

Chapter XX: Conversion Of Constantine.--Part IV.

III. The edict of Milan secured the revenue as well as the peace of the church. [101] The Christians not only recovered the lands and houses of which they had been stripped by the persecuting laws of Diocletian, but they acquired a perfect title to all the possessions which they had hitherto enjoyed by the connivance of the magistrate. As soon as Christianity became the religion of the emperor and the empire, the national clergy might claim a decent and honorable maintenance; and the payment of an annual tax might have delivered the people from the more oppressive tribute, which superstition imposes on her votaries. But as the wants and expenses of the church increased with her prosperity, the ecclesiastical order was still supported and enriched by the voluntary oblations of the faithful. Eight years after the edict of Milan, Constantine granted to all his subjects the free and universal permission of bequeathing their fortunes to the holy Catholic church; [102] and their devout liberality, which during their lives was checked by luxury or avarice, flowed with a profuse stream at the hour of their death. The wealthy Christians were encouraged by the example of their sovereign. An absolute monarch, who is rich without patrimony, may be charitable without merit; and Constantine too easily believed that he should purchase the favor of Heaven, if he maintained the idle at the expense of the industrious; and distributed among the saints the wealth of the republic. The same messenger who carried over to Africa the head of Maxentius, might be intrusted with an epistle to Caecilian, bishop of Carthage. The emperor acquaints him, that the treasurers of the province

are directed to pay into his hands the sum of three thousand folles, or eighteen thousand pounds sterling, and to obey his further requisitions for the relief of the churches of Africa, Numidia, and Mauritania. [103] The liberality of Constantine increased in a just proportion to his faith, and to his vices. He assigned in each city a regular allowance of corn, to supply the fund of ecclesiastical charity; and the persons of both sexes who embraced the monastic life became the peculiar favorites of their sovereign. The Christian temples of Antioch, Alexandria, Jerusalem, Constantinople &c., displayed the ostentatious piety of a prince, ambitious in a declining age to equal the perfect labors of antiquity. [104] The form of these religious edifices was simple and oblong; though they might sometimes swell into the shape of a dome, and sometimes branch into the figure of a cross. The timbers were framed for the most part of cedars of Libanus; the roof was covered with tiles, perhaps of gilt brass; and the walls, the columns, the pavement, were encrusted with variegated marbles. The most precious ornaments of gold and silver, of silk and gems, were profusely dedicated to the service of the altar; and this specious magnificence was supported on the solid and perpetual basis of landed property. In the space of two centuries, from the reign of Constantine to that of Justinian, the eighteen hundred churches of the empire were enriched by the frequent and unalienable gifts of the prince and people. An annual income of six hundred pounds sterling may be reasonably assigned to the bishops, who were placed at an equal distance between riches and poverty, [105] but the standard of their wealth insensibly rose with the dignity and opulence of the cities which they governed. An authentic but imperfect [106] rent-roll

specifies some houses, shops, gardens, and farms, which belonged to the three Basilicoe of Rome, St. Peter, St. Paul, and St. John Lateran, in the provinces of Italy, Africa, and the East. They produce, besides a reserved rent of oil, linen, paper, aromatics, &c., a clear annual revenue of twenty-two thousand pieces of gold, or twelve thousand pounds sterling. In the age of Constantine and Justinian, the bishops no longer possessed, perhaps they no longer deserved, the unsuspecting confidence of their clergy and people. The ecclesiastical revenues of each diocese were divided into four parts for the respective uses of the bishop himself, of his inferior clergy, of the poor, and of the public worship; and the abuse of this sacred trust was strictly and repeatedly checked.

[107] The patrimony of the church was still subject to all the public compositions of the state. [108] The clergy of Rome, Alexandria, Chessaionica, &c., might solicit and obtain some partial exemptions; but the premature attempt of the great council of Rimini, which aspired to universal freedom, was successfully resisted by the son of Constantine.

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[Footnote 101: The edict of Milan (de M. P. c. 48) acknowledges, by reciting, that there existed a species of landed property, *ad jus corporis eorum, id est, ecclesiarum non hominum singulorum pertinentia*. Such a solemn declaration of the supreme magistrate must have been received in all the tribunals as a maxim of civil law.]

