cause was by the *Countess* revok'd to the judgment of the *Peers of Flanders*, it was at Length for certain Reasons decreed, that the *Peers of France* should take Cognisance of it. What the Reasons were of transferring, that Tryal, *Budæus* does not tell us; which one versed in the *Feudal Laws* should never have omitted. But 'tis Time to return to our principal Business.

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CHAP. XV. ↩

Of the continued Authority and Power of the Sacred Council, during the Reign of the Carlovingian Family.

We have, as we suppose, sufficiently explain'd what was the Form and Constitution of our Commonwealth, and how great the Authority of the *Publick Council* was during the Reigns of the Kings of the *Merovingian* Family. We must now proceed to give an Account of it under the *Carlovingian* Race. And as well all our *own* as the *German* Historians, give us Reason to believe that the very same *Power* and *Authority* of the *Orders* or *States* of the Kingdom, was kept entire. So that the last Resort and Disposal of all Things, was not lodged in *Pipin*, *Charles*, or *Lewis*, but in the *Regal Majesty*. The true and proper Seat of which was

(as is above demonstrated) in the *Annual General Council*. Of this *Eguinartus* gives us an Account, in that little Book we have already so much commended. Where, speaking of what happen'd after the Death of *Pipin*, he tells us, "that the *Franks* having solemnly assembled their general Convention, did therein constitute both *Pipin's* Sons their Kings, upon this Condition, That they should equally divide the whole Body of the Kingdom between them; and that *Charles* should govern that Part of it which [105] their Father *Pipin* had possess'd, and *Carlomannus* the other Part which their Uncle *Carlomannus* had enjoy'd, &c." From whence 'tis easily inferr'd, that the *States* of the Kingdom still retain'd in themselves the same Power, which they had always hitherto been in Possession of (during near 300 Years) in the Reigns of the *Merovingian* Kings. So that altho' the deceased King left Sons behind him, yet there *came not* to the Crown so much thro' any *Right of Succession*, as thro' the *Appointment* and *Election* of the *States* of the *Realm*. Now that all the other weighty Affairs of the Nation used to be determined by the same *General Council*, *Aimoinus* is our Witness, *lib. 4. cap. 71.* where he speaks of the War with the *Saxons*. "The King (says he) in the Beginning of the Spring went to *Nimeguen*; and because he was to hold a General Convention of his People at a Place called *Paderburn*, he marched from thence with a great Army into *Saxony*." And again, *cap. 77.*—"Winter being over, he held a Publick Convention of his People in a Town called *Paderburn*, according to the *yearly Custom*." Also *cap. 79.*—"And meeting with his Wife in the City of *Wormes*, he resolved to hold there the *General Council* of his People." In all which Places he speaks of that *Charles*, who thro' his warlike Atchievements had acquired the Dominion of almost all *Europe*, and by the universal Consent of Nations had obtained the Sirname of the *Great*: Yet for all that it was not in his Power to deprive the *Franks* of their *ancient Right and Liberty*. Nay, he never so much as endeavour'd to undertake the least Matter of Moment without the *Advice* and *Authority* of his *People* and [106] *Nobles*. And there is no doubt of it, after *Charles's* Death, *Lewis* his Son administred the Kingdom upon the same Terms and Conditions. For the *Appendix* to *Aimoinus*, *lib. 5. cap. 10.* tells us, that when *Charles* was dead, *Lewis* the Emperor, thro' a certain Kind of Foreknowledge, summon'd the general Council of his People to meet at *Doue*, near the *Loire*. And again, *cap. 38.* where he makes Mention of the Articles of Peace, concluded between King *Lewis* and his Cousin *Lewis*,—"They summoned, says he, a PLACITUM, and in that PLACITUM, by the Advice and Consent of their faithful Subjects, they agreed to observe and keep the Articles which follow. In which *Placitum* it was also by common Consent found convenient, that both Kings should return with a Guard [*redirent cum scarâ*] &c." Also *cap. 41.* where he speaks of *Carloman* the Son of *Lewis the Stammerer*,—"And so (says he) he departed from the *Normans*, and returned to *Wormes*, where he was on the Kalends of *November* to hold his *Placitum*." Also in the following Chapter, where he speaks of *Charles* the Simple,— "Whose Youth (says he) the great Men of *France* thinking unfit for the Administration of the Government, they held a *Council* concerning the State of the Nation."

But it would be an infinite Labour, and indeed a superfluous one, to quote all the Instances which might be given of this Matter: From what we have already produced, I think 'tis apparent to every man, that till *Charles* the *Simple's* Reign, that is, for more than 550 Years, the Judgment and Determination of all the weighty Affairs of the Commonwealth, [107] belonged to the *great Assembly* of the *People*, or (as we now call it) to the *Convention of the Estates*: And that this Institution of our Ancestors was esteemed *sacred* and *inviolable* during so many Ages. So that I cannot forbear admiring the Confidence of some Modern Authors, who have had the Face to publish in their Writings, That King *Pipin* was the first to whom the Institution of the *Publick Council* is owing. Since *Eguinartus*, *Charles* the *Great's* own *Chancellor*, has most clearly proved, that it was the constant Practice of the whole *Merovingian Line*, to hold every Year the *Publick Convention* of the People on the *Kalends of May*; and that the *Kings* were carried to that Assembly in a Chariot or Waggon drawn by Oxen.

But to come to a Matter of greater Consequence, wherein the Prudence and Wisdom of our Ancestors does most clearly shew it self. Is it not apparent how great and manifest a Distinction they made between the King and the Kingdom? For thus the Case stands. The *King* is one principal Single *Person*; but the *Kingdom* is the whole Body of the *Citizens* and *Subjects*. "And *Ulpian* defines him to be a Traytor, who is stirred up with a Hostile Mind against the Commonwealth, or against the Prince." And in the *Saxon Laws*, *Tit. 3.* 'tis Written, "Whosoever shall contrive any Thing against the Kingdom, or the King of the *Franks*, shall lose his Head." — And again, "The King has the same Relation to the Kingdom that a Father has to his Family; a Tutor to his Pupil; a Guardian to his Ward; a Pilot to his Ship, or a General to his Army." — As therefore a Pupil is not appointed for the Sake of his Tutor, nor a Ship for the Sake of [108] the Pilot, nor an Army for the Sake of a General, but on the contrary, all these are made such for the Sake of those they have in Charge: Even so the *People* is not designed for the Sake of the *King*; but the King is sought out and instituted for the Peoples Sake. For a *People* can subsist without a King, and be governed by its Nobility, or by it Self: But 'tis even impossible to conceive a Thought of a *King* without a *People*. Let us consider more Differences between them. A *King* as well as any private Person is a Mortal Man. A *Kingdom* is perpetual, and consider'd as immortal; as Civilians use to say, when they speak of Corporations, and aggregate Bodies. A *King* may be a Fool or Madman, like our *Charles VI* who gave away his Kingdom to the *English*: Neither is there any Sort of Men more easily cast down from a Sound State of Mind, through the Blandishments of unlawful Pleasures and Luxury. But a *Kingdom* has within it self a perpetual and sure Principle of Safety in the Wisdom of its Senators, and of Persons well skill'd in Affairs. A *King* in one Battel, in one Day may be overcome, or taken Prisoner and carried away Captive by the Enemy; as it happen'd to *St. Lewis*, to King *John*, and to *Francis* the First. But a *Kingdom* though it has lost its *King*, remains entire; and immediately upon such a Misfortune a Convention is call'd, and proper Remedies are sought by the chief Men of the Nation against the present Mischiefs; Which we know has been done upon like Accidents. A *King*, either through Infirmities of Age, of Levity of Mind, may not only be missed by some covetous, rapacious or lustful Counsellor; may not only be seduced and [109] depraved by debauch'd Youths of Quality, or of equal Age with himself; may be infatuated by a silly Wench, so far as to deliver and fling up the Reins of Government wholly into her Power. Few Persons, I suppose, are ignorant how many sad Examples we have of these Mischiefs: But a *Kingdom* is continually supplied with the Wisdom and Advice of the grave Persons that are in it. *Solomon*, the wisest of Mankind, was in his old Age seduced by Harlots; *Rehoboam*, by young Men; *Ninus*, by his own Mother *Semiramis*; *Ptolomæus* surnamed *Auletes*, by *Harpers* and *Pipers*. Our Ancestors left to their Kings the Choice of their own Privy-Counsellors, who might advice them in the Management of their private Affairs; but such Senators as were to consult in common, and take care of the publick Administration, and instruct the King in the Government of his Kingdom, they reserved to the Designation of the *Publick Convention*.

