

Libertie granted to the Clergy, and to the people to chuse their Bishop.

Ludouicus his sonne, an. 810. of the which two, Carolus the father receaued expressly of Pope Adrian the first, full iurisdiction and power to elect & ordaine the Bishop of Rome, like as pope Leo the ix. did alio to Ortho the first German Emperour, an. 961. The other, that is, Ludouicus, sonne to the foresayd Charles, is sayd to renounce agayne, and surrender from him selfe and his successours, vnto pope Paschalis and the Romanes, the right and interest of chusing the Romane Bishop, and moreover to giue and graunt to the sayd Paschalis the full possession of the Citie of Rome, & the whole territorie to the same belongyng. An. 821. as appeareth by the decree, Ego Ludouicus Dist. 63. But admit that sayned decree to be vnsaynedly true (as it may wel be suspected for many causes, as proceedinge out of the same soueraigne, with the constitution of Constantine afore mentioned, that is, from the maister of the Popes Library, of whō both Gratianus & Volateranus, by their owne confession rake their grounde) yet the same decree doth not so geue away the freedome of that election, that he limiteth it onely to the Cardinals, but also requireth the whole consent of the Romanes, neither doth he simply & absolutely geue the same, but with condition, so that, Omnes Romani vno consilio, & vna concordia sine aliqua promissione ad pontificatus ordinem eligerent: that is, whō as all the Romanes with one counsaile, & with one accord, without any promise of their voyces graunted before, shall chuse to be Bishop of Rome, And moreover in the same Decree is required, that at the consecration of the same Bishop, messengers should be directed incōtinent to the French kyng concerning the same.

Gratianus & Volateranus, what ground they haue of their records.

Diff. 63. ca. Ego Ludouicus. Election of the Bishop of Rome standeth vpon the consent of the Clergy, and the people of Rome.

Furthermore, neither yet did the same decree (albeit it were true) long continue. For although Pope Stephen the fourth, and pope Paschalis the first, in Ludouicus time were in papaced thorough discorde without election of the Emperour, yet they were sayne by message to lend their purgation to him of their election. And after that, in the tyme of Eugenius the ij. which succeeded next to Paschalis, Lotharius sonne of Ludouicus, and Emperour with his father, came to Rome, and there appointed lawes & magistrates ouer the Citie, whereby may appeare the donation of Ludouike, in geuyng away the Citie of Rome to the Pope, to be sayned. And after Eugenius, pope Gregory the iiii. who followinge within a yeaer after Eugenius, durst not take his election without the consent and confirmation of the sayd Emperour Ludouicus. And so in like maner his successours pope Sergius the ij. Pope Leo the iij. pope Nicolas the first, and so orderly in a long tract of tyme, from the foresayd Nicolas the first, to Pope Nicolas the ij. an. 1061. (which Nicolas in his Decree beginnyng, In nomine Domini Dist. 23. Ordained alio the same) so that in the election of the Bishops of Rome, commonly the consent of the Emperour and the people with the Clergy of Rome, was not lackyng. After which Nicolas came Alexander the 2. and wicked Hildebrand, which Alexander being first elected without the Emperours will and consent, after ward repenting the same, openly in his preaching to the people declared that he would no longer sit in the Apostolique sea, vntill he were by the emperour confirmed. wherfore he was greatly rebuked, and cast into prison by Hildebrand, and so deposed. When Hildebrand and his folowers so ordred the matter of this election, that first the Emperour, then the lay people, after that the Clergie also began to be excluded. And so the election by title & title was reduced into the handes of a few Cardinals, contrary to all ancient order, where ever since it hath remained.

The decree Ego Ludouicus, proued fals.

Diff. 23. ca. In Nomine Domini.

And like as in elections, so also in power iudicariæ, in deciding and determining of causes of sayth, and of Ecclesiasticall discipline, the state of the Church of Rome, now beyng, hath no conformity with the old Romane Church heretofore. For then Bishops debated all causes of sayth onely by the Scriptures, and other questions of Ecclesiasticall discipline they determined by the Canons, not of the Pope, but of the Church, such as were decreed by the ancient Councils, as witeth Greg. Turonensis in Francorum historia. where as now both the rule of scripture, & sanctiōs of the old Councils set aside, all thynges for the most part are decided by certaine new decretall or rather extradecretall & extranagant constitutions, in the Popes Canon law compiled, and in his Consistories practised.

The iudicariæ power of the Pope examined.

George Turonensis in Francorum hist. lib. 10. ca. 18.

The Popes iurisdiction vsurped in geuing and disposing ecclesiasticall promotions.