[Footnote 102: *Habeat unusquisque licentiam sanctissimo Catholicae (ecclesioe) venerabilique concilio, decedens bonorum quod optavit*

relinquere. Cod. Theodos. l. xvi. tit. ii. leg. 4. This law was published at Rome, A. D. 321, at a time when Constantine might foresee the probability of a rupture with the emperor of the East.]

[Footnote 103: Eusebius, Hist. Eccles. l. x. 6; in Vit. Constantin. l. iv. c. 28. He repeatedly expatiates on the liberality of the Christian hero, which the bishop himself had an opportunity of knowing, and even of lasting.]

[Footnote 104: Eusebius, Hist. Eccles. l. x. c. 2, 3, 4. The bishop of Caesarea who studied and gratified the taste of his master, pronounced in public an elaborate description of the church of Jerusalem, (in Vit Cons. l. vi. c. 46.) It no longer exists, but he has inserted in the life of Constantine (l. iii. c. 36) a short account of the architecture and ornaments. He likewise mentions the church of the Holy Apostles at Constantinople, (l. iv. c. 59.)]

[Footnote 105: See Justinian. Novell. cxxiii. 3. The revenue of the patriarchs, and the most wealthy bishops, is not expressed: the highest annual valuation of a bishopric is stated at thirty, and the lowest at two, pounds of gold; the medium might be taken at sixteen, but these valuations are much below the real value.]

[Footnote 106: See Baronius, (Annal. Eccles. A. D. 324, No. 58, 65, 70, 71.) Every record which comes from the Vatican is justly suspected; yet these rent-rolls have an ancient and authentic color; and it is at least

evident, that, if forged, they were forged in a period when farms not kingdoms, were the objects of papal avarice.]

[Footnote 107: See Thomassin, *Discipline de l'Eglise*, tom. iii. l. ii. c. 13, 14, 15, p. 689-706. The legal division of the ecclesiastical revenue does not appear to have been established in the time of Ambrose and Chrysostom. Simplicius and Gelasius, who were bishops of Rome in the latter part of the fifth century, mention it in their pastoral letters as a general law, which was already confirmed by the custom of Italy.]

[Footnote 108: Ambrose, the most strenuous assertor of ecclesiastical privileges, submits without a murmur to the payment of the land tax. "Si tri butum petit Imperator, non negamus; agri ecclesiae solvunt tributum solvimus quae sunt Caesaris Caesari, et quae sunt Dei Deo; tributum Caesaris est; non negatur." Baronius labors to interpret this tribute as an act of charity rather than of duty, (*Annal. Eccles. A. D. 387*;) but the words, if not the intentions of Ambrose are more candidly explained by Thomassin, *Discipline de l'Eglise*, tom. iii. l. i. c. 34. p. 668.]

[Footnote 109: In Ariminense synodo super ecclesiarum et clericorum privilegiis tractatu habito, usque eo dispositio progressa est, ut juqua quae viderentur ad ecclesiam pertinere, a publica functione cessarent inquietudine desistente; quod nostra videtur dudum sanctio repulsisse. *Cod. Theod. l. xvi. tit. ii. leg. 15*. Had the synod of Rimini carried this point, such practical merit might have atoned for some speculative heresies.]

IV. The Latin clergy, who erected their tribunal on the ruins of the civil and common law, have modestly accepted, as the gift of Constantine, [110] the independent jurisdiction, which was the fruit of time, of accident, and of their own industry. But the liberality of the Christian emperors had actually endowed them with some legal prerogatives, which secured and dignified the sacerdotal character. [111] 1. Under a despotic government, the bishops alone enjoyed and asserted the inestimable privilege of being tried only by their peers; and even in a capital accusation, a synod of their brethren were the sole judges of their guilt or innocence. Such a tribunal, unless it was inflamed by personal resentment or religious discord, might be favorable, or even partial, to the sacerdotal order: but Constantine was satisfied, [112] that secret impunity would be less pernicious than public scandal: and the Nicene council was edited by his public declaration, that if he surprised a bishop in the act of adultery, he should cast his Imperial mantle over the episcopal sinner. 2. The domestic jurisdiction of the bishops was at once a privilege and a restraint of the ecclesiastical order, whose civil causes were decently withdrawn from the cognizance of a secular judge. Their venial offences were not exposed to the shame of a public trial or punishment; and the gentle correction which the tenderness of youth may endure from its parents or instructors, was inflicted by the temperate severity of the bishops. But if the clergy were guilty of any crime which could not be sufficiently expiated by their degradation from an honorable and beneficial profession, the Roman magistrate drew the sword of justice,