In the Year 1356: after King *John* had been taken Prisoner by the *English*, and carried into *England*, a Publick Council of the Kingdom was held at *Paris*. And when some of the King's Privy-Counsellors appeared at that Convention, they were commanded to leave the Assembly; and it was openly declared, that the Deputies of the Publick Council wou'd meet no more, if those Privy-Counsellors shou'd hereafter presume to approach that Sanctuary of the Kingdom. Which Instance is recorded in the Great Chronicle writ in *French*, Vol. 2. *sub Rege Johanne*, fol. 169. Neither has there ever yet been any Age wherein this plain Distinction between a *King* and a *Kingdom*, has not been observed. The *King* of [110] the *Lacedemonians* (as *Xenophon* assures us) and the *Ephori*, renewed every Month a mutual Oath between each other; the *King* swore that he wou'd govern according to the written Laws; and the *Ephori* swore that they wou'd preserve the Royal Dignity, provided he kept his Oath. *Cicero*, in one of his Epistles to *Brutus*, writes: "Thou knowest that I was always of

Opinion, that our Commonwealth ought not only to be deliver'd from a *King*, but even from *Kingship*, Scis mihi semper placuisse non *Rege* folum, sed *Regno* liberari rempublicam."— Also in his Third Book *de Legibus*—"But because a Regal State in our Commonwealth, once indeed approved of, was abolish'd, not so much upon the Account of the Faults of a *Kingly* Government, as of the *Kings* who governed; it may seem that only the Name of a *King* was then abolish'd, &c."



CHAP. XVI. ↩

Of the Capevingian Race, and the Manner of its obtaining the Kingdom of Francogallia.

It has been already shewn, that the Kingdom of *Francogallia* continued in Three Families only, during One Thousand Two Hundred Years. Whereof the first was called the *Merovingian* Family. The second, the *Carlovingian*, from the Names of their Founders or Beginners. For altho' (as we have often told you) [111] the Succession to the Kingdom was not conferred as *Hereditary* Right, but according to the Appointment of the *General Council*; yet the *Franks* were so far willing to retain the Custom of their Progenitors the *Germans*, (who as *Tacitus* tells us, chuse their *Kings* for their *Nobility*, and their *Generals* for their *Valour*) that for the most Part they elected such Kings as were of the Blood *Royal*, and had been educated in a Regal Manner, whether they were the Children, or some other Degree of Kindred to the Royal Family.

But in the Year 987, after the Death of *Lewis* the Fifth, who was the 31st King of *Francogallia*, and the 12th of the *Carlovingian* Line, there hapned a Migration or Translation of the Royal Scepter, and a Change of the Kingdom. For when there remained no Person alive of the former Family but *Charles Duke of Lorrain*, Uncle to the deceased King, to whom the Succession to the Kingdom, by ancient Custom seemed to be due; there arose up one *Hugh Capet*, Nephew to *Hauvida*, Sister to the Emperor *Otho* the First, and Son to *Hugh* Earl of *Paris*; a Man of great Reputation for Valour, who alledged, that he being present upon the Place, and having deserved extraordinary well of his Country, ought to be preferred to a Stranger, who was absent. For there having hapned some Controversies between the *Empire of Germany*, and the Kingdom of *France*; *Charles* upon Occasion had shewn himself partial for the *Empire* against *France*, and upon that Score had lost the Affections of most of the *French*. Whereupon *Charles* having raised an Army, made an Irruption into *France*, and took several Cities by [112] Composition. *Capet* relying on the Friendship and Favour of the *Francogallican* Nobles, got together what Forces he cou'd, and went to meet him at *Laon*, a Town in the Borders of *Champagne*; and not long after a bloody Battel was fought between them, wherein *Capet* was routed, and forced to fly into the innermost Parts of *France*; where he began again to raise Men in Order to renew the War. In the mean Time *Charles* having dismiss'd his Army, kept himself quiet in the Town of *Laon* with his Wife; but in the Year following he was on a sudden surrounded by *Capet*, who besieged the Town with a great Army.

There was in the Place one *Anselmus*, Bishop of the City. *Capet* found Means to corrupt this Man by great Gifts and Promises, and to induce him to betray both the Town and the King into his Hands; which was accordingly done. And thus having obtained both the City and the Victory, he sent *Charles* and his Wife Prisoners to *Orleans*, where he set strict Guards over them. The King having been two Years in Prison, had two Sons born to him there, *Lewis* and *Charles*; but not long after they all died. So that *Capet* being now Master of the whole Kingdom of *France* without Dispute or Trouble, associated his Son *Robert* with him in the

Throne, and took care to get him declared his Successor. Thus the Dignity and Memory of the *Carlovingian* Family came to an End, the 237th Year after the first Beginning of their Reign. And this History is recorded by *Sigebert* in *Chron. Ann.* 987. as well as the *Appendix*, lib. 5. cap. 45.

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We must not omit making Mention of the *cunning Device* made use of by *Hugh Capet*, for establishing himself in his new Dominion: For whereas all the Magistracies and Honours of the Kingdom, such as *Dukedoms, Earldoms, &c.* had been hitherto from ancient Times conferr'd upon select and deserving Persons in the General *Conventions* of the *People*, and were held only during good *behaviour*; whereof (as the Lawyers express it) they were but *Beneficiaries*; *Hugh Capet*, in order to secure to himself the Affections of the Great Men, was the first that made those *Honours perpetual*, which formerly were but *temporary*; and ordained, that such as obtained them shou'd have a hereditary Right in them, and might leave them to their Children and Posterity in like Manner as their other Estates. Of this, see *Franciscus Conanus* the Civilian, *Comment. 2. Cap. 9.* By which notorious fact, 'tis plain, that a great Branch of the *Publick Council's* Authority was torn away; which however (to any Man who seriously considers the Circumstances of those Times) seems impossible to have been affected by him alone, without the Consent of that *Great Council* it self.

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CHAP. XVII. ↩

Of the uninterrupted Authority of the Publick Council during the Capevingian Race.

We may learn, out of *Froissard, Monstrellet, Gaguinus, Commines, Gillius*, and all the other Historians who have written concerning these Times, that the Authority of the Publick Council was little or nothing less in the Time of the *Capevingian* Family than it had been during the two former Races. But because it would be too troublesome, and almost an infinite Labour to quote every Instance of this Nature, we shall only chose some few of the most remarkable Examples out of a vast Number which we might produce.

And the first shall be, what hapned in the Year 1328. When *Charles the Fair* dying without Issue Male, and leaving a Posthumous Daughter behind him; *Edward* King of *England*, and Son to *Isabella*, Sister of *Charles*, claimed the Kingdom of *France* as belonging to him of Right. Now there could be no Trial of greater Importance, nor more illustrious, brought before the *Publick Council*, than a Controversy of this Kind. And because it was decided there, and both Kings did submit themselves to the Judgment and Determination of the Council, 'tis an irrefragable Argument, that the *Authority* of the *Council* was greater than that of both Kings. This Fact is recorded not only by all our own Historians, but by [115] *Polydore Virgil* an *English* Writer, *Histor. lib* 19. Moreover, that great Lawyer *Paponius, Arrestorum*, lib. 4. cap. I. has left it on Record, (grounded, no doubt, upon sufficient Authorities,) "That both Kings were present at that *Council*, when the Matter was almost brought to an open Rupture; by the Advice of the *Nobles*, a *General Convention* of the *People* and *States* was summon'd: and the *Vote of the Majority* was, that the Kinsman, by the Father's Side, ought to have the Preference; and that the Custody of the Queen, then great with Child, shou'd be given to *Valois*; to whom also the Kingdom was *adjudged* and *decreed* in Case she brought forth a Daughter." — Which History *Froissard*, Vol. I. Cap. 22. *Paponius* Arrest. lib. 4. cap. I. Art. 2. and *Gaguinus* in *Philippo Valesio*, have published.