And where as the old ordinance and disposition, as well of the common law, as of the sacred Councils, and institution of ancient fathers haue geuen to Bishops & other prelates, also to patrons and donors of Ecclesiasticall benefices every one within his owne precinct and dominion, also to cathedrall Churches and other: to haue their free elections & to prosecute the same in full effect: ordyng and disposing promotions, collatiōs, prouisiōs & dispositiōs of prelatiēs, dignities, and all other Ecclesiasticall benefices whatsoeuer, after their owne arbitremēt, as ap-

peareth by the first generall Council of France, 16. q. 7. cap. Omnes Basilica, by the first generall Council of Ainc, cap. 6. Also by the generall Council of Antioche, cap. 9. and is to be seene in the Popes Decrees, 9. q. 3. Per singulas. And also beside these ancient decrees, the same is confirmed agayne in more latter yeares by Ludouicus the ninth French kyng in his constitution called Pragmatica sanctio, made and provided by full Parliament agaynst the popes exactions. An. 1228. in these wordes as folow. Item exactiones & onera grauissima pecuniarum, per curiam Romanam Ecclesie regni nostri impositas vel imposita (quibus regnum miserabiliter de pauperatum existit) siue etiam imponendas vel imponenda leuari aut colligi nullatenus volumus: nisi duntaxat pro rationabili, pia & vrgentissima causa, vel inuitabili necessitate, ac etiam de expresso, & spontaneo iussu nostro, & ipsius Ecclesie regni nostri. &c. that is, Item all exactions & imposable burdēns of money, which the Court of Rome hath layd vpon the Church of our kingdome (wherby the said our kingdome hath bene miserably hethero impouertishd) or hereafter shall impose or lay vpon vs, we utterly discharge and forbyd to be leuid or collected hereafter for any maner of cause, vntill there come some reasonable, goodly, & most vrgent, & inuitabile necessitie, & that also not to be done without the expresse & voluntary commaundement of vs, & of the Church of the same our foresayd kingdome. &c. Now contrary and agaynst to these so manifest & expresse decrements of generall Councils, & constitutiōs Synodall, this latter Church of Rome of late presumpcion, degeneratyng fro all the steppes of their eldes, haue taken vpon them a singular iurisdiction by them selues, & for their owne aduantage, to entremede in disposing & collatiōs, exemptions, elections, goodes & landes to the same belongyng, by reason and exaple wherof haue come in these impopriations, first frutes, & reseruations of benefices to the miserable disposing of Parishes, & horrible decay of Christen sayth, which thynges among the old Romane eldes were neuer knowē. For so much then did it lacke, that due necessities were pluckt fro the Church, that Emperours, Kyngs, & Princes plucking fro their owne, rather did cumulate the Church with superfluities.

16. q. 7. cap. omnes Basilica. The Council of Nice cap. 4. The generall Council of Antioch. cap. 9. 9. q. 3. cap. per singulas. Pragmatica sanctio sancti Ludouici.

Impropriations and first frutes of benefices.

Agayne, when such goodes were geuen to the Church by those auncetors, they were neither so geuen, nor yet taken, to serue the priuate vse of certaine churchmen takyng no paynes therein, but rather to serue the publique subuentiō of the needy, as is obtēined in the canonically institutiōs by the Emperour Ludouicus Pius set forth. An. 830. The wordes be these: Res Ecclesie vota sunt fidelium, preta peccatorum, & patrimonium pauperum, that is: The goods of the church be the votues and bequestes of the saythfull, prices to raundome lodes as be in captiuitie or prison, and patermonies to succore them with hospitalitie, that be needy. wherunto agreeth also the testimony of Prosper, whose wordes be these: Vires sanctos ecclesie non vendicasse vt proprias, sed vt commendatas pauperibus diuuisse: that is, good men tooke y goodes of the church not as their own but distributed the as geue & bequeathed to the poore. And sayth moreover: Quod habet Ecclesia, cum omnibus nihil habentibus habet commune, that is: what soeuer the church hath, it hath it common, with all such as haue nothyng, &c.

Institutiones canonice sub Ludouico Pio.

The worde of Prosper.

Adde to these the worthy testimony of S. August. ad Bonif. Si autem priuatum, quæ nobis sufficient possidemus, nō sunt illa nostra, sed pauperum quorum procuratiōem quodammodo gerimus, non proprietatem nobis vsurpatione damnabili vendicamus, &c.

Aug. ad Bonif. sic.

Likewise bowsons and pluralities of benefices were thyngs then as much vnknewen, as now they are pernitiōs to the church, taking away all free election of ministers from the flocke of Christ.

Vowsons and pluralities of benefices.

All which inconueniences as they first came and crept in chiefly by the pretended authoritie & iurisdiction abused in this latter church of Rome, so it can not be denyed, but the sayd latter church of Rome hath taken and attributed to it selfe much more, the either the limites of Gods word do geue, or standeth with the example of the old Romane church, in these thre thynges especiall, wherof as mentio is toucht before, to wiche I will recapitulate the same.

Three points wherein the Popes Church erreth in his iurisdiction.

The first is in this, that whatsoeuer the Scripture geueth and referreth, either to the whole church vniuersally, or to euery particular church generally, this church now of Rome doth arrogate to it selfe absolutely and onely, both doyng inuerty to other churches, & also abusing the Scriptures of God. For albeit the Scripture doth geue authoritie to binde and loose, it limiteth it neither to person nor place, that is, neither to the Citie of Rome onely, more the to other Cities, nor to y sea of Peter, more the to other Possibles, but geueth it clearely to y Church, wherof Peter

Ecclesiasticall iurisdiction fully restrained & inappropriate to the Church of Rome, which ought to be generally equal to all Churches Christian.