without any regard to ecclesiastical immunities. 3. The arbitration of the bishops was ratified by a positive law; and the judges were instructed to execute, without appeal or delay, the episcopal decrees, whose validity had hitherto depended on the consent of the parties. The conversion of the magistrates themselves, and of the whole empire, might gradually remove the fears and scruples of the Christians. But they still resorted to the tribunal of the bishops, whose abilities and integrity they esteemed; and the venerable Austin enjoyed the satisfaction of complaining that his spiritual functions were perpetually interrupted by the invidious labor of deciding the claim or the possession of silver and gold, of lands and cattle. 4. The ancient privilege of sanctuary was transferred to the Christian temples, and extended, by the liberal piety of the younger Theodosius, to the precincts of consecrated ground. [113] The fugitive, and even guilty suppliants, were permitted to implore either the justice, or the mercy, of the Deity and his ministers. The rash violence of despotism was suspended by the mild interposition of the church; and the lives or fortunes of the most eminent subjects might be protected by the mediation of the bishop.

[Footnote 110: From Eusebius (in Vit. Constant. 1. iv. c. 27) and Sozomen (l. i. c. 9) we are assured that the episcopal jurisdiction was extended and confirmed by Constantine; but the forgery of a famous edict, which was never fairly inserted in the Theodosian Code (see at the end, tom. vi. p. 303,) is demonstrated by Godefroy in the most satisfactory manner. It is strange that M. de Montesquieu, who was a

lawyer as well as a philosopher, should allege this edict of Constantine (Esprit des Loix, l. xxix. c. 16) without intimating any suspicion.]

[Footnote 111: The subject of ecclesiastical jurisdiction has been involved in a mist of passion, of prejudice, and of interest. Two of the fairest books which have fallen into my hands, are the Institutes of Canon Law, by the Abbe de Fleury, and the Civil History of Naples, by Giannone. Their moderation was the effect of situation as well as of temper. Fleury was a French ecclesiastic, who respected the authority of the parliaments; Giannone was an Italian lawyer, who dreaded the power of the church. And here let me observe, that as the general propositions which I advance are the result of many particular and imperfect facts, I must either refer the reader to those modern authors who have expressly treated the subject, or swell these notes disproportioned size.]

[Footnote 112: Tillemont has collected from Rufinus, Theodoret, &c., the sentiments and language of Constantine. Mem Eccles tom. iii p. 749, 759.]

[Footnote 113: See Cod. Theod. l. ix. tit. xlv. leg. 4. In the works of Fra Paolo. (tom. iv. p. 192, &c.,) there is an excellent discourse on the origin, claims, abuses, and limits of sanctuaries. He justly observes, that ancient Greece might perhaps contain fifteen or twenty axyla or sanctuaries; a number which at present may be found in Italy within the walls of a single city.]

V. The bishop was the perpetual censor of the morals of his people
The discipline of penance was digested into a system of canonical
jurisprudence, [114] which accurately defined the duty of private or
public confession, the rules of evidence, the degrees of guilt, and
the measure of punishment. It was impossible to execute this spiritual
censure, if the Christian pontiff, who punished the obscure sins of the
multitude, respected the conspicuous vices and destructive crimes of
the magistrate: but it was impossible to arraign the conduct of the
magistrate, without, controlling the administration of civil government.
Some considerations of religion, or loyalty, or fear, protected the
sacred persons of the emperors from the zeal or resentment of the
bishops; but they boldly censured and excommunicated the subordinate
tyrants, who were not invested with the majesty of the purple. St.
Athanasius excommunicated one of the ministers of Egypt; and the
interdict which he pronounced, of fire and water, was solemnly
transmitted to the churches of Cappadocia. [115] Under the reign of
the younger Theodosius, the polite and eloquent Synesius, one of the
descendants of Hercules, [116] filled the episcopal seat of Ptolemais,
near the ruins of ancient Cyrene, [117] and the philosophic bishop
supported with dignity the character which he had assumed with
reluctance. [118] He vanquished the monster of Libya, the president
Andronicus, who abused the authority of a venal office, invented new
modes of rapine and torture, and aggravated the guilt of oppression
by that of sacrilege. [119] After a fruitless attempt to reclaim the
haughty magistrate by mild and religious admonition, Synesius proceeds
to inflict the last sentence of ecclesiastical justice, [120] which