The Year 1356, furnishes us with another Example; at which Time King *John* was defeated by the *English* at *Poictiers*; taken Prisoner, and carried into *England*.—"After so great a Calamity, the only Hopes left were in the Authority of the *Great Council*; therefore immediately a Parliament was summon'd to meet at *Paris*. And altho' King *John's* Three Sons, *Charles*, *Lewis* and *John*, were at Hand, the eldest of which was of competent Age to govern; yet other Men were chosen, to wit, *twelve approved Persons* out of each *Order* of the *States*, to whom the Management of the Kingdom's Affairs was intrusted; and there it was decreed, that an Embassy shou'd be sent into *England* to treat of Peace with the *English*." *Froissard*, Vol. I. cap. 170. *Joannes Buchettus*, lib. 4. fol. 118. *Nich. Gillius* in *Chron. Regis Joannis*, are our Authors.

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A third Instance we have *Anno* 1375, when the last Will and Testament of *Charles* the Fifth, Surnamed the *Wise*, was produced: By which Will he had appointed his Wife's Brother, *Philip* Duke of *Bourbon*, to be Guardian to his Sons, and *Lewis* Duke of *Anjou* his own Brother, to be Administrator of the Kingdom till such Time as his Son *Charles* shou'd come of Age. But notwithstanding this, a *Great Council* was held at *Paris*, wherein (after declaring the Testament to be void and null) it was decreed, that the *Administration* of the Kingdom shou'd be committed to *Lewis*, the Boy's Uncle: "*But upon this Condition, that he should be ruled and governed in that Administration, by the Advice of certain Persons named and approv'd by the Council.*" The Education and Tutelage of the Child was left to *Bourbon*; and at the same Time a Law was made, that the Heir of the Kingdom shou'd be crown'd as soon as he shou'd be full 14 Years old, and receive the Homage and Oath of Fidelity from his Subjects.— *Froissard*, Vol. 2. cap. 60. *Buchett*, lib. 4. fol. 124. *Chro. Brit. Cap.*

A 4th Example we have in the Year 1392; at which Time the same *Charles* the Sixth was taken with a sudden Distraction or Madness, and was convey'd first to *Mans*, and afterwards to *Paris*; and there a *General Council* was held, wherein it was decreed by the *Authority of the States*, that the *Administration* of the Kingdom shou'd be committed to the Dukes of *Aquitain* and *Burgundy*.—*Froissard*, Vol. 4. cap. 44. is our Author.

5. Neither must we omit what *Paponius* (*Arrest. lib. 5. tit. 10. Art. 4.*) testifies to have been declared by the *Parliament* at *Paris*, within the [117] Compass of almost our own Memories, when *Francis* the First had a Mind to alienate Part of his Dominions; *viz.* "That all Alienations of that Kind made by any of his Predecessors, were void and null in themselves; upon this very Account, that they were done *without the Authority of the Great Council*, and of *the Three Estates*," as he calls them.

A 6th Example we have in the Year 1426, when *Philip* Duke of *Burgundy*, and *Hanfred* [*Dux Glocestriæ*] were at mortal Enmity with each other, to the great Detriment of the Commonwealth and it was at last agreed between them to determine their Quarrel by single Combat: For in that Contention the *Great Council* interposed its Authority, and decreed that both shou'd lay down their Arms, and submit to have their Controversies *judicially tried* before the *Council*, rather than *disputed* with the *Sword*. Which History is related at large by *Paradinus*, in *Chron. Burgund. lib. 3. Anno* 1426.

A 7th Example happned in the Year 1484, when *Lewis* the Eleventh dying, and leaving his Son *Charles*, a Boy of 13 Years old; a *Council* was held at *Tours*, wherein it was decreed, "The Education of the Boy shou'd be committed to *Anne* the King's Sister;" but the Administration of the Kingdom shou'd be intrusted to certain Persons *Elected and approved by that Council*; notwithstanding *Lewis*, Duke of *Orleans*, the next Kinsman by the Father's Side, demanded it as his Right. A Testimony of which Transaction is extant in the Acts of that *Council*, printed at *Paris*; and in *Joannes Buchettus* 4th Book, folio 167.

CHAP. XVIII. ↩

Of the Remarkable Authority of the Council against Lewis the Eleventh.

The *Power* and *Authority* of the *Council* and the *Estates* assembled, appears by the foregoing Testimonies to have been very great, and indeed (as it were) *Sacred*. But because we are now giving Examples of this *Power*, we will not omit a signal Instance of the *Authority* of this *Council*, which interposed it self in the Memory of our Fathers against *Lewis the Eleventh*, who was reputed more crafty and cunning than any of the Kings that had ever been before him.

In the Year 1460, when this *Lewis* governed the Kingdom in such a Manner, that in many Cases the Duty of a good Prince, and a Lover of his Country, was wanting; the People began to desire the Assistance and *Authority* of the Great *Council*, that some Care might therein be taken of the Publick Welfare; and because it was suspected the King wou'd not submit himself to it, the *Great Men* of the Kingdom (stirred up by the daily Complaints and Solicitations of the *Commons*.) "resolv'd to gather Forces, and raise an *Army*; that (as *Philip de Comines* expresses it) they might provide for the *Publick Good*, and expose the King's wicked Administration of the Commonwealth." They therefore agreed to be ready prepared with a good Army, that in Case the King should prove refractory, and refuse to [119] follow good Advice, they might *compel him by Force*: For which Reason that War was said to have been undertaken for the Publick Good, and was commonly called the War *du bien public*. "*Comines*, *Gillius*, and *Lamarc*, have recorded the Names of those Great Men who were the principal Leaders, the *Duke of Bourbon*, the *Duke of Berry*, the King's Brother; the *Counts of Dunois*, *Nevers*, *Armagnac*, and *Albret*, and the *Duke of Charalois*, who was the Person most concern'd in what related to the Government. Wherever they marched, they caused it to be proclaimed, that their Undertakings were only design'd for the *Publick Good*; they published Freedom from Taxes and Tributes, and sent Ambassadors with Letters to the *Parliament at Paris*, to the Ecclesiasticks, and to the Rector of the University, desiring them not to suspect or imagine these Forces were rais'd for the King's Destruction, but only to reclaim him, and make him perform the *Office* of a *Good King*, as the present Necessities of the *Publick* required."—These are *Gillius*'s Words, lib. 4. fol. 152.

The Annals intituled the Chronicles of *Lewis the Eleventh*, printed at *Paris* by *Galliotus* fol. 27. have these Words.—"The first and chiefest of their Demands was, That a *Convention* of the *Three States* should be held; *because in all Ages it had been found to be the only proper Remedy for all Evils, and to have always had a Force sufficient to heal such sort of Mischiefs*."—Again, Pag. 28. "An Assembly was called on Purpose to hear the Ambassadors of the Great Men, and met on the 24th Day in the Town-House at *Paris*; at which were present some [120] Chosen Men of the University, of the Parliament, and of the Magistrates. The Answer given the Ambassadors, was, That *what they demanded was most just*; and accordingly a *Council* of the *Three Estates* was summon'd."—These are the Words of that Historian.—From whence the Old Saying of *Marcus Antoninus* appears to be most true. —"Etsi omnes molestæ semper seditiones sunt, justas tamen esse nonnullas, & prope necessarias: eas vero justissimas maximèque necessarias videri, cum populus Tyranni sævitiâ oppressus auxilium à legitimo Civium conventu implorat. Altho' all Sorts of Seditions are troublesome, yet some of them are just, and in a Manner necessary; but those are extraordinary just and necessary, which are occasion'd when the People oppress'd by the Cruelty of a Tyrant, implores the Assistance of a Lawful Convention."

Gaguinus, in his *Life of Lewis the Eleventh*, pag. 265. gives us *Charles*, the Duke of *Burgundy's* Answer to that King's Ambassadors. "*Charles* (says he) heard the Ambassadors patiently, but made Answer, That he knew no Method so proper to restore a firm Peace, at a Time when such great Animosities, and so many Disorders of the War were to be composed, as a *Convention of the Three Estates*. Which when the Ambassadors had by Special Messengers communicated to King *Lewis*, he hoping to gain his Point by Delays, summon'd the *Great Council* to meet at *Tours*, on the Kalends of *April* 1467; and at the appointed Time for the *Convention*, they came from all Parts of the Kingdom, &c."

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The same Passage, and in almost the same Words, is recorded in the *Book of Annals*, fol. 64. and in the *Great Chronicle*, Vol. 4. fol. 242. where these very remarkable Words are further added.—"In that Council it was appointed, that certain approved Men shou'd be chosen out of each of the *Estates*, who shou'd establish the Commonwealth, and take care that Right and Justice shou'd be done." But *Gillius* in the Place above-mention'd says: "After the Battel at *Montlebery*, many well-affected and prudent Men were elected to be *Guardians* of the *Publick Good*, according as it had been agreed upon between the *King* and the *Nobles*; among whom the Count of *Dunois* was the Principal, as having been the chief Promoter of that Rising."—For it had grown into Custom after the Wealth of the *Ecclesiasticks* was excessively increas'd, to divide the People into Three *Orders* or *Classes*, whereof the *Ecclesiasticks* made one; and when those *Curators* of the *Commonwealth* were chosen, Twelve Persons were taken out of each Order. So that it was enacted in that *Council*, that 36 *Guardians* of the Republick shou'd be created, with Power, by common Consent, to redress all the Abuses of the Publick. Concerning which Thing, *Monstrelletus*, Vol. 4. fol. 150 writes thus: "In the first Place (says he) it was decreed, that for the re-establishing the State of the Commonwealth, and the easing the People of the Burthen of their Taxes, and to compensate their Losses, 36 Men shou'd be elected, who shou'd have *Regal Authority*; viz. 12 out of the *Clergy*, 12 out of the *Knights*, and 12 *skilful* in the Laws of the Land; to whom Power should be given of inspecting and [122] enquiring into the Grievances and Mischiefs under which the Kingdom laboured, and to apply Remedies to all: And the King gave his Promise *in Verbo Regis*, That whatsoever those 36 Men shou'd appoint to be done, he wou'd ratify and confirm."

Oliver de la Marck, a *Flemming*, in his History, cap. 35. writes the same Thing, and mentions the same Number of 36 *Guardians* or *Curators* of the *Commonwealth*. And he farther adds; "That because the King did not stand to his Promise, but violated his *Faith*, and the *Solemn Oath* which he had publickly sworn, a most *cruel War* was kindled in *Francogallia*, which set it all in a Flame, and continued near 13 Years. Thus that King's Perjury was punish'd both by his own Infamy, and the People's Destruction."

Upon the whole Matter 'tis plain, that 'tis not yet a hundred Years compleat, since the Liberties of *Francogallia*, and the Authority of its annual *General Council*, flourished in full Vigor, and exerted themselves against a King of ripe Years, and great Understanding; for he was above 40 Years old, and of such great Parts, as none of our Kings have equall'd him. So that we may easily perceive that our *Commonwealth*, which at first was *founded* and *establish'd* upon the *Principles of Liberty*, maintained it self in the same free and sacred State, (even by Force and Arms) against all the Power of Tyrants for more then Eleven Hundred Years.

I cannot omit the great Commendation which that most noble Gentleman and accomplish'd Historian, *Philip de Comines*, gives of this Transaction; who in his 5th Book and 18th Chapter, gives this Account of it, which we [123] will transcribe Word for Word.—"But to proceed: Is there in all the World any King or Prince, who has a Right of imposing

a Tax upon his People (tho' it were but to the Value of one Farthing) without their own Will and Consent? Unless he will make use of Violence, and a Tyrannical Power, he cannot. But some will say there may happen an Exigence, when the Great *Council of the People* cannot be waited for, the Business admitting of no Delay. I am sure, in the Undertaking of a War, there is no need of such hast; one has sufficient Leisure to think leisurely of that Matter. And this I dare affirm, that when Kings and Princes undertake a War with the Consent of their Subjects, they are both much more powerful, and more formidable to their Enemies.—It becomes a King of *France* least of any King in the World, to make use of such expressions as this.—*I have a Power of raising as great Taxes as I please on my Subjects*;—for neither he, nor any other, has such a Power; and those Courtiers who use such Expressions, do their King no Honour, nor increase his Reputation with Foreign Nations; but on the contrary, create a Fear and Dread of him among all his Neighbours, who will not upon any Terms subject themselves to such a Sort of Government. But if our King, of such as have a Mind to magnify his Power; wou'd say thus; I have such obedient and loving Subjects, that they will deny me nothing in Reason; or, there is no Prince that has a People more willing to forget the Hardships they undergo; this indeed wou'd be a Speech that wou'd do him Honour, and [124] give him Reputation. But such Words as these do not become a King; *I tax as much as I have a mind to; and I have a Power of taking it, which I intend to keep*. Charles the Fifth never used such Expressions, neither indeed did I ever hear any of our Kings speak such a Word; but only some of their Ministers and Companions, who thought thereby they did their Masters Service: But, in my Opinion, they did them a great deal of Injury, and spoke those Words purely out of Flattery, not considering what they said. And as a further Argument of the gentle Disposition of the *French*, let us but consider that *Convention* of the *Three Estates* held at *Tours*, Anno 1484, after the Decease of our King *Lewis the Eleventh*: About that time the wholesome Institution of the *Convention* of the *Three Estates* began to be thought a dangerous Thing; and there were some inconsiderable Fellows who said then, and often since, that it was High-Treason to make so much as mention of Convocating the *States*, because it tended to lessen and diminish the King's Authority; but it was they themselves who were *guilty of High-Treason against God, the King, and the Commonwealth*. Neither do such-like Sayings turn to the Benefit of any Persons, but such as have got great Honours or Employments without any Merit of their own; and have learnt how to flatter and sooth, and talk impertinently; and who fear all great Assemblies, lest there they shou'd appear in their proper Colours, and have all evil Actions condemned."

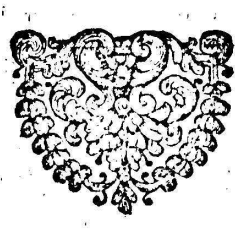
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CHAP. XIX. ↩

Of the Authority, of the Assembly of the States concerning the most important Affairs of Religion.

We have hitherto demonstrated, that the Assembly of the States had a very great Power in all Matters of Importance relating to our Kingdom of *France*. Let us now consider, what its Authority has been, in Things that concern Religion. Of this our Annals will inform us under the Year MCCC. when Pope *Boniface* the Eighth sent Ambassadors to King *Philip the Fair*, demanding of him, whether he did not hold and repute himself to be subject to the Pope in all Things temporal as well as spiritual; and whether the Pope was not Lord over all the Kingdoms and States of *Christendom*? In Consequence of these Principles, he required of *Philip* to acknowledge him for his Sovereign Lord and Prince, and to confess that he held his Kingdom of *France* from the Pope's Liberality; or that if he refused to do this, he should be forthwith excommunicated, and declar'd a Heretick. After the King had given Audience to these Ambassadors, he summon'd the States to meet at *Paris*, and in that Assembly the Pope's Letters were read, to the Purport following. *Boniface, universal Bishop, the Servant of the*