devotes Andronicus, with his associates and their families, to the abhorrence of earth and heaven. The impenitent sinners, more cruel than Phalaris or Sennacherib, more destructive than war, pestilence, or a cloud of locusts, are deprived of the name and privileges of Christians, of the participation of the sacraments, and of the hope of Paradise. The bishop exhorts the clergy, the magistrates, and the people, to renounce all society with the enemies of Christ; to exclude them from their houses and tables; and to refuse them the common offices of life, and the decent rites of burial. The church of Ptolemais, obscure and contemptible as she may appear, addresses this declaration to all her sister churches of the world; and the profane who reject her decrees, will be involved in the guilt and punishment of Andronicus and his impious followers. These spiritual terrors were enforced by a dexterous application to the Byzantine court; the trembling president implored the mercy of the church; and the descendants of Hercules enjoyed the satisfaction of raising a prostrate tyrant from the ground. [121] Such principles and such examples insensibly prepared the triumph of the Roman pontiffs, who have trampled on the necks of kings.

[Footnote 114: The penitential jurisprudence was continually improved by the canons of the councils. But as many cases were still left to the discretion of the bishops, they occasionally published, after the example of the Roman Praetor, the rules of discipline which they proposed to observe. Among the canonical epistles of the fourth century, those of Basil the Great were the most celebrated. They are inserted in the Pandects of Beveridge, (tom. ii. p. 47-151,) and are translated by

Chardon, Hist. des Sacremens, tom. iv. p. 219-277.]

[Footnote 115: Basil, Epistol. xlvii. in Baronius, (Annal. Eccles. A. D. 370. N. 91,) who declares that he purposely relates it, to convince govern that they were not exempt from a sentence of excommunication his opinion, even a royal head is not safe from the thunders of the Vatican; and the cardinal shows himself much more consistent than the lawyers and theologians of the Gallican church.]

[Footnote 116: The long series of his ancestors, as high as Eurysthenes, the first Doric king of Sparta, and the fifth in lineal descent from Hercules, was inscribed in the public registers of Cyrene, a Lacedaemonian colony. (Synes. Epist. lvii. p. 197, edit. Petav.) Such a pure and illustrious pedigree of seventeen hundred years, without adding the royal ancestors of Hercules, cannot be equalled in the history of mankind.]

[Footnote 117: Synesius (de Regno, p. 2) pathetically deplores the fallen and ruined state of Cyrene. Ptolemais, a new city, 82 miles to the westward of Cyrene, assumed the metropolitan honors of the Pentapolis, or Upper Libya, which were afterwards transferred to Sozusa.]

[Footnote 118: Synesius had previously represented his own disqualifications. He loved profane studies and profane sports; he was incapable of supporting a life of celibacy; he disbelieved the

resurrection; and he refused to preach fables to the people unless he might be permitted to philosophize at home. Theophilus primate of Egypt, who knew his merit, accepted this extraordinary compromise.]

[Footnote 119: The promotion of Andronicus was illegal; since he was a native of Berenice, in the same province. The instruments of torture are curiously specified; the press that variously pressed on distended the fingers, the feet, the nose, the ears, and the lips of the victims.]

[Footnote 120: The sentence of excommunication is expressed in a rhetorical style. (Synesius, Epist. lviii. p. 201-203.) The method of involving whole families, though somewhat unjust, was improved into national interdicts.]