*Servants of God, to Philip King of France. Fear God and keep his [16] Commandments. It is our Pleasure thou shouldst know, that thou art our Subject, as well in things temporal as Spiritual, and that it belongs not to thee to bestow Prebends or collate Benefices, in any Manner whatever. If thou hast the Custody of any such that may be now vacant, thou must reserve the Profits of them for the Use of such as shall succeed therein: and if thou hast already collated any of them, we decree by these Presents such Collation to be ipso facto void, and do revoke whatever may have been transacted relating thereunto; esteeming all those to be Fools and Madmen, who believe the contrary. From our Palace of the Lateran in the Month of December, and in the Sixth Year of our Pontificate. These Letters being read, and the Deputies of the States having severally deliver'd their Opinions about them, after the Affair was maturely deliberated, it was ordain'd; first, that the Pope's Letters should be burnt in the Presence of his Ambassador, in the great Yard of the Palace: Then, that these Ambassadors with Mitres upon their Heads, and their Faces bedaub'd with Dirt, should be drawn in a Tumbrel by the common Hangman into the said Yard, and there be exposed to the Mockery and Maledictions of the People: finally, that Letters in the King's Name should be dispatched to the Pope, according to the Tenor following. Philip by the Grace of God, King of France, to Boniface, who stiles himself universal Bishop, little or no greeting. Be it known to thy great Folly and extravagant Temerity, that in things temporal we have no Superior but God; and that the Disposal of the Vacancies of certain Churches and Prebends belong to us of Regal Right; that it is our due to receive the profits of them, and our Intention [127] to defend our selves by the Edge of the Sword, against all such, as would any way go about to disturb us in the Possession of the same; esteeming those to be Fools and Brainless, who think otherwise. For Witnesses of this History, we have the Author of the *Chronicle of Bretayne*, lib. 4. chap. 14. and *Nicholas Gilles* in the *Annals of France*, to whom ought to be join'd *Papon*. in the first Book of his Arrests tit. 5. art. 27.*



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CHAP. XX. ↩

Whether Women are not as much debarr'd (by the Francogallican Law) from the Administration, as from the Inheritance of the Kingdom.

The present Dispute being about the *Government* of the Kingdom, and the chief *Administration* of Publick Affairs, we have thought fit not to omit this Question: Whether *Women* are not as much debarr'd from the *Administration*, as from the *Inheritance* of the Kingdom? And in the first Place we openly declare, that 'tis none of our Intention to argue for or against the *Roman* Customs or Laws, or those of any other Nation, but only of the Institutions of this our own *Francogallia*. For as on the one Hand 'tis notorious to all the World, that by the *Roman* Institutions, *Women* were always under *Guardianship*, and excluded from intermeddling, either in publick or private Affairs, by Reason of the *Weakness* of their Judgment: So on the other, *Women* (by ancient Custom) obtain the *Supreme Command* in *Some* Countries. "The *(Britains* says *Tacitus* in his *Life of Agricola*) make *no Distinction of Sexes in Government.*" Thus much being premised, and our Protestation being clearly and plainly proposed, we will now return to the Question. And as the Examples of some former Times seem to make for the affirmative, wherein the Kingdom of *Francogallia* has been administered [129] by *Queens*, especially by *Widows* and *Queen-Mothers*: So on the

contrary, the Reason of the Argument used in Disputations, is clearly against it. For she, who cannot be Queen in her *own Right*, can never have any Power of Governing in another's Right: But here a Woman cannot reign in her own Right, nor can the Inheritance of the Crown fall to her, or any of her Descendants; and if they be stiled *Queens* 'tis only accidentally; as they are *Wives* to the *Kings* their *Husbands*. Which we have prov'd out of Records for twelve hundred Years together.

To this may be added (which we have likewise prov'd) that nor only the sole Power of *Creating* and *Abdicating* their Kings, but also the Right of electing *Guardians* and *Administrators* of the Commonwealth, was lodged in the same *Publick Council*. Nay, and after the Kings were created, the supreme Power of the Administration was retained still by the same *Council*. And 'tis not yet full a hundred Years since 36 Guardians of the Commonwealth were constituted by the same *Council*, like so many *Ephori*: and this during the Reign of *Lewis* the *Eleventh*, as crafty and cunning as he was. If we seek for Authorities and Examples from our Ancestors, we may find several; there is a remarkable one in *Aimoinus*, lib. 4. cap. 1. where speaking of Queen *Brunechild*, Mother to young *Childebert*; "The Nobility of *France* (says he) understanding that *Brunechild* designed to keep the chief Management of the Kingdom in her own Hands; and having always hitherto, for so long a Time disdain'd to be subject to a Female Domination, did, &c." And indeed it has so happned in the Days of our [130] Ancestors, that whenever Women got into their Hands the Procuration of the Kingdom, they have been always the Occasion of wonderful Tragedies: Of which it will not be amiss to give some Examples. Queen *Crotildis*, Mother of the two Kings, *Childebert* and *Clotarius*, got once the Power into her Hands; and being extravagantly fond of the Sons of *Clodomer*, (another of her Sons then dead) occasion'd a great deal of Contention, by her endeavouring to exclude her Sons, and promote these Grandsons to the Regal Dignity; and upon that Score she nourished their *large Heads of Hair* with the greatest Care and Diligence imaginable, according to that ancient Custom of the Kings of the *Franks*, which we have before given an Account of. The two Kings (as soon as they understood it) presently sent one *Archadius*, who presenting her with a naked Sword and a Pair of Shears, gave her Choice which of the two She had rather shou'd be applied to the Boys Heads. But She (says *Gregory* of *Tours*) being enraged with Choler, especially when She beheld the naked Sword and the Scissars, answer'd with a great deal of Bitterness—"Since they cannot be advanced to the Kingdom, I had rather see them dead than shaven"—And thereupon both her Grandsons were beheaded in her Presence. The same *Gregory*, lib. 3. cap. 18. subjoyns—"This Queen, by her Liberalities and Gifts conferr'd upon Monasteries, got the Affections, *Plebis & vulgi* of the common People and Mob: *Date frenos* (says *Cato*) *impotenti naturæ, & indomito animali, & sperate ipsas modum licentiæ facturas*. Give Bridles to their unruly Natures, and curb the untamed Animal; and [131] then, you may hope they shall see some Bounds to their Licentiousness." What an unbridled Animal and profligate Wretch was that Daughter of King *Theodorick*, by Birth an *Italian*; who being mad in Love with one of her Domesticks, and knowing him to have been kill'd by her Mother's Orders, feign'd a thorough Reconciliation, and desir'd in Token of it to receive the Holy Sacrament of the Lord's Supper with her Mother; but Privately mixing some Poyson in the Chalice, She at once gave the strangest Instance both of Impiety and Cruelty in thus murdering her own Mother. The Account given of it by *Gregory* of *Tours* is this: "They were (says he) of the *Arrian Sect*, and because it was their Custom that the Royal Family shou'd communicate at the Altar out of one Chalice, and People of Inferior Quality out of another. (*By the way, pray take notice of the Custom of Communicating in both kinds by the People.*) She dropped Poyson into that Chalice out of which her Mother was to communicate; which as soon as she had tasted of it, kill'd her presently."—*Fredegunda*, *Queen-Mother*, and Widow of *Chilperick the First*, got the Government into her Hands; She, in her Husband's Time, lived in Adultery with one *Lander*; and as soon as she found out that her Husband *Chilperick* had got Wind of it, she had him murdered, and presently seiz'd upon the Administration of the Kingdom as Queen-

Mother, and Guardian of her Son *Clotharius*, and kept Possession of it for 13 Years; in the first Place she poisoned her Son's Uncle *Childebert*, together with his Wife; afterwards she stirred up the *Hunns* against his Sons, and raised a Civil [132] War in the Republick. And lastly, She was the Firebrand of all those Commotions which wasted and burnt all *Francogallia*, during many Years, as *Aimoinus* tells us, [lib. 3. cap. 36. & lib. 8. cap. 29.]

There ruled once in *France*, *Brunchild*, Widow of King *Sigebert*, and Mother of *Childebert*. This woman had for her Adulterer a certain *Italian*, called *Protadius*, whom She advanced to great Honours: She bred up her two Sons, *Theodebert* and *Theodorick*, in such a wicked and profligate Course of Life, that at last they became at mortal Enmity with each other: And after having had long Wars, fought a cruel single Combat. She kill'd with her own Hands her Grandson *Meroveus*, the Son of *Theodebert*: She poisoned her Son *Theodorick*. What need we say more? *Date frænos* (as *Cato* says) *impotenti naturæ, & indomito animali; & sperate illas modum licentiæ facturas*. She was the Occasion of the Death of Ten of the Royal Family: And when a certain Bishop reproved her, and exhorted her to mend her Life, She caused him to be thrown into the River. At last, a *Great Council* of the *Franks* being summoned, She was judged, and condemned, and drawn in Pieces by wild horses, being torn Limb from Limb. The Relators of this Story are, *Greg. Turonensis*, [lib. 5. cap. 39.] and [lib. 8. cap. 29.] And *Ado* [Ætat. 6.] *Otto Frising.* [Chron. 5. Cap. 7.] *Godfridus Viterbiensis* [Chron. parte 16.] & *Aimoinus* [lib. 4. cap. 1.] Also the Appendix of *Gregory of Tours*, [lib. 11.] whose Words are these: "*Having convicted her of being the Occasion of the Death of Ten Kings of the Franks; to wit, of Sigebert, Meroveus, and his Father Chilperick; Theodebert, and his Son Clothair; Meroveus, [133] the Son of Clothair, Theodorick, and his three Children, which had been newly killed, they order'd her to be placed upon a Camel, and to be tortured with divers sorts of Torments, and so to be carried about all the Army; afterwards to be tied by the Hair of the Head, one Leg and one Arm to a Wild Horse's Tail; by which being kick'd, and swiftly dragg'd about, She was torn Limb from Limb.*"

Let us instance in some others: *Plectrudis* got the Government into her Hands; a Widow not of the King, but of *Pipin*, who ruled the Kingdom whilst *Dagobert* the Second bore the empty Title of King. This *Plectrudis* having been divorced by her Husband *Pipin*, because of her many Adulteries and flagitious Course of Life; as soon as her Husband was dead, proved the Incendiary of many Seditions in *France*. She compell'd that gallant Man *Charles Martel*, Mayor of the Palace, to quit his Employment, and in his Place put one *Theobald*, a most vile and wicked Wretch; and at last She raised a most grievous Civil War among the *Franks*, who in divers Battels discomfited each other with most terrible Slaughters. Thus, says *Aimoinus*, [lib 4. cap. 50. & cap sequen.] Also the Author of a Book called, *The State of the Kingdom of France under Dagobert the Second*, has these Words: "*When the Franks were no longer able to hear the Fury and Madness of Plectrude, and saw no Hopes of Redress from King Dagobert, they elected one Daniel for their King, (who formerly had been a Monk) and called him Chilperick.*" Which Story we have once before told you.

But let us proceed. The Queen-Mother of *Charles the Bald*, (whose Name was *Judith*) [134] and Wife of *Lewis the Pious*, who had not only been King of *Francogallia*, but Emperor of *Italy* and *Germany*, got the Government into her Hands. This Woman stirred up a most terrible and fatal War between King *Lewis* and his Sons, (her Sons in Law) from whence arose so great a Conspiracy, that they constrained their Father to abdicate the Government, and give up the Power into their Hands, to the great Detriment of almost all *Europe*: The Rise of which Mischiefs, our Historians do unanimously attribute, for the most Part, to *Queen Judith* in a particular Manner: The Authors of this History are the *Abbot of Ursperg*, *Michael Ritius* and *Otto Frising.* [Chron. 5. cap. 34.] "*Lewis* (says this last) *by reason of the Evil Deeds of his Wife Judith, was driven out of his Kingdom.*" Also *Rhegino* [in Chron. ann. 1338.] "*Lewis* (says he) *was deprived of the Kingdom by his Subjects, and being*

reduced to the Condition of a private Man, was put into Prison, and the Sole Government of the Kingdom, by the Election of the Franks, was conferr'd upon Lotharius his Son. And this Deprivation of Lewis was occasioned principally through the many Whoredoms of his Wife Judith."

Some Ages after, Queen *Blanch*, a *Spanish* Woman, and Mother to St. *Lewis*, ruled the Land. As soon as She had seized the Helm of Government, the Nobility of *France* began to take up Arms under the Conduct of *Philip* Earl of *Bologn*, the King's Uncle, crying out (as that excellent Author *Joannes Joinvillæus* writes) [cap. histor. 4.] "*That it was not to be endured that so great a Kingdom shou'd be governed by a Woman, and She a Stranger.*" Whereupon those Nobles rejecting *Blanch*, chose Earl *Philip* to be [135] Administrator of the Kingdom: But *Blanch* persisting in her Purpose, sollicitd Succours from all Parts, and at last determined to conclude a League with *Ferdinand* King of *Spain*. With *Philip* joynd the Duke of *Brittany*, and the *Count de Eureux* his Brother. These, on a sudden, seiz'd on some Towns, and put good Garisons into them. And thus a grievous War was begun in *France*, because the Administration of the Government had been seized by the Queen-Mother: It hapned that the King went (about that Time) to *Estampes*, being sent thither by his Mother upon Account of the War: To that Place the Nobles from all Parts hastily got together, and began to surround the King not with an Intention (as *Joinville* says) to do him any Harm, but to withdraw him from the Power of his Mother. Which She hearing, with all Speed armed the People of *Paris*, and commanded them to march towards *Estampes*. Scarce were these Forces got as far as *Montlebery*, when the King (getting from the Nobles) joynd them, and returned along with them to *Paris*. As soon as *Philip* found that he was not provided with a sufficient force of Domestick Troops, he sent for Succours to the Queen of *Cyprus*, (who at the fame Time had some Controversy depending in the Kingdom) She entring with a great Army into *Champagn*, plunder'd that Country far and near; *Blanch* however continues in her Resolution. This constrains the Nobility to call in the *English* Auxiliaries, who waste *Aquitain* and all the Maritime Regions; which Mischiefs arose thro' the Ambition and unbridled Lust of Rule of the Queen-Mother, as *Joinvillæus* tells us at large, [cap.7, 8, 9, 10.]

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And because many of our Countrymen have a far different Opinion of the Life and Manners of Queen *Blanch*, occasioned (as 'tis probable) by the Flattery of the Writers of those Times; (For all Writers either thro' Fear of Punishment, or, by Reason of the Esteem which the Kings their Sons have in the World, are cautious how they write of Queen-Mothers:) I think it not amiss to relate what *Joinville* himself records [cap 76.] viz. That She had so great a Command over her Son, and had reduced him to that Degree of Timidity and Lowness of Spirit, that She would very seldom suffer the King to converse with his Wife *Margaret*, (her Daughter-in-Law) whom She hated. And therefore whenever the King went a Journey, She ordered the Purveyors to mark out different Lodgings, that the Queen might lie separate from the King. So that the poor King was forced to place Waiters and Doorkeepers in Ambush whenever He went near his Queen; Ordering them, that when they heard his Mother *Blanch* approach the Lodgings, they shou'd beat some Dogs, by whose Cry he might have Warning to hide himself: And one Day (says *Joinville*) when Queen *Margaret* was in Labour, and the King in Kindness was come to visit her, on a sudden Queen *Blanch* surprized him in her Lodgings: For altho' he had been warned by the howling of the Dogs, and had hid himself (wrapp'd up in the Curtains) behind the Bed; yet She found him out, and in the Presence of all the Company laid Hands on him, and drew him out of the Chamber: You have nothing to do here (said She) get out. The poor Queen, in the mean Time, being not able to bear the Disgrace of [137] such a Reproof, fell into a Swoon for Grief; so that the Attendants were forced to call back the King to bring her to her self again, by whose Return She was comforted and recover'd. *Joinville* tells this Story [cap. hist. 76.] in almost these same Words.

Again, Some Years after this, *Isabella*, Widow of *Charles* the 6th, (Surnamed the *Simple*) got Possession of the Government: For before the Administration of the Publick Affairs could be taken care of by the *Great Council*, or committed by them to the Management of chosen and approved Men, many ambitious Courtiers had stirr'd up Contentions: Six Times these Controversies were renewed, and as often composed by Agreement. At last *Isabella* being driven out of *Paris* betook her self to *Chartres*: There, having taken into her Service a subtle Knave, one *Philip de Morvilliers*, She made up a Council of her own, with a President, and appointed this *Morvilliers* her Chancellor; by whose Advice She order'd a Broad-Seal, commonly called, a Chancery-Seal, to be engraven: On which her own Image was cut, holding her Arms down by her Sides: and in her Patents She made use of this Preamble. "Isabella, by the Grace of God, Queen of France: who, by Reason of the King's Infirmary, has the Administration of the Government in her Hands, &c."— But when the Affairs of the Commonwealth were reduced to that desperate Future, that all Things went to Rack and Ruin, She was by the *Publick Council* banished to *Tours*, and committed to the Charge of Four Tutors, who had Orders to keep her lock'd up at Home, and to watch her so narrowly, that She shou'd be able to do nothing; not so much as to write a Letter [138] without their Knowledge. A large Account of all this Transaction we have in *Monstrellet's*; History. [*cap.* 161 & *cap.* 168.]