[Footnote 121: See Synesius, Epist. xlvii. p. 186, 187. Epist. lxxii. p. 218, 219 Epist. lxxxix. p. 230, 231.]

VI. Every popular government has experienced the effects of rude or artificial eloquence. The coldest nature is animated, the firmest reason is moved, by the rapid communication of the prevailing impulse; and each hearer is affected by his own passions, and by those of the surrounding multitude. The ruin of civil liberty had silenced the demagogues of Athens, and the tribunes of Rome; the custom of preaching which seems to constitute a considerable part of Christian devotion, had not been introduced into the temples of antiquity; and the ears of monarchs were never invaded by the harsh sound of popular eloquence, till the pulpits

of the empire were filled with sacred orators, who possessed some advantages unknown to their profane predecessors. [122] The arguments and rhetoric of the tribune were instantly opposed with equal arms, by skilful and resolute antagonists; and the cause of truth and reason might derive an accidental support from the conflict of hostile passions. The bishop, or some distinguished presbyter, to whom he cautiously delegated the powers of preaching, harangued, without the danger of interruption or reply, a submissive multitude, whose minds had been prepared and subdued by the awful ceremonies of religion. Such was the strict subordination of the Catholic church, that the same concerted sounds might issue at once from a hundred pulpits of Italy or Egypt, if they were tuned [123] by the master hand of the Roman or Alexandrian primate. The design of this institution was laudable, but the fruits were not always salutary. The preachers recommended the practice of the social duties; but they exalted the perfection of monastic virtue, which is painful to the individual, and useless to mankind. Their charitable exhortations betrayed a secret wish that the clergy might be permitted to manage the wealth of the faithful, for the benefit of the poor. The most sublime representations of the attributes and laws of the Deity were sullied by an idle mixture of metaphysical subtleties, puerile rites, and fictitious miracles: and they expatiated, with the most fervent zeal, on the religious merit of hating the adversaries, and obeying the ministers of the church. When the public peace was distracted by heresy and schism, the sacred orators sounded the trumpet of discord, and, perhaps, of sedition. The understandings of their congregations were perplexed by mystery, their passions were inflamed

by invectives; and they rushed from the Christian temples of Antioch or Alexandria, prepared either to suffer or to inflict martyrdom. The corruption of taste and language is strongly marked in the vehement declamations of the Latin bishops; but the compositions of Gregory and Chrysostom have been compared with the most splendid models of Attic, or at least of Asiatic, eloquence. [124]

[Footnote 122: See Thomassin (*Discipline de l'Eglise*, tom. ii. l. iii. c. 83, p. 1761-1770,) and Bingham, (*Antiquities*, vol. i. l. xiv. c. 4, p. 688- 717.) Preaching was considered as the most important office of the bishop but this function was sometimes intrusted to such presbyters as Chrysoetom and Augustin.]

[Footnote 123: Queen Elizabeth used this expression, and practised this art whenever she wished to prepossess the minds of her people in favor of any extraordinary measure of government. The hostile effects of this music were apprehended by her successor, and severely felt by his son. "When pulpit, drum ecclesiastic," &c. See Heylin's *Life of Archbishop Laud*, p. 153.]

[Footnote 124: Those modest orators acknowledged, that, as they were destitute of the gift of miracles, they endeavored to acquire the arts of eloquence.]

VII. The representatives of the Christian republic were regularly assembled in the spring and autumn of each year; and these synods