CHAP. XXI. [↪](#)

Of the Juridical Parliaments in France.

Under the *Capevingian* Family there sprung up in *Francogallia* a Kind of Judicial Reign, [*Regnum Judiciale*] of which (by Reason of the incredible Industry of the Builders up and Promoters of it, and their unconceivable Subtilty in all subsequent Ages), we think it necessary to say something. A Sort of Men now rule every-where in *France*, which are called *Lawyers* by some, and *Pleaders* or *Pettyfoggers* by others: These Men, about 300 Years ago, managed their Business with so great Craft and Diligence, that they not only subjected to their Domination the Authority of the *General Council*, (which we spoke of before) but also all the *Princes* and *Nobles*, and even the *Regal Majesty* it self: So that in whatever Towns the Seats of this same *Judicial Kingdom* have been fix'd, very near the third Part of the Citizens and Inhabitants have applied themselves to the Study and Discipline of this wrangling Trade, induced thereunto by the vast Profits and Rewards which attend it. Which every one may take Notice of, even in the City of *Paris*, the Capital of the Kingdom: For who [139] can be three Days in that City without observing, that the third Part of the Citizens are taken up with the Practice of that *litigious* and *Pettyfogging* Trade? Insomuch, that the General Assembly of Lawyers in that City (which is called the *Robed Parliament*) is grown to so great a Heighth of Wealth and Dignity, that now it seems to be (what *Jugurtha* said of old of the *Roman Senate*) no longer an *Assembly* of *Counsellors*, but of *Kings*, and *Governors* of *Provinces*. Since whoever has the Fortune to be a Member of it, how meanly born soever, in a few Years Time acquires immense and almost Regal Riches: For this Reason many other Cities strove with Might and Main to have the like Privilege of *Juridical* Assemblies: So that now there are several of these famous Parliaments, to wit, those of *Paris*, *Tholouse*, *Rouen*, *Grenoble*, *Bourdeaux*, *Aix*, and *Dijon*: All which are *fix'd* and *sedentary*; besides an Eighth, which is ambulatory and moveable, and is called the *Grand Council*.

Within the Limits of these great *Juridical Kingdoms* there are others lesser, which we may call *Provincial Governments*, who do all they can to imitate the Grandeur and Magnificence of their Superiors; and these are called *Presidial Courts*: And so strong is the Force and Contagion of this Disease, that a very great Part of the *French* Nation spends its

Time and Pains in Strife and Law-Suits, in promoting Contentions and Processes; just as of old, a great Number of the *Egyptians* were employ'd by their Tyrants in Building *Pyramids*, and other such useless Structures.

Now the Word *Parliament* in the old Manner of Speech used by our Countrymen, [140] "signifies a Debate, or discoursing together of many Persons, who come from several Parts, and assemble in a certain Place, that they may communicate to one another Matters relating to the Publick." Thus in our ancient Chronicles, whenever Princes or their Ambassadors had a Meeting to treat of Peace or Truce, or other Warlike Agreements; the Assembly so appointed was always called a *Parliament*; and for the same Reason the *Publick Council* of the *Estates* was, in our old Language, called a *Parliament*. Which Assembly, being of great Authority, the Kings of the *Capevingian* Race having a Mind to diminish that Authority by little and little, substituted in its Place a certain Number of *Senators*, and transferred the August Title of a *Parliament* to those *Senators*: And gave them these Privileges: First, That none of the King's Edicts shou'd be of Force, and ratified, unless those Counsellors had been the *Advisors* and *Approvers* of them. Next, That no Magistracy or Employment in all *France*, whether Civil or Military, shou'd be conferr'd on any Person, without his being *inaugurated*, and taking the *Oaths* in that *Assembly*. Then that there should be *no Liberty of Appeal* from their judgment, but that all their Decrees should stand firm, and inviolable. In fine, whatever Power and Authority had anciently been lodged in the *General Council* of the Nation, during so many Years together, was at Length usurped by that *Counterfeit Council*, which the Kings took care to fill with such Persons as would be most subservient to their Ends.

Wherefore it will be worth our while, to enquire from what Beginnings it grew up to so great a Heighth and Power; First, a very [141] magnificent Palace was built at *Paris*, by Order (as some say) of King *Lewis Hutin*, which in our Ancient Language signifies *mutinous* or *turbulent*. Others say, by *Philip the fair*, about the Year 1314. thro' the Industry and Care of *Enguerrant de Marigny* Count of *Longueville*, who was hanged some Years after on a Gallows at *Paris*, for embezzling the Publick Money, Whoever 'twas that built it, we may affirm, that our *Francogallican* Kings took the same Pains in building up this *litigious Trade*, that the *Egyptian* Monarchs are said to have done in employing their Subjects to build the *Pyramids*; among whom *Chemnis* is recorded to have gathered together 360000 Men to raise one Pyramid. *Gaguinus*, in his History of King *Hutin's* Life, has this Passage,— "*This Lewis ordained, That the Court of Parliament should remain fixed and immoveable in the City of Paris, that Suitors and Clients might not be put to the Trouble of frequent Removals.*" Now what some affirm, that *Pipin* or *Charlemagn* were the Authors of this Institution, is very absurd, as we shall plainly make appear. For most of the Laws and Constitutions of *Charlemagn* are extant; in all which there is not the least Mention made of the Word *Parliament*, nor of that great *fixed Senate*; he only ordains, That in certain known Places his Judges should keep a *Court*, and assemble the People; which according to his usual Custom he calls a *Placitum*, or a *Mallum*, as [*lib. 4. cap. 35. Legis Franciæ*] 'tis written, "*He shall cause no more than three general Placita to be kept in one Year, unless by chance some Person is either accused, or seizes another Man's Property, or is summoned to be a Witness* —." There are many other Laws extant of [142] that King's of the like Nature, by which we may observe the Paucity of Law-suits in his Days: And I am clearly of Opinion, that what I find several of our modern Authors have affirm'd is most true, *viz.* that the first Rise and Seeds of so many Law-suits, Calumnies and Contentions in this Kingdom, proceeded from Pope *Clement* the Fifth, who during the Reign of *Philip the Fair*, transferred the Seat of his Papacy to *Avignon*, at which Time his Courtiers and Petty-Foggers, engaging into Acquaintance with our Countrymen, Introduced the *Roman* Arts of Wrangling into our Manners and Practice. But not to speak of such remote Times. About the Year of our Lord 1230. reigned St. *Lewis*, as he is plainly called, whose Life *Johannes Joinvillæus* (whom we have often mentioned) has written at large. Out of his Commentary we may easily learn, how

few Contentions and Law-Suits were in those Days, since King *Lewis* either determined the Controversies himself in Person, or referred them to be determined by some of his Followers and Companions: And therefore [*cap.* 94.] he thus writes,—"*He was wont* (says he) *to command Lord Nellius, Lord Soissons, or my self, to inspect and manage the Appeals which were made to him. Afterwards he sent for us, and enquired into the State of the Case; and whether it were of such a Nature as could not be ended without his own Intervention. Oftentimes it hapned, that after we had made our Report, he sent for the contending Parties, and heard the Cause impartially argued over again. Sometimes for his Diversion he would go to the Park of Bois de Vincennes, and sitting down upon a green Sodd at the Foot of an Oak Tree, would [143] command us to sit by him; and there if any one had Business, he wou'd cause him to be called, and bear him patiently. He wou'd often himself proclaim aloud, That if any one had Business, or a Controversy with an Adversary, he might come near and set forth the Merits of his Cause; then if any Petitioner came, he wou'd hear him attentively; and having throughly considered the Case, wou'd pass judgment according to Right and Justice. At other Times he appointed Peter Fountain and Godfrey Villet to plead the Causes of the contending Parties. I have often* (says he) *seen that good King go out of Paris into one of his Gardens or Villa's without the Walls, dressed very plainly, and there order a Carpet to be spread before him on a Table; and having caused Silence to be proclaimed, those which were at Variance with each other, were introduced to plead their Causes; and then he presently did Justice without Delay.*" Thus far *Joinvillæus*—By which we may guess at the small Number of Law Suits and Complainants in those Days, and how careful our Kings were of preventing the Mischiefs that might arise from such as fomented Controversies. In the *Capitular of Charles the Great* this Law is extant.—"*Be it known unto all Persons both Nobility and People, by these our Patents, That we will sit one Day in every Week to hear Causes in Person.*"

We have the like Testimony in *William Budæus*, a very famous Man, and a Principal Ornament of our Kingdom of *France*. For in his Annotations on the *Pandects* (where he treats of this very Argument, and inveighs against this *Kingdom of Brawlers and Petty-Foggers*) he tells us, that he finds in the Regal Commentaries of Venerable Antiquity, (the free [144] Perusal of which his Quality did intitle him to) "*That in the Reign of the same King Lewis, [Anno 1230.] several Controversies arose between the King and the Earl of Britany; And that by Consent (as 'tis probable) of both Parties, a Camp-Court of Judicature was summoned to meet at Erceniacum, wherein sate as Judges, not Lawyers, Civilians and Doctors, but Bishops, Earls, and Barons. And there the Earl of Britany was cast, and it was order'd that the Inhabitants of his County should be absolved and freed from the Oath of Allegiance and fidelity, which they had taken to him. Again, in the same King's Reign, [Anno 1259.] a Dispute having arisen about the County of Clairmont between the King and the Earls of Poitou and Anjou, a Court of Judicature, composed of the like Persons was appointed, wherein sat the Bishops and Abbots, the General of the Dominicans, the Constable, the Barons, and several Laicks. To this he subjoyns: Yet there were two Parliaments called each Year, at Christmas and at Candlemas, like as there are two Scacaria summoned in Normandy at Easter and at Michaelmas.*" Thus far *Budæus*; to whom agrees what we find in an ancient Book concerning the *Institution of Parliaments*, wherein this Article is quoted out of the *Constitution of Philip the 4th, Surnamed the Fair* [ex Anno 1302.] —"*Moreover, for the Conveniency of our Subjects, and the expeditious determining of Causes, we propose to have it enacted, that two Parliaments shall be held every Year at Paris, and two Scacaria at Rouen: That the Dies Trecenses shall be held twice a Year: and that a Parliament shall be held at Tholouse, as it used to be held in past Times, [145] if the People of the Land consent to it: Also, because many Causes of great Importance are debated in our Parliament, between great and notable Personages; We ordain and appoint, that two Prelates, and two other sufficient Persons, being Laymen of our Council; or at least one Prelate and one Laick, shall be continually present in our Parliaments, to hear and*

deliberate concerning the above-mentioned Causes."—From which Words we may learn, First, how *seldom* the Courts of Judicature heard Causes in those Days. Next, how few judges sat in those *Parliaments*. For as to the other Provinces and Governments of the Kingdom, we have (in the same Book) the *Constitution of Philip the Fair*, in these Words, [Anno 1302.] —"*Moreover, We ordain that our Seneschals and Bayliffs shall hold their Assizes in Circuit throughout their Counties and Bayliwicks once every two Months at least.*"

Furthermore, *Budæus* in the same Place, [Anno 1293.] writes, that *Philip the Fair* appointed, that three Sorts of People shou'd sit in Parliament, viz. *Prelates, Barons, and Clerks mixed with Laymen*: "Since the Laicks (says he) are chosen promiscuously out of the Knights, and out of other Sorts of People. Also, that the Prelates and Barons shou'd select fit Persons out of that third Estate, to exercise every Sort of Judicature; and at the same Time shou'd chuse three Judges, who shou'd be sent abroad into those Countries where the written Laws of the Land had their Course, that they might there judge and determine according to Law. And if any Question of great Importance were to be argued, they should take to their Assistance [146] the most Learned Men they could get.—" In which Place, *Budæus* lamenting the Evil Customs of our Times; that is, this *Kingdom of Lawyers* now in Vogue, breaks out with *Juvenal* into this Exclamation: "*Quondam hoc indigenæ vivebant more! So* (says he) *may I exclaim, that in Old Times, when this Kingdom flourished, (as many appear by our Money coined of pure fine Gold) there was a plain and easy Way of doing Justice; there were few Law-suits, and those not of long Continuance, or indeed Eternal, as now they are; for then this Rabble-Rout of pretended Interpreters of the Law had not invaded the Publick: neither was the Science of the Law stretched out to such an unlimited Extent; but Truth and Equity, and a prudent Judge, endued with Integrity and Innocence, was of more worth than Six hundred Volumes of Law-Books. But now to what a sad Condition Things are brought, every one sees, but no Body dares speak out. [Sed omnes dicere mussant.]*" Thus far honest *Budæus*; a most inveterate Adversary of this Art of Chicanery, upon all Occasions.

To return to our Purpose, of giving an Account upon what Foundations and Beginnings this *Reign of Litigiousness* was first raised. As *Cicero* writes, that the Old High-Priests (by Reason of the Multitude of Sacrifices) instituted three Assistants called *Viri Epulones*, altho' they themselves were appointed by *Numa* to offer Sacrifice at the *Ludi Epulares*: In like Manner, out of a very *Small Number* of Parliamentary Judges, (when Law-Suits and Litigiousness increased) swarm'd this incredible Multitude of *Judges*, and *Spawn* of *Counsellors*. And, in the first Place, a great, sumptuous and magnificent Palace was [147] built (as we told you before) either by the Command of *Lewis Hutin*, or of *Philip the Fair*: then (from a moderate Number of judges) three Courts of Ten each, were elected a [*tres decurie*] viz. Of the *great Chamber of Accounts*, of *Inquests*, and of *Requests*. Which Partition *Budæus* speaks of in the above quoted Place, but more at large *Gaguinus* in his Life of King *Lewis Hutin*.

I must not omit one remarkable Thing that ought for ever to be remembred, which both these Authors have transmitted to Posterity: viz. That this Meeting of the Court of Judicature was not *perpetual* and *fixed*, as 'tis now, but *summonable* by the *King's Writs*, which every Year were renewed by Proclamation about the Beginning of *November*: "*And that we may be certain* (says *Gaguinus*) *that the King was the Original and Author of this solemn Convention; the Royal Writs are issued every Year, whereby the Parliament is authorized to meet on the Feast-day of St. Martin, that is, on the 10th of November.*"

Now of the wonderful and speedy Increase of this *Judicial Kingdom*, we have this Instance; That about a hundred Years after its Beginning, that is, in the Year 1455, in the Reign of *Charles the 7th*, we find this Order made by him—*From the Feast of Easter, till the End of the Parliament, the Presidents and Counsellors ought to meet in their respective Chambers at Six a Clock every Morning: from the Feast of St. Martin forwards, they may*

meet later.—And a little after it says, *We judge it very necessary, that the Presidents and Counsellors of the Court shou'd come to Parliament after Dinner, for the Dispatch of Causes, and of Judgments.* This [148] was *Charles the 7th's* Order: But in *Charles the Great's* Reign, who ruled a Kingdom three Times as big, we find a very different Manner of rendring Justice; as we may easily understand by that Law of his, mention'd lib. 4. cap. 74. *Legis Francie*; "*Let a Comes, a Judge (says he) not hold a Placitum, (that is, not pass a Decree) but before Dinner, or Fasting.*"

Concerning the Word *Parliament*, and the Authority of that Name, we have this Argument; That when of old a Senate was instituted in *Dauphine* with supreme Authority, which was commonly called the *Council of Dauphine*; *Lewis the 11th* endeavouring to oblige the *Dauphinois*, who had well deserved from him, changed the Name of this *Council* into that of a *Parliament*, without adding any Thing to the Privileges or Authority of it. Of which *Guidopappius* is our Witness. [Quest. 43. and again quest. 554.]

FINIS.



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