diffused the spirit of ecclesiastical discipline and legislation through the hundred and twenty provinces of the Roman world. [125] The archbishop or metropolitan was empowered, by the laws, to summon the suffragan bishops of his province; to revise their conduct, to vindicate their rights, to declare their faith, and to examine the merits of the candidates who were elected by the clergy and people to supply the vacancies of the episcopal college. The primates of Rome, Alexandria, Antioch, Carthage, and afterwards Constantinople, who exercised a more ample jurisdiction, convened the numerous assembly of their dependent bishops. But the convocation of great and extraordinary synods was the prerogative of the emperor alone. Whenever the emergencies of the church required this decisive measure, he despatched a peremptory summons to the bishops, or the deputies of each province, with an order for the use of post-horses, and a competent allowance for the expenses of their journey. At an early period, when Constantine was the protector, rather than the proselyte, of Christianity, he referred the African controversy to the council of Arles; in which the bishops of York of Treves, of Milan, and of Carthage, met as friends and brethren, to debate in their native tongue on the common interest of the Latin or Western church. [126] Eleven years afterwards, a more numerous and celebrated assembly was convened at Nice in Bithynia, to extinguish, by their final sentence, the subtle disputes which had arisen in Egypt on the subject of the Trinity. Three hundred and eighteen bishops obeyed the summons of their indulgent master; the ecclesiastics of every rank, and sect, and denomination, have been computed at two thousand and forty-eight persons; [127] the Greeks appeared in person; and the consent of the

Latins was expressed by the legates of the Roman pontiff. The session, which lasted about two months, was frequently honored by the presence of the emperor. Leaving his guards at the door, he seated himself (with the permission of the council) on a low stool in the midst of the hall. Constantine listened with patience, and spoke with modesty: and while he influenced the debates, he humbly professed that he was the minister, not the judge, of the successors of the apostles, who had been established as priests and as gods upon earth. [128] Such profound reverence of an absolute monarch towards a feeble and unarmed assembly of his own subjects, can only be compared to the respect with which the senate had been treated by the Roman princes who adopted the policy of Augustus. Within the space of fifty years, a philosophic spectator of the vicissitudes of human affairs might have contemplated Tacitus in the senate of Rome, and Constantine in the council of Nice. The fathers of the Capitol and those of the church had alike degenerated from the virtues of their founders; but as the bishops were more deeply rooted in the public opinion, they sustained their dignity with more decent pride, and sometimes opposed with a manly spirit the wishes of their sovereign. The progress of time and superstition erased the memory of the weakness, the passion, the ignorance, which disgraced these ecclesiastical synods; and the Catholic world has unanimously submitted [129] to the infallible decrees of the general councils. [130]

[Footnote 125: The council of Nice, in the fourth, fifth, sixth, and seventh canons, has made some fundamental regulations concerning synods, metropolitan, and primates. The Nicene canons have been variously

tortured, abused, interpolated, or forged, according to the interest of the clergy. The Suburbicarian churches, assigned (by Rufinus) to the bishop of Rome, have been made the subject of vehement controversy (See Sirmond, Opera, tom. iv. p. 1-238.)]

[Footnote 126: We have only thirty-three or forty-seven episcopal subscriptions: but Addo, a writer indeed of small account, reckons six hundred bishops in the council of Arles. Tillemont, Mem. Eccles. tom. vi. p. 422.]

[Footnote 127: See Tillemont, tom. vi. p. 915, and Beausobre, Hist. du Manicheisme, tom i p. 529. The name of bishop, which is given by Eusychius to the 2048 ecclesiastics, (Annal. tom. i. p. 440, vers. Pocock,) must be extended far beyond the limits of an orthodox or even episcopal ordination.]

[Footnote 128: See Euseb. in Vit. Constantin. l. iii. c. 6-21. Tillemont, Mem. Ecclesiastiques, tom. vi. p. 669-759.]

[Footnote 129: Sancimus igitur vicem legum obtinere, quae a quatuor Sanctis Coueiliis.... expositae sunt act firmatae. Praedictarum enim quat uor synodorum dogmata sicut sanctas Scripturas et regulas sicut leges observamus. Justinian. Novell. cxxxi. Beveridge (ad Pandect. proleg. p. 2) remarks, that the emperors never made new laws in ecclesiastical matters; and Giannone observes, in a very different spirit, that they gave a legal sanction to the canons of councils.

Istoria Civile di Napoli, tom. i. p. 136.]

[Footnote 130: See the article Concile in the Eucyclopedie, tom. iii. p. 668-879, edition de Lucques. The author, M. de docteur Bouchaud, has discussed, according to the principles of the Gallican church, the principal questions which relate to the form and constitution of general, national, and provincial councils. The editors (see Preface, p. xvi.) have reason to be proud of this article. Those who consult their immense compilation, seldom depart so well satisfied.]